

Withdrawal/Redaction Sheet

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. cable	re Philippines (11 pages)	06/21/2000	P1/b(1)
002. cable	re Panama (6 pages)	07/11/2000	P1/b(1)

COLLECTION:

Clinton Presidential Records
NSC Cables
Jan 1999-Dec 2000 ([sweatshop ...])
OA/Box Number: 530000

FOLDER TITLE:

[05/19/2000-09/17/2000]

2018-1072-F

kc2343

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Cable

PREC: ROUTINE
CLASS: UNCLASSIFIED
LINE1: RAAUZYUW RUEHTVA2729 1400958-UUUU--RHEHAAX.
LINE2: ZNR UUUUU ZZH
LINE3: R 190958Z MAY 00
LINE4: FM AMEMBASSY TEL AVIV
OSRI: RUEHTV
DTG:
ORIG: AMEMBASSY TEL AVIV
TO: RUEHC/SECSTATE WASHDC 8538
INFO: RUEHJM/AMCONSUL JERUSALEM 8396
SUBJ: TRAFFICKING OF WOMEN TO ISRAEL - PROJECT
PROPOSAL FROM ISRAEL WOMEN'S NETWORK (IWN)
TEXT: UNCLAS SECTION 01 OF 06 TEL AVIV 002729

DEPT FOR INL/ENT SALLY NEUMANN AND S/PICW

E.O. 12958: N/A

TAGS: ASEC, KCRM, KWMN, OIIP, IS

SUBJECT: TRAFFICKING OF WOMEN TO ISRAEL - PROJECT
PROPOSAL FROM ISRAEL WOMEN'S NETWORK (IWN)

REF: (A), STATE 21343 (B) TEL AVIV 0215,
(C)STATE 77551 (D) NEUMANN/MALENAS E-MAILS

1. IN RESPONSE TO REF (A) CALLING FOR HOST COUNTRY
PROJECT PROPOSALS ADDRESSING TRAFFICKING IN WOMEN AND
CHILDREN, POST SUBMITS THE FOLLOWING PROPOSAL ON BEHALF
OF A COALITION OF WOMEN'S GROUPS HEADED BY THE ISRAEL
WOMEN'S NETWORK (IWN) IN JERUSALEM. IWN IS A NON-
PROFIT ORGANIZATION THAT HAS SPEARHEADED LOCAL EFFORTS
TO RAISE PUBLIC AWARENESS OF THE TRAFFICKING PROBLEM
AND LOBBIED THE LEGISLATIVE AND LAW ENFORCEMENT ARMS OF
THE ISRAELI GOVERNMENT TO TACKLE THE ISSUE MORE
FORCEFULLY.

BEGIN TEXT:

A JOINT PROJECT OF THE ISRAEL WOMEN'S NETWORK, TEL AVIV
RAPE CRISIS CENTER, WE ARE WORTHY, HERZYLIA BATTERED
WOMEN'S SHELTER, HAIFA CRISIS SHELTER, HAIFA BATTERED
WOMEN'S HOTLINE, HAIFA RAPE CRISIS CENTER, ISHA L'ISHA
HAIFA FEMINIST CENTER AND KAV LA'OVED

TRAFFICKING OF WOMEN TO ISRAEL AND FORCED PROSTITUTION:
AN ACTION-ORIENTED PROJECT

ORGANIZATIONAL INSTRUCTION

ESTABLISHED AS A NON-PROFIT VOLUNTARY BODY IN 1984, THE ISRAEL WOMEN'S NETWORK (IWN) SEEKS TO CHANGE THE SOCIAL CONTEXT AND CURRENT NORMS WHICH PREVENT ISRAELI WOMEN FROM ASSUMING THEIR RIGHTFUL PLACE AS EQUAL PARTNERS IN A JUST AND DEMOCRATIC SOCIETY. THROUGH ADVOCACY, LEGAL AND LEGISLATIVE ACTIVITY, CONSCIOUSNESS-RAISING AND EDUCATION, IWN ENDEAVORS TO BRING WOMEN INTO THE MAINSTREAM OF ISRAELI PUBLIC LIFE BY ENHANCING THEIR PROFESSIONAL AND ECONOMIC STATUS AND IMPROVING THE CONDITIONS IN WHICH THEY LIVE AND WORK.

SINCE ITS INCEPTION, IWN HAS ACTIVELY ADVANCED THE STATUS OF WOMEN IN ISRAELI SOCIETY THROUGH THE PROCESSES OF EDUCATION AND CONSCIOUSNESS-RAISING, LEGISLATIVE INITIATIVE AND ADVOCACY, AND TEST-CASE LITIGATION. AS A RESULT, IWN'S LEGAL, CIVIC ADVOCACY, EDUCATION AND HEALTH COMMITTEES, AND ITS MEDIA CENTER ALL HAVE EXTENSIVE ACCOMPLISHMENTS TO THEIR CREDIT.

THIS PROPOSAL IS BEING SUBMITTED IN COALITION WITH THE TEL AVIV RAPE CRISIS CENTER, WE ARE WORTHY, HERZYLIA BATTERED WOMEN'S SHELTER, HAIFA CRISIS SHELTER, HAIFA BATTERED WOMEN'S HOTLINE, HAIFA RAPE CRISIS CENTER, ISHA L'ISHA HAIFA FEMINIST CENTER AND KAV LA'OVED. ALL OF THE ABOVE MENTIONED ORGANIZATIONS ARE WORKING TO IMPROVE HUMAN RIGHTS IN ISRAEL.

PROBLEM STATEMENT

ACCORDING TO A UNITED STATES SENATE RESOLUTION, "ONE OF THE FASTEST GROWING INTERNATIONAL TRAFFICKING BUSINESSES IS THE TRADE IN WOMEN, WHEREBY WOMEN AND GIRLS SEEKING A BETTER LIFE, A GOOD MARRIAGE, OR A LUCRATIVE JOB ABROAD, UNEXPECTEDLY FIND THEMSELVES IN SITUATIONS OF FORCED PROSTITUTION, SWEATSHOP LABOR, EXPLOITATIVE DOMESTIC SERVITUDE, OR BATTERING AND EXTREME CRUELTY." AN ESTIMATED ONE TO TWO MILLION GIRLS ARE TRAFFICKED ANNUALLY AROUND THE WORLD, WITH SOME 10,000 - 100,000 WOMEN TRAFFICKED FOR SEXUAL EXPLOITATION. ACCORDING TO HEBREW UNIVERSITY PROFESSOR MENACHAM AMIR, ABOUT 1,000 WOMEN ARE TRAFFICKED INTO THE ISRAELI SEX TRADE ANNUALLY. PROF. AMIR ESTIMATES THAT 70% OF THE WOMEN WHO ARE TRAFFICKED TO ISRAEL COME FROM RUSSIA AND OTHER CIS STATES.

IN NOVEMBER 1997, IWN RELEASED ITS REPORT ON THE TRAFFICKING OF WOMEN TO ISRAEL AND FORCED PROSTITUTION. THE REPORT, PREPARED BY MARTINA VANDENBERG, WAS THE FIRST TO EXPOSE THE MULTI-MILLION DOLLAR PROSTITUTION AND SLAVE TRADE IN ISRAEL AND ATTRACTED MUCH ATTENTION IN ISRAEL AND ABROAD.

THESE WOMEN, OFTEN YOUNG, COME TO ISRAEL LOOKING FOR ECONOMIC OPPORTUNITY. FREQUENTLY THEY COME AFTER RESPONDING TO AN EMPLOYMENT AD IN THEIR LOCAL PAPERS LOOKING FOR WAITRESSES OR BARTENDERS. SOMETIMES THEY ARRIVE KNOWING THAT THEY WILL BE WORKING AS

PROSTITUTES. BUT VERY FEW RE READY FOR WHAT HAPPENS ONCE THEY LAND IN THE COUNTRY.

IN MANY INSTANCES, THE WOMEN ARE ME BY THEIR "BOSSES" AT THE AIRPORTS. THESE MEN CONFISCATE THEIR PASSPORTS, UNCLAS SECTION 02 OF 06 TEL AVIV 002729

DEPT FOR INL/ENT SALLY NEUMANN AND S/PICW

E.O. 12958: N/A

TAGS: ASEC, KCRM, KWMN, OIIP, IS

SUBJECT: TRAFFICKING OF WOMEN TO ISRAEL - PROJECT PROPOSAL FROM ISRAEL WOMEN'S NETWORK (IWN)

MONEY, AND ALL OTHER OFFICIAL DOCUMENTS AND TAKE THE WOMEN TO A BROTHEL, WHERE THEY ARE TOLD THAT THEY HAVE BECOME THE "PROPERTY" OF ONE PIMP OR ANOTHER. THE WOMEN ARE FORCED TO WORK IN APPALLING CONDITIONS AND SEE LITTLE OF THE MONEY THEY EARN FOR THEIR BOSSES. OFTEN THEY ARE RAPED AND BEATEN. THEY ARE ISOLATED, HELD IN DEBT BONDAGE AND FORBIDDEN TO QUIT UNTIL THEIR CONTRACT IS COMPLETE. UNABLE TO SPEAK HEBREW, MANY OF THE WOMEN ARE TOTALLY DEPENDENT ON PIMPS FOR ALL THEIR NEEDS.

BECAUSE THESE WOMEN ARE IN ISRAEL WITHOUT PROPER VISAS, THEY ARE TERRIFIED OF THE POLICE. ACCORDING TO YITZCHAK TYLER, COMMANDER OF THE HAIFA POLICE CENTRAL UNIT, "THESE WOMEN HAVE THE MENTALITY OF THE EASTERN EUROPEANS. THEY DON'T UNDERSTAND THAT THE POLICE ARE HERE TO PROTECT THEM." THEY SELDOM TURN TO THE POLICE FOR HELP AND, IF ARRESTED FOR BEING ILLEGAL ALIENS, REFUSE TO TESTIFY AGAINST THEIR PIMPS.

PROSTITUTION IN ISRAEL IS LEGAL, THOUGH RUNNING A BROTHEL OR MAKING A LIVING FROM PROSTITUTION IS NOT. FOR THEIR PART, THE POLICE OCCASIONALLY MANAGE TO RAID A BROTHEL AND ARREST THE WOMEN AS ILLEGAL ALIENS. HOWEVER, THE POLICE ARE ALSO AT TIMES PART OF THIS INTRICATE SCHEME, OFTEN RECEIVING BRIBES FROM THE BROTHEL OWNERS TO KEEP QUIET.

ACCORDING TO AN EDITORIAL IN THE JERUSALEM POST, "EACH PROSTITUTE EARNS HER 'OWNERS' \$50,000 TO \$100,000 A YEAR, RESULTING IN A \$450 MILLION INDUSTRY IN ISRAEL ALONE." REPORTS HAVE EXPOSED INVOLVEMENT BY THE MINISTRY OF INTERIOR, THE ISRAELI POLICE FORCE AND THE RUSSIAN MAFIA - ACTIVE IN ISRAEL AND THE FORMER SOVIET UNION.

ONCE ARRESTED, THE WOMEN AWAIT DEPORTATION IN PRISON, WHICH CAN SOMETIMES TAKE MONTHS. THEY HAVE NO MONEY, NO BELONGINGS, AND OFTEN FLY HOME ON A TICKET PURCHASED BY THEIR PIMP. THEY ARE AFRAID TO SPEAK OUT, KNOWING THAT THE RUSSIAN MAFIA THAT AWAITS THEM AT HOME COULD KILL THEM OR THEIR FAMILIES IN THEIR HOMETLAND. ONE WOMAN FROM BELORUSSIA ARRIVED IN ISRAEL EXPECTING TO CLEAN HOTELS IN EILAT BUT WAS SOLD TO AN ORGANIZED

CRIME RING FOR \$15,000. SHE MANAGED TO ESCAPE WITH THE HELP OF THE EILAT POLICE, WHO ENTERED THE BROTHEL AND REMOVED HER. AS AN ILLEGAL IMMIGRANT SHE WAS THEN PLACED IN PRISON AWAITING DEPORTATION. THREE DAYS AFTER HER ARREST SHE FOUND AN ANONYMOUS DEATH THREAT ON HER PRISON BUNK. THE NOTE SAID THAT SHE WOULD BE KILLED AND HER FAMILY PUNISHED IF SHE SPOKE OUT. SHE COULD NOT EAT OR SLEEP AND CRIED CONTINUOUSLY FOR THREE DAYS, CONTEMPLATING SUICIDE. IF SHE RETURNED TO HER HOMETOWN, THE TRAFFICKERS WOULD MEET HER AT THE AIRPORT. SHE WAS UNABLE TO FLY TO A NEIGHBORING COUNTRY, INSTEAD, SHE ENTERED HER COUNTRY OF ORIGIN, WHERE SHE WAS MET BY A MALE RELATIVE AND TAKEN TO AN UNKNOWN VILLAGE TO LIVE.

THE PROSTITUTION AND SLAVE TRADE INDUSTRY IS ALSO HAVING DEVASTATING EFFECTS ON THE IMAGE OF LEGITIMATE IMMIGRANTS FROM THE FORMER SOVIET UNION, WHO HAVE MADE ISRAEL THEIR HOME OVER THE LAST SEVERAL DECADES. A SURVEY CONDUCTED BY IWN AND THE ZIONIST FORUM DISCOVERED THAT 44% OF ISRAELIS BELIEVE THAT ALL RUSSIAN IMMIGRANT WOMEN ARE PROSTITUTES. DESPITE INTENSIVE EFFORTS TO HELP RUSSIAN IMMIGRANTS ACCLIMATE TO LIVE IN ISRAEL, WOMEN ARE STILL STIGMATIZED AND FIND IT HARD TO OVERCOME THE STEREOTYPE THAT HAS BEEN PLACED ON THEM.

ACTIVITIES OF THE IWN

SINCE ITS REPORT WAS RELEASED IN NOVEMBER 1997, IWN HAS FORMED A NATION-WIDE COALITION OF WOMEN'S ORGANIZATIONS DEDICATED TO FINDING SOLUTIONS AND EASING THE PLIGHT OF TRAFFICKED WOMEN. THE COALITION, WHICH INCLUDES IWN, THE TEL AVIV RAPE CRISIS CENTER, WE ARE WORTHY, HERZYLIA RAPE CRISIS CENTER, ISHA L'ISHA HAIFA FEMINIST CENTER, AND KAV LA'OVED, HAS BEEN MEETING REGULARLY SINCE ITS INCEPTION.

DUE TO THE EFFORTS OF IWN, THE REPORT HAS RECEIVED WIDE MEDIA COVERAGE BOTH IN ISRAEL AND ABROAD. "FACT", A HIGHLY RESPECTED ISRAELI HOUR-LONG NEWS PROGRAM, DEDICATED A SEGMENT TO THE SUBJECT AND INTERVIEWED MARTINA VANDENBERG. THE REPORT WAS ALSO FEATURED IN A SPECIAL NEW YORK TIMES REPORT AND WAS PICKED UP BY NUMEROUS LOCAL US PAPERS. "PRIME TIME LIVE", AN ABC DOCUMENTARY PROGRAM, AIRED A SEGMENT ON THE SUBJECT AND ON THE IWN REPORT. EVEN UKRAINIAN MEDIA REACTED TO THE UNCLAS SECTION 03 OF O<
PROPOSAL FROM ISRAEL WOMEN'S NETWORK (IWN)

REPORT AND SENT A CREW TO THE IWN OFFICE IN ORDER TO FILM A FEATURE TO INFORM WOMEN ABOUT WHAT AWAITS THEM IN COUNTRIES SUCH AS ISRAEL.

IWN HAS ACTIVELY BROUGHT THE SUBJECT TO THE ATTENTION OF LEGISLATORS AND GOVERNMENT OFFICIALS. THE KNESSET COMMITTEE ON THE STATUS OF WOMEN DEDICATED A SESSION

EXCLUSIVELY TO THE SUBJECT AND PARTICIPANTS INCLUDED REPRESENTATIVES FROM THE POLICE, THE STATE ATTORNEY'S OFFICE, THE NEVE TIRTZA PRISON (WHERE THE WOMEN AWAITING DEPORTATION ARE HELD), AND THE MINISTRY OF INTERIOR. MEMBER OF KNESSET Yael Dayan, head of the committee, said that the solution to the problem was to take "drastic measures" to act against traffickers.

Following the Knesset session, and as a result of IWN public awareness campaign, the Israeli Police Research and Planning Unit was ordered to produce a special report on trafficking and make recommendations for special police action to combat the problem.

In June 1998, IWN legal advisor Rachel Benziman attended a four-day international conference in Budapest devoted to the subject of trafficking. Israel has now officially been acknowledged as a "host" country for trafficked women and as such is part of an international coalition working to improve the situation.

In February 1999, IWN urged the Knesset committee on the status of women to hold a second special session dedicated to trafficking. The coalition representative reported on the findings and activities of the coalition and the police reported on the results of their research. Following this Knesset session, the Ministry of Justice convened an inter-ministerial meeting in conjunction with the coalition, to discuss future action. All the parties involved recommended the establishment of a formal inter-ministerial committee.

OBJECTIVES

The coalition has developed a multi-pronged approach aimed at ameliorating the plight of women trafficked to Israel. The coalition intends to:

- provide social and legal assistance to women who have been trafficked to Israel.
- advocate for national policy to combat trafficking.
- develop legislation to strengthen statutory measures against trafficking and to revise existing policy of detaining and deporting trafficked women.

PROJECT

- social and legal assistance

trafficked women in Israel are held in a closed and isolated environment. They do not speak Hebrew, they have almost no contact with anyone outside of the

BROTHEL IN WHICH THEY WORK AND LIVE, AND THEY ARE CONSTANTLY UNDER SURVEILLANCE.

- HOTLINE FOR TRAFFICKED WOMEN

IN ORDER TO ASSIST THE TRAFFICKED WOMEN, THE COALITION INTENDS TO OPERATE A RUSSIAN-SPEAKING HOTLINE FROM THE OFFICES OF THE RAPE CRISIS CENTER IN TEL AVIV. THE HOTLINE WILL SUPPLY ITS CALLERS WITH INFORMATION ON THEIR LEGAL STATUS IN ISRAEL, THE CONSEQUENCES OF LODGING A COMPLAINT WITH THE POLICE, AVAILABLE SOCIAL, HEALTH AND LEGAL SERVICES, AND CONTACT NUMBERS OF NGOS IN THEIR COUNTRIES OF ORIGIN.

A MAJOR PUBLICITY CAMPAIGN WILL BE UNDERTAKEN TO ADVERTISE THE SERVICES OF THE HOTLINE AS WELL AS TO MAKE CONTACT WITH THE WOMEN THEMSELVES:

-- STICKERS IN RUSSIAN WILL BE PRINTED AND POSTED IN PUBLIC HOTELS AND TOILETS, KIOSKS, CIGARETTE STANDS AND PHONE BOOTHS IN AREAS WHERE BROTHELS ARE LOCATED.

-- AN AD WILL BE RUN ON THE RUSSIAN RADIO PROGRAM DESCRIBING THE SERVICES OF THE HOTLINE.

-- THE HOTLINE NUMBER WILL BE PRINTED ON BUSINESS CARDS AND DISTRIBUTED IN BROTHELS BY MALE VOLUNTEERS.
UNCLAS SECTION 04 OF 06 TEL AVIV 002729

DEPT FOR INL/ENT SALLY NEUMANN AND S/PICW

E.O. 12958: N/A

TAGS: ASEC, KCRM, KWMN, OIIP, IS

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-- ALL ORGANIZATIONS LOCATED IN COUNTRIES OF ORIGIN (COUNTRIES FROM WHICH WOMEN ARE TRAFFICKED) WILL RECEIVE NOTIFICATION OF THE EXISTENCE AND ACTIVITIES OF THE HOTLINE IN ISRAEL.

-- ALL ORGANIZATIONS LOCATED IN COUNTRIES OF ORIGIN WILL BE REQUESTED TO INSTRUCT WOMEN WHO ARE CONSIDERING WORKING IN ISRAEL TO TAKE DOWN THE HOTLINE NUMBER.

CONTACT WITH NGOS IN COUNTRIES OF ORIGIN

THE PROJECT COORDINATOR WILL MAINTAIN AND DEVELOP EXISTING AND NEW CONTACTS WITH NGOS, ASSISTING TRAFFICKED WOMEN IN COUNTRIES OF ORIGIN. MONTHLY UPDATES ABOUT THE PROJECT'S ACHIEVEMENTS WILL BE COMMUNICATED VIA E-MAIL. THE ORGANIZATIONS WILL RECEIVE INFORMATION ABOUT THE CURRENT SITUATION OF TRAFFICKING IN ISRAEL, ABOUT LEGAL AND POLICY CHANGES, THE HOTLINE, AND OTHER ESSENTIAL CONTACTS.

TO EASE THEIR RETURN HOME AND PREVENT RECURRING VICTIMIZATION, INFORMATION ABOUT NGOS AND OTHER IMPORTANT TELEPHONE NUMBERS AND CONTACTS IN THE COUNTRIES OF ORIGIN WILL BE DISTRIBUTED TO THE TRAFFICKED WOMEN AWAITING DEPORTATION. A ONE-PAGE INFORMATION SHEET, WRITTEN IN BASIC RUSSIAN, WILL BE PREPARED TO PROVIDE ESSENTIAL INFORMATION ON THE SITUATION IN ISRAEL. THE SHEET WILL ADDRESS SUCH TOPICS AS: "WHAT WILL HAPPEN TO ME IF I RUN AWAY FROM MY PIMP? WHAT WILL HAPPEN TO ME IF I GO TO THE POLICE? WHAT HEALTH SERVICES ARE AVAILABLE TO ME?" THROUGH OUR CONTACTS WITH NGOS IN COUNTRIES OF ORIGIN, THE SHEET WILL BE DISTRIBUTED TO WOMEN WHO MAY BE SEEKING WORK IN ISRAEL.

VISITOR GROUP

OFTEN WOMEN SIT IN JAIL ALONE AWAITING DEPORTATION. WITH NO FAMILY OR FRIENDS IN ISRAEL, THEY MAY KNOW NO ONE BUT THEIR PIMP. THEY HAVE NO VISITORS AND NO CONTACTS SHOULD THEY NEED ADVICE OR SHOULD THEY WANT ITEMS OBTAINABLE ONLY OUTSIDE THE PRISON. THUS, IT IS IMPERATIVE THAT A VISITOR GROUP BE ESTABLISHED.

THE VISITOR GROUP WILL SERVE AS AN ESSENTIAL SOURCE OF INFORMATION AND CONTACT WITH INCARCERATED VICTIMS OF TRAFFICKING. EVERY TWO WEEKS THE PROJECT COORDINATOR AND 2-3 RUSSIAN-SPEAKING WOMEN WILL VISIT THE JAILED WOMEN IN ORDER TO BRING BOOKS, MAGAZINES AND CLOTHES, TO EXCHANGE MONEY TO USE AT THE PRISON KIOSK, TO SPEAK TO PRISON AUTHORITIES ABOUT THE NEED FOR IMPROVED HEALTH CARE OR INCREASED SECURITY FROM PIMPS, ETC. THE VISITORS' GROUP MAY ALSO COUNSEL THE WOMEN AND PROVIDE INFORMATION ON SERVICES AVAILABLE ONCE THEY RETURN TO THEIR HOME COUNTRIES. WHEN REQUIRED, THE VISITORS' GROUP MAY REFER THE INCARCERATED WOMEN TO THE PROJECT'S LEGAL ADVISOR FOR FURTHER ASSISTANCE.

LEGAL ASSISTANCE

VICTIMS OF TRAFFICKING WILL RECEIVE ASSISTANCE IN OBTAINING PASSPORTS AND/OR OTHER TRAVEL DOCUMENTS AND ASSISTANCE IN DEALING WITH FORMALITIES THAT PREVENT THEIR SPEEDING RETURN TO THEIR HOME COUNTRIES.

VICTIMS WILL ALSO BE GIVEN LEGAL COUNSELING IN AREAS SUCH AS LODGING OFFICIAL COMPLAINTS WITH THE POLICE, TESTIFYING AGAINST THEIR TRAFFICKERS, OBTAINING ASYLUM, REHABILITATION, FAMILY REUNIONS, ETC. WOMEN WISHING TO TESTIFY WILL BE GIVEN INFORMATION ON THEIR LEGAL STATUS VIS A VIS THE LEGAL SYSTEM IN ISRAEL AND COURTROOM PROCEDURES, THEY WILL BE ASSISTED IN THEIR CONTACTS WITH POLICE AND THE STATE ATTORNEY, AND COURT CASES WILL BE MONITORED TO ASSURE THAT VICTIMS' RIGHTS ARE NOT ABUSED.

LEGISLATION AND ADVOCACY

THE COALITION HAS IDENTIFIED TWO MAIN AREAS IN WHICH A LEGISLATIVE AMENDMENT AND REVISION OF GOVERNMENT POLICY IS ESSENTIAL TO COMBAT TRAFFICKING.

1. LAW ENFORCEMENT REGARDING TRAFFICKERS

THE COALITION WILL ADVOCATE AND DRAFT AMENDMENTS TO THE CRIMINAL CODE THAT WILL SPECIFICALLY PROHIBIT THE SALE OF A PERSON, MAKING TRAFFICKING AN OFFENSE, AND LOBBY UNCLAS SECTION 05 OF 06 TEL AVIV 002729

DEPT FOR INL/ENT SALLY NEUMANN AND S/PICW

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FOR THEIR ENACTMENT IN THE KNESSET BY MEANS OF A PUBLIC AWARENESS CAMPAIGN. THE COALITION WILL ALSO PRESSURE THE GOVERNMENT INTO PRIORITIZING GOVERNMENT ACTION AGAINST TRAFFICKING. THE COALITION WILL ADVOCATE BOTH FOR DECLARING THE ACTIONS AGAINST TRAFFICKING AS OFFICIAL GOVERNMENT POLICY, AND FOR ALLOCATING FUNDS WITH THE POLICE FORCE AND THE JUSTICE MINISTRY FOR SPECIFIC UNITS THAT WILL CONCENTRATE EFFORTS TO ERADICATE TRAFFICKING AND BRING TRAFFICKERS TO TRIAL.

THE COALITION WILL PRESS TO FORM AN INTER-MINISTERIAL COMMITTEE TO MAKE RECOMMENDATIONS TO THE GOVERNMENT TOWARDS THE FORMULATION OF AN OVERALL POLICY TO COMBAT TRAFFICKING OF WOMEN AND STRENGTHENING CURRENT POLICIES PROTECTING VICTIMS OF TRAFFICKING.

2. GOVERNMENT POLICY REGARDING THE VICTIMS OF TRAFFICKING AND THEIR TREATMENT

CURRENTLY VICTIMS ARE ARRESTED AS ILLEGAL ALIENS/ILLEGAL WORKERS IN THE COURSE OF POLICE RAIDS ON BROTHELS AND ARE DETAINED UNTIL DEPORTATION. THEY ARE NOT ENTITLED TO SOCIAL SERVICES IN PRISON, THEIR RIGHTS AS WORKERS ARE NOT ENFORCED, AND THEY ARE NOT RECOGNIZED AS VICTIMS WHOSE BASIC HUMAN RIGHTS HAVE BEEN ABUSED.

THE COALITION WILL ADVOCATE FOR THE REVISION OF CURRENT POLICY REGARDING TREATMENT OF VICTIMS OF TRAFFICKING BY STATE AUTHORITIES. ISRAEL WILL BE URGED TO ADOPT THE EXISTING WEST EUROPEAN/DUTCH MODEL, WHICH ALLOWS THE VICTIMS OF TRAFFICKING A THREE TO FOUR WEEK PERIOD OF STAY TO DECIDE WHETHER THEY WANT TO TESTIFY AND HOW THEY WANT TO PROCEED. IF THEY DO NOT INTEND TO TESTIFY, THEIR DEPORTATION WILL BE HANDLED SENSITIVELY, WITH ATTENTION TO THEIR PARTICULAR NEEDS. IF VICTIMS WILL CHOOSE TO TESTIFY, THEY SHOULD BE ALLOWED TO

REMAIN IN ISRAEL, BE GIVEN LIVING ALLOWANCE AND POLICE PROTECTION WHEN NEEDED.

THE COALITION WILL ADVOCATE FOR REVISION OF REGULATIONS OF THE POLICE AND THE MINISTRY OF INTERIOR REGARDING THE STATUS OF THE VICTIMS OF TRAFFICKING IN ISRAEL. THE MINISTRY OF LABOR WILL BE PRESSURED TO PROVIDE SOCIAL SERVICES, SUCH AS COUNSELING TO THE VICTIMS AND WILL ALSO BE PRESSURED TO SEE TO THE ENFORCEMENT OF THEIR LEGAL RIGHTS AS WORKERS.

SUMMARY

SINCE THE RELEASE OF THE IWN REPORT THE COALITION HAS DONE EXTENSIVE RESEARCH AND POLICY ANALYSIS TO DETERMINE THE BEST METHOD TO IMPROVE THE LIVES AND CONDITIONS OF WOMEN TRAFFICKED IN ISRAEL. THE PROBLEM OF TRAFFICKING REQUIRES IMMEDIATE PROACTIVE INTERVENTION ON ALL LEVELS - LEGISLATION, POLICY, GOVERNMENTAL ACTION AND SOCIAL ASSISTANCE. ONLY BY ENACTING A HOLISTIC, BROAD-BASED PROGRAM CAN IWN BE EFFECTIVE IN COMBATING THIS GROWING PROBLEM.

EVALUATION

THE TWO MAIN AREAS OF ACTIVITY OF THIS PROJECT WILL BE EVALUATED SEPARATELY:

-- REGARDING SOCIAL SERVICES, THE EVALUATION WILL INCLUDE ASSESSING THE RESPONSE OF THE HOTLINE, THE LEVEL OF SATISFACTION FROM THE VISITS AND THE SUCCESS OF THE LEGAL ASSISTANCE TO INCARCERATED WOMEN AWAITING DEPORTATION. WE WILL COLLECT FEEDBACK FROM THE WOMEN RECIPIENTS OF SERVICES AND WILL ADJUST THE SERVICES RENDERED ON AN ONGOING BASIS.

-- REGARDING PUBLIC POLICY, WE WILL BE MONITORING THE GOVERNMENT, TRACKING CHANGES IN POLICE PROSECUTION POLICIES AND THE CREATION OF A COHERENT GOVERNMENT PLAN OF ACTION TO COMBAT TRAFFICKING. ANY CHANGES IN PUBLIC POLICY WILL CONSTITUTE SUCCESS.

FUTURE FUNDING

THE REPORT ON TRAFFICKING STIRRED GROWING INTEREST IN ISRAEL AND ABROAD. SINCE IWN BEGAN PURSUING THE ISSUE IN 1997, A NUMBER OF PRIVATE DONORS AS WELL AS THE US/ISRAEL WOMEN TO WOMEN ORGANIZATION HAVE TAKEN SERIOUS INTEREST IN THE PROJECT. TO DATE PRIVATE DONORS HAVE FUNDED OUR ACTIVITIES AND WE ARE JUST BEGINNING TO ASK FOUNDATIONS FOR ASSISTANCE IN UNDERWRITING THE COST OF THE PROJECT. IWN HOPES TO UNCLAS SECTION 06 OF 06 TEL AVIV 002729

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RAISE FUNDS THROUGH HUMAN RIGHTS ORGANIZATIONS AS WELL
IN ORDER TO ENABLE US TO CARRY THE PROGRAM UNTIL SUCH
TIME AS THE GOVERNMENT COMES THROUGH WITH FUNDING OF
ITS OWN.

ANNUAL PROJECT BUDGET

STAFF (INCLUDING SALARY AND TRAVEL EXPENSES TO JAILS
AND SHELTERS THROUGHOUT) EBK~AL/ADVOCACY SUPERVISION (5 HRS/
WEEK) 5,500 USD

PROJECT EXPENSES

-HOTLINE EXPENSES (EQUIPMENT, E-MAIL) 2,300 USD
-PRINTING COSTS FOR PUBLICITY CAMPAIGN 5,000 USD
-VISITOR GROUP TRAVEL EXPENSES 2,350 US,t'w 2. IN
LIGHT OF AMNESTY INTERNATIONAL'S NEWLY PUBLISHED
REPORT CALLING FOR COORDINATED ACTION BY THE GOI AND
THE NGO COMMUNITY TO FIGHT TRAFFICKING, POST WISHES TO
TAKE ADVANTAGE OF AMNESTY'S TIMELY PRESS RELEASE AND
CONVEY INL'S POSITIVE RESPONSE AS SOON AS POSSIBLE.
POST POC FOR TRAFFICKING IN WOMEN IS LAURA MALENAS,
TEL:972-3-519-7419, FAX:972-3-516-0315, E-MAIL:
MALENASLA#STATE.GOV.

INDYK

TOR: 05/19/00 06:47:08

DIST: SIT: BABBITT BOLAN NSC CAMP FELDMAN MALLEY MCLEAN NAPLAN PATTEN POLLACK
RIEDEL SCHWARTZ SMITHP VACCARO WILCOX

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Cable

PREC: ROUTINE
CLASS: UNCLASSIFIED
LINE1: RAAUZYUW RUEHSNA2195 1851714-UUUU--RHEHAAX.
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LINE4: FM AMEMBASSY SAN SALVADOR
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SUBJ: EL SALVADOR - ELIGIBILITY FOR CBI ENHANCEMENT
BENEFITS
TEXT: UNCLAS SECTION 01 OF 05 SAN SALVADOR 002195

STATE PASS USTR - BENNETT HARMAN/CHRIS WILSON
GENEVA FOR USTR

E.O. 12958: N/A

TAGS: ETRD, ELAB, KIPR, USTR, ES
SUBJECT: EL SALVADOR - ELIGIBILITY FOR CBI ENHANCEMENT
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REF: STATE 116660

1. THIS CABLE CONTAINS POST RESPONSE TO REFTEL TASKING SEEKING EMBASSY VIEWS ON SALVADORAN GOVERNMENT ELIGIBILITY FOR CBI ENHANCEMENT BENEFITS. OUR COMMENTS ARE KEYED TO THE SPECIFIC ELIGIBILITY CRITERIA. OVERALL, IT LOOKS TO US THAT EL SALVADOR WOULD EASILY QUALIFY FOR CBI ENHANCEMENT ELIGIBILITY. ITS FREE-MARKET ORIENTED GOVERNMENT IS SUPPORTIVE OF USG, WTO, AND FTAA POLICIES, TAKES ITS LABOR RESPONSIBILITIES SERIOUSLY, AND IS A SOLID PARTNER FOR THE U.S. ON COUNTERNARCOTICS ISSUES. THE COUNTRY'S PRINCIPAL FAILING IS THAT IT HAS NOT YET PASSED LEGISLATION IMPLEMENTING ITS WTO TRIPS OBLIGATIONS; THE GOES SOON PLANS TO INTRODUCE A BILL IN THE LEGISLATIVE ASSEMBLY TO BRING ITS TRIPS COMMITMENTS INTO FORCE.

2. COMMITMENT TO WTO OBLIGATIONS

EL SALVADOR HAS BEEN A MEMBER OF THE WORLD TRADE ORGANIZATION (WTO) SINCE MAY 7, 1995. THE SALVADORAN GOVERNMENT TAKES ITS COMMITMENTS TO THAT BODY SERIOUSLY, AND EMBRACES CORE WTO PRINCIPLES GOVERNING TARIFFS, AGRICULTURE, TEXTILES, SERVICES, INTELLECTUAL PROPERTY RIGHTS, ANTI-DUMPING, SUBSIDIES, SAFEGUARDS, CONTINGENCIES, AND NON-TARIFF BARRIERS. MOST RECENTLY, ON MAY 26, 1999, EL SALVADOR'S LEGISLATIVE ASSEMBLY RATIFIED

THE FIFTH PROTOCOL TO THE WTO GENERAL AGREEMENT ON TRADE IN SERVICES, THUS BRINGING ITS COMMITMENTS ON FINANCIAL SERVICES INTO EFFECT.

3. PARTICIPATION IN NEGOTIATIONS TOWARD THE COMPLETION OF THE FTAA

EL SALVADOR IS AN ENTHUSIASTIC PARTICIPANT IN THE HEMISPHERIC-WIDE FTAA NEGOTIATIONS AND IS GENERALLY SUPPORTIVE OF USG POSITIONS WITH THE FTAA FRAMEWORK. EL SALVADOR ORIGINALLY SERVED AS THE VICE-CHAIR FOR THE FTAA AGRICULTURE NEGOTIATING GROUP. EL SALVADOR, HONDURAS, AND GUATEMALA RECENTLY SIGNED A NORTHERN-TRIANGLE FREE TRADE AGREEMENT WITH MEXICO AND THE THREE CENTRAL AMERICAN COUNTRIES ARE ACTIVELY SEEKING A SUB-REGIONAL FREE TRADE AGREEMENT WITH THE U.S.

4. LEVEL OF IPR PROTECTION

EL SALVADOR IS ONE OF THE FEW COUNTRIES IN LATIN AMERICA THAT DOES NOT APPEAR ON EITHER THE USG'S SECTION 301 WATCH LIST OR PRIORITY WATCH LIST. THIS IS BECAUSE THE LAWS OF EL SALVADOR IN GENERAL PROTECT INTELLECTUAL PROPERTY RIGHTS. ENFORCEMENT IS GRADUALLY BECOMING MORE EFFECTIVE AS THE GOVERNMENT, WITH ASSISTANCE FROM THE U.S. AND MULTILATERAL AGENCIES, STRENGTHENS THE CAPABILITIES OF ITS LAW ENFORCEMENT AGENCIES. DURING THE PAST FEW YEARS, THE GOES HAS TAKEN ACTIVE MEASURES TO CRACK DOWN ON PIRATED CASSETTES, VIDEOS, CLOTHING, AND COMPUTER SOFTWARE. CURRENT IPR LEGISLATION, HOWEVER, IS NOT FULLY CONSISTENT WITH WTO TRIPS STANDARDS. THE MINISTRY OF ECONOMY HAS DRAFTED A BILL TO MAKE THE COUNTRY'S IPR LAWS TRIPS-CONSISTENT; WE EXPECT THIS BILL TO BE INTRODUCED IN THE LEGISLATIVE ASSEMBLY IN THE NEAR FUTURE.

IN LATE JUNE, A WTO PANEL CONDUCTED A ROUTINE REVIEW OF EL SALVADOR'S INTELLECTUAL PROPERTY PROTECTION REGIME. AS OF THIS WRITING, POST HAS NOT LEARNED THE RESULTS/CONCLUSIONS OF THIS REVIEW.

5. COMMITMENT TO WORKER RIGHTS

(I) THE RIGHT OF ASSOCIATION

THE CONSTITUTION PROHIBITS THE GOVERNMENT FROM USING NATIONALITY, RACE, SEX, CREED, OR POLITICAL PHILOSOPHY AS A MEANS TO PREVENT WORKERS OR EMPLOYERS FROM ORGANIZING THEMSELVES INTO UNIONS OR ASSOCIATIONS. IN PRACTICE, THE GOVERNMENT HAS RESPECTED THIS RIGHT. MILITARY PERSONNEL, POLICE, AND GOVERNMENT WORKERS MAY NOT FORM UNIONS, BUT MAY FORM PROFESSIONAL OR EMPLOYEE ORGANIZATIONS. THESE ASSOCIATIONS MAY NOT STRIKE. THE 1994 LABOR CODE REFORM STREAMLINED THE PROCESS REQUIRED TO FORM A UNION IN THE PRIVATE SECTOR, EXTENDING UNION RIGHTS TO AGRICULTURAL, INDEPENDENT, AND SMALL-BUSINESS WORKERS, AND EXTENDING THE RIGHT TO STRIKE TO UNION FEDERATIONS. THE LABOR CODE PROHIBITS PARTISAN POLITICAL ACTIVITY BY UNIONS. THE UNIONS ROUTINELY IGNORED THIS PROHIBITION, BUT THE GOVERNMENT

HAS NOT TAKEN PUNITIVE ACTION AGAINST THEM. THE LAW PROHIBITS ANTI-UNION ACTIONS BEFORE A UNION IS LEGALLY REGISTERED AND PROVIDES SPECIFIC JOB PROTECTION TO WORKERS WHOSE NAMES APPEAR ON A UNION APPLICATION. THE LABOR CODE FORBIDS FOREIGNERS FROM HOLDING POSITIONS IN UNCLAS SECTION 02 OF 05 SAN SALVADOR 002195

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UNIONS. UNIONS AND OTHER LABOR ORGANIZATIONS FREELY AFFILIATE WITH INTERNATIONAL LABOR ORGANIZATIONS.

(II) THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

THE CONSTITUTION AND THE LABOR CODE PROVIDE FOR COLLECTIVE BARGAINING RIGHTS, BUT ONLY TO EMPLOYEES IN THE PRIVATE SECTOR AND TO CERTAIN CATEGORIES OF WORKERS IN AUTONOMOUS GOVERNMENT AGENCIES, SUCH AS UTILITIES (SOME OF WHICH HAVE BEEN PRIVATIZED IN RECENT YEARS) AND THE PORT AUTHORITY. HOWEVER, BOTH PRIVATE SECTOR UNIONS (BY LAW) AND PUBLIC SECTOR EMPLOYEE ASSOCIATIONS (IN PRACTICE) USED COLLECTIVE BARGAINING. THE MINISTRY OF LABOR OVERSEES IMPLEMENTATION OF COLLECTIVE BARGAINING AGREEMENTS AND ACTS AS A CONCILIATOR IN LABOR DISPUTES IN THE PRIVATE SECTOR AND WITH AUTONOMOUS GOVERNMENT INSTITUTIONS. THE CONSTITUTION PROHIBITS DISCRIMINATION AGAINST UNIONS. THE LABOR CODE PROVIDES THAT UNION OFFICIALS AT THE TIME OF THEIR ELECTION, THROUGHOUT THEIR TERM, AND FOR 1 YEAR FOLLOWING THEIR TERM MAY NOT BE FIRED, SUSPENDED FOR DISCIPLINARY REASONS, REMOVED, OR DEMOTED EXCEPT FOR LEGAL CAUSE. THIS REQUIRES AN EMPLOYER TO PROVE BEFORE A LABOR COURT THAT AN UNION OFFICIAL HAS COMMITTED ONE OF THE FAULTS DEFINED BY LAW ALLOWING FOR DISMISSAL FOR CAUSE (STEALING, FAILURE TO SHOW UP AT WORK WITHOUT A REASON, ETC.) BEFORE THE EMPLOYEE CAN BE FIRED.

(III) PROHIBITION OF FORCED OR COMPULSORY LABOR

THE CONSTITUTION PROHIBITS FORCED OR COMPULSORY LABOR, EXCEPT IN THE CASE OF CALAMITY AND OTHER INSTANCES OF EXTREME CRISES AS DEFINED BY LAW, AND THE GOVERNMENT GENERALLY ENFORCES THIS PROVISION. ALTHOUGH NOT SPECIFICALLY PROHIBITED BY LAW, FORCED AND BONDED CHILD LABOR IS COVERED BY THE GENERAL PROHIBITION, AND THERE HAVE BEEN NO REPORTS OF ITS USE IN THE FORMAL SECTOR IN RECENT TIMES. HOWEVER, THERE IS EVIDENCE OF FORCED PROSTITUTION OF MINORS.

(IV) MINIMUM AGE FOR EMPLOYMENT

THE CONSTITUTION PROHIBITS THE EMPLOYMENT OF CHILDREN

UNDER THE AGE OF 14. MINORS, BETWEEN THE AGES 14 AND 18, MAY RECEIVE SPECIAL LABOR MINISTRY PERMISSION TO WORK, BUT ONLY WHERE SUCH EMPLOYMENT IS ABSOLUTELY INDISPENSABLE TO THE SUSTENANCE OF THE MINOR AND HIS OR HER FAMILY. THOSE LEGAL WORKERS UNDER THE AGE OF 18 HAVE SPECIAL ADDITIONAL RULES GOVERNING CONDITIONS OF WORK. THE MINISTRY OF LABOR IS RESPONSIBLE FOR ENFORCING CHILD LABOR LAWS AND MAKES AN EFFORT TO DO SO. HOWEVER, SCARCE RESOURCES AND THE DIFFICULTY OF MONITORING THE LARGE INFORMAL SECTOR, WHERE THE MAJORITY OF CHILDREN WORK, LIMITS ITS EFFECTIVENESS. THE GOVERNMENT IS COLLABORATING WITH THE INTERNATIONAL PROGRAM TO END CHILD LABOR (IPEC - UNDER THE AUSPICES OF THE UN INTERNATIONAL LABOR ORGANIZATION - ILO) ON SEVERAL PROJECTS AIMED AT DIRECTLY COMBATING CHILD LABOR. THESE PROJECTS ARE DESIGNED TO DISCOURAGE CHILDREN FROM WORKING, PROMOTE SCHOOLING AND RECREATION, HELP DEVELOP NEW ECONOMIC OPTIONS FOR BOTH CHILDREN AND THEIR FAMILIES, AND EVENTUALLY BE SELF-SUSTAINING AND PERMANENT.

(V) ACCEPTABLE CONDITIONS OF WORK

THE MINIMUM WAGE IS SET BY A TRIPARTITE (GOVERNMENT, LABOR, BUSINESS) COMMITTEE. EFFECTIVE MAY 1, 1998, THE MINIMUM DAILY WAGE WAS SET AT \$4.81 (42.00 COLONES) FOR COMMERCIAL, INDUSTRIAL, AND SERVICE EMPLOYEES; \$3.66 (31.20 COLONES) PLUS FOOD ALLOWANCE FOR COFFEE PLANTATION WORKERS; \$2.61 (22.80 COLONES) PLUS FOOD ALLOWANCE FOR SUGAR AND COTTON PLANTATION WORKERS; AND \$2.47 (21.60 COLONES) PLUS FOOD ALLOWANCE FOR ALL OTHER AGRO-INDUSTRIAL WORKERS. BY LAW, A FULL-TIME MINIMUM WAGE EMPLOYEE IS PAID A FULL 7 DAYS (56 HOURS) FOR THE 44-HOUR NORMAL WORKWEEK AND RECEIVES AN AVERAGE OF 1 MONTH'S WAGE A YEAR IN REQUIRED BONUSES PLUS 2 WEEKS OF PAID VACATION. THE LABOR MINISTRY IS RESPONSIBLE FOR ENFORCING MINIMUM WAGE LAWS AND DOES SO EFFECTIVELY IN THE FORMAL SECTOR. THE MINIMUM WAGE IS INSUFFICIENT TO SUPPORT A FAMILY. THE LAW LIMITS THE WORKDAY TO 6 HOURS FOR YOUTHS BETWEEN 14 AND 18 YEARS OF AGE AND 8 HOURS FOR ADULTS, AND IT MANDATES PREMIUM PAY FOR LONGER HOURS. THE LABOR CODE SETS A MAXIMUM NORMAL WORKWEEK OF 36 HOURS FOR YOUTHS AND 44 HOURS FOR ADULTS. IT REQUIRES BONUS PAY FOR OVERTIME AND LIMITS THE WORKWEEK TO NO MORE THAN 6 DAYS FOR ALL WORKERS. THE CONSTITUTION AND THE LABOR CODE REQUIRE EMPLOYERS, INCLUDING THE GOVERNMENT, TO TAKE

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STEPS TO ENSURE THAT EMPLOYEES ARE NOT PLACED AT RISK IN THEIR WORKPLACES. THESE LAWS PROHIBIT THE EMPLOYMENT OF

PERSONS UNDER 18 YEARS OF AGE, AND OF ALL WOMEN, IN OCCUPATIONS CONSIDERED HAZARDOUS. NEVERTHELESS, HEALTH AND SAFETY REGULATIONS ARE OUTDATED, AND ENFORCEMENT, WHILE IMPROVED, IS INADEQUATE. THE MINISTRY OF LABOR ATTEMPTS TO ENFORCE THE APPLICABLE REGULATIONS AND HAS DEVOTED RESOURCES TO IMPROVING THE PROFESSIONAL TRAINING OF ITS STAFF AND INSPECTORS. INCREASINGLY, ITS INVESTIGATIONS LEAD TO FINES OR OTHER FINDINGS FAVORING WORKERS. THE MINISTRY HAS RESTRICTED POWERS AND ONLY LIMITED, BUT GROWING, RESOURCES TO ENFORCE COMPLIANCE. THE MAQUILA SECTOR CONTINUES TO BE SUBJECT TO CHARGES THAT IT MAINTAINS "SWEATSHOP" CONDITIONS IN ITS FACTORIES. THE SERIOUS PROBLEMS WITH WORKING CONDITIONS THAT EXIST ARE CONCENTRATED IN SMALL, NON-EPZ PLANTS. IN GENERAL, THE LARGER PLANTS (WHICH EMPLOY THE GREAT MAJORITY OF MAQUILA WORKERS) HAVE ADEQUATE TO EXCELLENT WORKING CONDITIONS. SOME OF THE LARGEST COMPANIES HAVE DUST CONTROL, AIR CONDITIONING, ON-PLANT MEDICAL FACILITIES, AND ENFORCED SAFETY REGIMES. WORKERS CAN REMOVE THEMSELVES FROM DANGEROUS WORK SITUATIONS WITHOUT JEOPARDIZING THEIR EMPLOYMENT ONLY IN SITUATIONS WHERE THEY CAN PRESENT A MEDICAL CERTIFICATE ISSUED BY A DOCTOR OR THE SOCIAL SECURITY INSTITUTE INDICATING THAT THEIR HEALTH IS AT RISK WHILE USING CERTAIN EQUIPMENT OR SUBSTANCES.

6. ELIMINATION OF THE WORST FORMS OF CHILD LABOR

SINCE THE SIGNING OF THE PEACE ACCORDS IN 1992 WHICH ENDED THE COUNTRY'S CIVIL WAR, GOVERNMENT EFFORTS ON CHILD LABOR HAVE CONCENTRATED ON REDUCING POVERTY AND PROMOTING FAMILY STABILITY THROUGH ECONOMIC GROWTH, RATHER THAN EXPENDITURES ON CHILDREN'S PROGRAMS. IN THE LAST FIVE YEARS, THERE HAS BEEN INCREASING GOVERNMENT AND PUBLIC RECOGNITION OF CHILD LABOR ISSUES IN GENERAL, AND GROWING SENSITIVITY TO SEVERAL OF THE WORST FORMS OF CHILD LABOR ABUSE FOUND IN THE COUNTRY - CHILDREN IN PROSTITUTION, COFFEE AND SUGAR HARVESTING, FIREWORKS MANUFACTURING, SHELLFISH COLLECTING, FAMILY FISHING, BEGGING, DOMESTIC SERVICE, AND OTHER AREAS. THIS ATTENTION RESULTS FROM STEADY EFFORTS BY THE NGO COMMUNITY, UNDP, ILO/IPEC, USG, AND THE MEDIA TO MAKE CHILDREN'S RIGHTS A FRONT BURNER ISSUE. IN JUNE, THE GOVERNMENT BEGAN TO ESTABLISH A NATIONAL COMMITTEE TO FIGHT CHILD LABOR, WHICH IS TO BE COMPOSED OF GOVERNMENT OFFICES (MINISTRY OF LABOR, MINISTRY OF EDUCATION, LAW ENFORCEMENT OFFICES, FAMILY SECRETARIAT), THE NGO COMMUNITY, CIVIC LEADERS, AND OTHER ACTORS INVOLVED IN CHILDREN'S RIGHTS PROTECTION. THIS COMMITTEE IS CHARGED WITH FORMULATING A COHESIVE CHILD LABOR POLICY AND COORDINATING PRIVATE AND PUBLIC SECTOR EFFORTS TO COMBAT CHILD LABOR. WITH A STRONG PUSH FROM LABOR MINISTER JORGE NIETO, ON JUNE 15 THE SALVADORAN LEGISLATIVE ASSEMBLY RATIFIED ILO CONVENTION 182 ON THE WORST FORMS OF CHILD LABOR. UNLIKE MANY COUNTRIES WHERE RATIFICATION IS MORE SYMBOLIC, THE SALVADORAN CONSTITUTION GRANTS RATIFICATION OF INTERNATIONAL CONVENTIONS OR TREATIES

FULL FORCE OF LAW WITH PRECEDENCE OVER LEGISLATIVE LAW.

THERE IS GROWING EVIDENCE OF A SMALL BUT SERIOUS TRAFFICKING IN UNDERAGE (15-17 YEAR OLDS) AND, TO A LESSER DEGREE, CHILD PROSTITUTION (14 OR YOUNGER), THROUGH DECEPTION AND/OR FORCE. ALTHOUGH NOT A NEW PROBLEM, PUBLIC AND GOVERNMENT INTEREST IN AND KNOWLEDGE OF THIS ISSUE HAS GROWN SIGNIFICANTLY DURING THE LAST FEW YEARS. THE LAST THREE YEARS HS SEEN AN INCREASE IN THE GOVERNMENT'S EFFORTS TOADDRESS THE PROBLEM THROUGH ENFORCEMENT OF PROSTITUTION AND CHILD LABOR LAWS. HOWEVER, THE GOVERNMENT'S CONTINUING PROBLEMS WITH SCARCE POLICE ANDJUDICIAL BRANCH RESOURCES HAVE LIMITED THE EFFEC OF THESE EFFORTS. THE GOVERNMENT IS INTERESTED N PREVENTATIVE PROGRAMS, AND IS LOOKING TO POTENTIAL IPEC FUNDS FOR SERIOUS PROJECTS ADDRESSING THI ISSUE IN EL SALVADOR.

THE YOUTH/CHILD PROSTITUTION PROBLEM IS SIGNIFICANTLY LARGER. RECENT SUDIES INDICATE THAT THE MAJORITY OF YOUTHS AND CHILDREN IN PROSTITUTION ARE VOLUNTARY. THE GROWIN PUBLIC AWARENESS OF THE THIS ISSUE IS PROMPTINGTHE GOVERNMENT TO EVAL BE ONE OF THE AREAS OF CONCERNS COVERED BY THE NEW NATIONAL POLICY ON CHILD LABOR BEING FORMULATED. THE GOVERNMENT HAS ALSO NOTED AN INTEREST IN MAKING THIS ONE OF THE TARGET AREA FOR IPEC AND OTHER INTERNATIONAL CHILD LABOR PROJECTS.

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THERE HAS NOT BEEN ANY EVIDENCE THAT CHILDREN IN EL SALVADOR HAVE BEEN INVOLVED AT A SIGNIFICANT LEVEL WITH THE PRODUCTION OR TRAFFICKING OF DRUGS. THERE HAVE BEEN A FEW ISOLATED CASES OF YOUTHS OR CHILDREN BEING USED TO TRY TO SMUGGLE VERY SMALL AMOUNTS OF DRUGS THROUGH LAND BORDER CHECKPOINTS - BUT NO INFORMATION THAT THIS IS A MAJOR PROBLEM. HOWEVER, WITH THE GROWING CONCERN ABOUT BOTH DRUG TRAFFICKING AND DRUG USE, THIS IS AN AREA OF CONTINUED GOVERNMENT AND PUBLIC SCRUTINY.

BY NUMBER OF THOSE AFFECTED, THE LARGEST ISSUE IS CHILDREN WORKING IN UNHEALTHY OR UNSAFE CONDITIONS. IN ADDITION TO THE TRADITIONAL PROBLEM AREAS OF COMMERCIAL AGRICULTURE (COFFEE AND SUGAR), THERE ARE EVIDENT POPULATIONS OF CHILDREN AT RISK GATHERING SHELLFISH, MANUFACTURING FIREWORKS, PICKING GARBAGE, PRODUCING POPCYCLE STICKS, DOMESTIC SERVICE, BEGGING, AND WORKING IN FAMILY BUSINESSES (ARTISAN WORK, SUBSISTENCE FARMING, FISHING, ETC.). THE GOVERNMENT IS AWARE OF THESE PROBLEM AREAS AND HAS DEVOTED INCREASING RESOURCES TO ADDRESS THEM, INCLUDING SEVERAL PROGRAMS IN COORDINATION WITH

THE IPEC WORLD EFFORTS. IN 2000, THE GOVERNMENT HAD ONGOING OR IN DEVELOPMENT IPEC PROJECTS ADDRESSING CHILD LABOR IN COMMERCIAL AGRICULTURE (THE COFFEE AND SUGAR SECTORS), HARVESTING OF SHELLFISH, AND FIREWORKS MANUFACTURING. IT WAS ALSO WORKING WITH EUROPEAN DONORS TO IMPLEMENT A PROGRAM TO RESCUE CHILDREN FROM GARBAGE PICKING.

7. COUNTERNARCOTICS CERTIFICATION CRITERIA

IN MARCH 2000, THE U.S. DEPARTMENT OF STATE CERTIFIED EL SALVADOR AS A COUNTRY FULLY COOPERATING WITH THE USG IN OUR EFFORTS AGAINST NARCO-TRAFFICKING. SET FORTH BELOW IS THE SUMMARY OF THE MARCH 2000 INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT.

BEGIN TEXT. EL SALVADOR IS A TRANSIT COUNTRY FOR NARCOTICS, MAINLY COCAINE, MOVING TO THE U.S. HOWEVER, THERE IS NO EVIDENCE THAT THE DRUGS COMING INTO THE U.S. FROM EL SALVADOR ARE OF SUFFICIENT QUANTITY TO HAVE A SIGNIFICANT EFFECT ON THE U.S. LOCAL CONSUMPTION IS ON THE RISE, AND LAW ENFORCEMENT AGENCIES HAVE NOTED A SIGNIFICANT INCREASE IN THE PRODUCTION AND SALE OF LOW-COST CRACK COCAINE. SINCE ITS INAUGURATION IN JUNE, THE ADMINISTRATION OF PRESIDENT FRANCISCO FLORES HAS TAKEN SIGNIFICANT STEPS TOWARD COORDINATING COUNTERNARCOTICS POLICY, WITH THE CREATION OF MINISTERIAL-LEVEL WORKING GROUPS DIRECTED AGAINST DRUG TRAFFICKING AND DRUG CONSUMPTION AND THE DESIGNATION OF A CENTRAL COUNTERNARCOTICS COORDINATOR. THE PROFESSIONALISM OF THE ANTI-NARCOTICS DIVISION (DAN) OF THE NATIONAL CIVILIAN POLICE (PNC) CONTINUES. THE NEW PNC DIRECTOR HAS NAMED A NEW DAN CHIEF, AND HAS COMMITTED HIMSELF TO INCREASING THE DAN'S BUDGET AND STAFFING. EL SALVADOR PRODUCES LIMITED AMOUNTS OF CANNABIS FOR DOMESTIC CONSUMPTION. IN RESPONSE TO THE DEVASTATION OF HURRICANE MITCH AND THE RESULTANT CHALLENGES TO THE INSTITUTIONAL CAPABILITIES OF THE SALVADORAN LAW ENFORCEMENT SYSTEM, THE UNITED STATES HAS DESIGNED A FAR-REACHING ASSISTANCE PROGRAM DIRECTED, BOTH NATIONALLY AND REGIONALLY, AT THE FIGHT AGAINST CORRUPTION, THE CONTROL OF THE TRANSIT OF ILLEGAL CONTRABAND, AND THE ERECTION OF BARRIERS TO ALIEN SMUGGLING. EL SALVADOR'S 1998 MONEY LAUNDERING LAW WENT INTO EFFECT IN JUNE 1999, AND THE FINANCIAL INVESTIGATION UNIT (FIU) WAS CREATED ON SCHEDULE IN NOVEMBER. THE U.S. WILL CONTINUE TO ASSIST IN THE DEVELOPMENT OF THE FIU. EL SALVADOR IS A PARTY TO THE 1988 UN DRUG CONVENTION. END TEXT.

8. ADHERENCE TO THE INTER-AMERICAN CONVENTION AGAINST CORRUPTION

EL SALVADOR SIGNED THE INTER-AMERICAN CONVENTION AGAINST CORRUPTION ON MARCH 29, 1996, RATIFIED IT ON OCTOBER 29, 1998, AND DEPOSITED ITS INSTRUMENTS OF RATIFICATION WITH THE OAS ON MARCH 18, 1999.

9. COMMITMENT TO TRANSPARENCY IN GOVERNMENT
PROCUREMENT

IN EL SALVADOR, GOVERNMENT PURCHASES AND CONTRACTS,
INCLUDING THOSE FINANCED WITH GOES RESOURCES, ARE
USUALLY OPEN TO FOREIGN BIDDERS. INFRASTRUCTURE PROJECTS,
ESPECIALLY THOSE FINANCED BY MULTILATERAL FINANCIAL
INSTITUTIONS, ARE GENERALLY OPEN TO INTERNATIONAL BIDDERS.
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WHILE THERE ARE INSTANCES OF ANNOUNCEMENTS WITH
INADEQUATE TIME INTERVALS FOR FOREIGN COMPANIES NOT
ESTABLISHED IN THE COUNTRY TO SUBMIT BIDS, WE DO NOT
DETECT A PATTERN OR PRACTICE THAT HAS LED TO AN
IDENTIFIABLE HARM TO U.S. BUSINESSES. (IN PAST MONTHS,
EMBOFFS HAVE CONDUCTED OUTREACH TO MAJOR GOES
CONTRACTING AGENCIES LIKE THE STATE ENERGY COMPANY AND
THE STATE PORT/AIRPORT AUTHORITY TO IMPRESS UPON THEM THE
NEED TO PROVIDE SUFFICIENT TIME FOR FOREIGN COMPANIES TO
EVALUATE CALLS FOR BIDS AND SUBMIT BID DOCUMENTS.)

IN APRIL 2000, THE LEGISLATIVE ASSEMBLY PASSED A NEW, MORE
TRANSPARENT GOVERNMENT PROCUREMENT LAW, THAT, AMONG
OTHER THINGS, STREAMLINES AND HARMONIZES GOVERNMENT
PURCHASES IN A NEW ENTITY THAT WOULD FORM PART OF THE
MINISTRY OF FINANCE.

EL SALVADOR DID NOT ADHERE TO THE ORIGINAL GATT/WTO
GOVERNMENT PROCUREMENT CODE WHEN IT JOINED THE WTO IN
1995. HOWEVER, EL SALVADOR IS PARTICIPATING IN WTO EFFORTS
TO REACH AGREEMENT ON A STRONGER GOVERNMENT
PROCUREMENT/TRANSPARENCY ACCORD; FORMAL TALKS ON
SUCH AN AGREEMENT WERE PROPOSED AT THE WTO MEETING
THAT TOOK PLACE IN SEATTLE IN DECEMBER 1999.

PATTERSON

TOR: 07/03/00 15:26:48

DIST: SIT: NSC HAMMER HOLLIS MERLETTI ORFINI VALENZUELA WALLACE
PRT: USTR{P\SOCKS\GRD-2PS,06}

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ORIG: AMEMBASSY MANILA
TO: RUEHC/SECSTATE WASHDC 2190
INFO: RUEHXI/LABOR COLLECTIVE
RUEHXS/ASSOCIATION OF SOUTHEAST ASIAN NATIONS
RUEHC/DEPT OF LABOR WASHDC
RUCPDO/DEPT OF COMMERCE WASHDC
RUEHGV/USMISSION GENEVA 1684
RUEATRS/DEPT OF TREASURY WASHDC
SUBJ: PHILIPPINE GARMENT CODE OF CONDUCT IMPLEMENTATION
UPDATE
TEXT: UNCLAS SECTION 01 OF 03 MANILA 004419

STATE FOR DRL - FREEMAN AND DRL/IL - POLASKI
STATE ALSO FOR EB/TPA AND EAP/PIMBS
USDOL FOR ILAB
TREASURY FOR INTERNATIONAL AFFAIRS - SHEA
USDOC PASS CITA
USDOC ALSO FOR 4430 ITA/MAC/ASIA AND SE ASIA
USTR FOR OFFICE OF TEXTILES AND OFFICE OF ASIA/PACIFIC

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C. C) 99 MANILA 13769
D. D) 99 MANILA 14179

1. SUMMARY: THE PHILIPPINE GARMENT INDUSTRY LAST YEAR SIGNED AN IMPORTANT VOLUNTARY AGREEMENT WITH THE AMERICAN APPAREL MANUFACTURING ASSOCIATION TO IMPLEMENT AN INDUSTRY CODE OF CONDUCT FOR LABOR STANDARDS. THE INDUSTRY AGREED TO PARTICIPATE WITH THE GOVERNMENT IN A COMMITTEE TO ACCREDIT EXTERNAL, INDEPENDENT MONITORS TO CERTIFY COMPLIANCE WITH RESPONSIBLE APPAREL PRODUCTION PROGRAM STANDARDS. AFTER MORE THAN ONE YEAR, THE MONITORING COMMITTEE STILL HAS NOT BEEN FORMED. THE GOVERNMENT HAS ASSUMED RESPONSIBILITY FOR IMPLEMENTING THE AGREEMENT, AND THERE HAS BEEN SOME PROGRESS IN THE EFFORT TO MAKE THE COUNTRY "SWEATSHOP FREE." BUT THE GOVERNMENT IS NOT INSPECTING COMPANIES THAT HAVE ALREADY BEEN CERTIFIED BY FOREIGN BUYERS, AND HAS NO PLAN AS YET TO TURN

TO THE SUBCONTRACTING NETWORK, WHERE COMPLIANCE WITH LABOR STANDARDS IS LAX. MEANTIME, THE INDUSTRY COMPLAINS THAT THE PHILIPPINES IS GIVEN NO CREDIT FOR THE EFFORT IT IS MAKING, AND ORGANIZED LABOR MAY BE READY TO TAKE A CLOSER LOOK AT WHETHER PARTICIPATING FIRMS ARE COMPLYING WITH INTERNATIONAL STANDARDS FOR WORKER RIGHTS. END SUMMARY.

A LANDMARK AGREEMENT

2. IN APRIL 1999, PHILIPPINE GARMENT INDUSTRY LEADERS SIGNED A GROUNDBREAKING VOLUNTARY AGREEMENT WITH THE AMERICAN APPAREL MANUFACTURING ASSOCIATION (AAMA) TO IMPLEMENT AN INDUSTRY CODE OF CONDUCT FOR LABOR STANDARDS (REF B). UNDER THE TERMS OF THE MEMORANDUM OF COOPERATION (MOC), THE CONFEDERATION OF GARMENT EXPORTERS OF THE PHILIPPINES (CONGEP), THE GARMENT BUSINESS ASSOCIATION OF THE PHILIPPINES (GPAP), AND THE PHILIPPINE APPAREL EMBROIDERY ASSOCIATION AND EXPORTERS (PAEAE) AGREED TO COOPERATE WITH AAMA'S RESPONSIBLE APPAREL PRODUCTION PROGRAM (RAPP) TO ERADICATE SWEATSHOPS WORLDWIDE. SPECIFICALLY, THEY AGREED TO PARTICIPATE IN A GOVERNMENT-INDUSTRY COMMITTEE TO ACCREDIT EXTERNAL, INDEPENDENT MONITORS TO CERTIFY COMPLIANCE WITH RAPP STANDARDS.

3. AFTER MORE THAN ONE YEAR, THERE HAS BEEN ONLY MINIMAL PROGRESS IN IMPLEMENTING THE MOC. LABOR LEADERS SAY THERE IS NO EVIDENCE THAT THE AGREEMENT HAS HAD ANY EFFECT ON IMPROVING OBSERVANCE OF LABOR STANDARDS. AT THE SAME TIME, INDUSTRY LEADERS ARE DOWNRIGHT ANGRY THAT THE AGREEMENT HAS NOT LED TO MORE FLEXIBILITY ON QUOTA ALLOCATION BY THE U.S. BUSINESS LEADERS AND THE GOVERNMENT'S GARMENT AND TEXTILE EXPORT BOARD (GTEB) POINT OUT THAT THE PHILIPPINE MOC WAS THE FIRST AAMA AGREEMENT WORLDWIDE TO ENCOMPASS FULL INDUSTRY AND GOVERNMENT PARTICIPATION. YET THEY ASSERT THAT REQUESTS FOR QUOTA FLEXIBILITY (SEE REFS C AND D) HAVE BEEN REPEATEDLY REBUFFED, A CHARGE WE HAVE DENIED, POINTING TO THE DECEMBER 1999 QUOTA ALLOCATION ADJUSTMENT. REF A REPORTED THE LATEST GOP REQUEST FOR CONSULTATIONS ON FURTHER QUOTA FLEXIBILITY.

4. THE MOC WAS CHAMPIONED BY THE AMERICAN CHAMBER OF COMMERCE (AMCHAM), AND WITNESSED BY THE AMBASSADOR AND THE SECRETARIES OF THE DEPARTMENTS OF LABOR AND EMPLOYMENT (DOLE) AND TRADE AND INDUSTRY (DTI). OTHER SIGNATORIES TO THE AGREEMENT WERE THE PHILIPPINE CHAMBER OF COMMERCE AND INDUSTRY (PCCI), THE PHILIPPINE EXPORTERS CONFEDERATION (PHILEXPORT), AND THE FOREIGN BUYERS ASSOCIATION OF THE PHILIPPINES (FOBAP). ORGANIZED LABOR DID NOT PARTICIPATE, CITING THE FACT THAT THE AGREEMENT DID LITTLE MORE THAN OBLIGATE THE INDUSTRY TO COMPLY WITH EXISTING LAW, WHICH ALREADY GUARANTEES CORE LABOR RIGHTS. INDEED, THE AAMA CODE USED IN THE AGREEMENT REQUIRES LESS THAN THE LAW IN SOME RESPECTS. FOR EXAMPLE, IT LACKS SPECIFICITY CONCERNING MAXIMUM WORK HOURS, AND IS SILENT ON THE RIGHT TO COLLECTIVE BARGAINING.

5. THE AGREEMENT'S KEY PROVISION WAS THE ESTABLISHMENT OF A MONITORING COMMITTEE, COMPOSED OF REPRESENTATIVES FROM GTEB (AN AGENCY OF DTI), DOLE, CONGEP, GBAP, PAEAE, AND AMCHAM.

THE GTEB EXECUTIVE DIRECTOR WOULD CHAIR THE COMMITTEE, WITH THE CO-CHAIR COMING FROM THE PRIVATE SECTOR. THE COMMITTEE WAS TO MEET "PERIODICALLY" TO SELECT AND ACCREDIT INDEPENDENT, EXTERNAL MONITORS FOR THE RAPP, WHO WOULD UNCLAS SECTION 02 OF 03 MANILA 004419

STATE FOR DRL - FREEMAN AND DRL/IL - POLASKI
STATE ALSO FOR EB/TPA AND EAP/PIMBS
USDOL FOR ILAB
TREASURY FOR INTERNATIONAL AFFAIRS - SHEA
USDOC PASS CITA
USDOC ALSO FOR 4430 ITA/MAC/ASIA AND SE ASIA
USTR FOR OFFICE OF TEXTILES AND OFFICE OF ASIA/PACIFIC

E.O. 12958: N/A
TAGS: ELAB, KTEX, ETRD, USTR, RP
SUBJECT: PHILIPPINE GARMENT CODE OF CONDUCT IMPLEMENTATION UPDATE

"INSPECT ALL RAPP MEMBER FACTORIES, INCLUDING SUBCONTRACTORS OF PARTICIPATING COMPANIES." THE COMMITTEE WAS ALSO TASKED WITH ADMINISTERING THE MONITORING PROGRAM, EVALUATING COMPLIANCE BY COMPANIES, AND OBTAINING FUNDING TO COVER THE MONITORS' FEES. PARTICIPATING COMPANIES WERE TO BE REQUIRED TO SUBMIT REPORTS AT LEAST ANNUALLY ON HOW THEY ARE IMPLEMENTING THE RAPP. THE COMMITTEE WAS TO ESTABLISH PROCEDURES FOR HANDLING NON-COMPLIANCE AND OTHER ISSUES. QUOTA ALLOCATION WAS NOT SPECIFICALLY ADDRESSED IN THE MOC.

MIXED PROGRESS REPORT TO DATE

6. IN FACT, THE GOVERNMENT-INDUSTRY MONITORING COMMITTEE WAS NEVER FORMED. NO SOONER HAD THE INK DRIED ON THE MOC THAN RESISTANCE FROM INDIVIDUAL COMPANIES BEGAN TO BE FELT. GTEB EXECUTIVE DIRECTOR FE AGONCILLO-REYES, AND HER DEPUTY, PHILIP PANLILIO, TOOK THE LEAD IN "SELLING" THE AGREEMENT TO THE COMPANIES. ACCORDING TO ROBERT ROBBINS, CHAIRMAN OF AMCHAM'S GARMENTS COMMITTEE, GTEB NEVER ASKED AMCHAM OR THE INDUSTRY ASSOCIATIONS FOR FUNDING OR OTHER ASSISTANCE. REFERRING TO THE MONITORING COMMITTEE, ROBBINS SAID "THE ORIGINAL PLAN IS GONE." PANLILIO SAID GTEB TOOK ON THE TASK OF IMPLEMENTING THE MOC, TELLING THE MANUFACTURERS "IF YOU WANT TO PLAY IN OUR GAME, YOU'LL HAVE TO MAINTAIN CERTAIN STANDARDS." HE SAID THE GOVERNMENT WANTS THE PHILIPPINES TO BE KNOWN AS PRODUCING ONLY "CLEAN CLOTHES."

7. LABATT RECENTLY MET WITH PANLILIO TO DISCUSS THE STATUS OF THE MOC IMPLEMENTATION. ASKED TO ASSESS THE SUCCESS OF THE PROGRAM THUS FAR, PANLILIO SAID HE COULD NOT EVALUATE IT IN TERMS OF COMPLIANCE: "IT'S TOO NEW." HE CONFIRMED THAT GTEB HAD NOT FOLLOWED UP WITH INDUSTRY LEADERS, AND SAID THE GOVERNMENT WAS FUNDING THE MONITORING PROCESS BECAUSE "THE COMPANIES REFUSE TO PAY - AND WE DON'T WANT TO GIVE THEM A REASON TO OPPOSE THE PROGRAM." HE SAID THE MONITORING PROGRAM WAS FOCUSING INITIALLY ONLY ON TWO CRITICAL GARMENT CATEGORIES (T-SHIRTS AND PANTS), AND ONLY ON COMPANIES THAT HAD NOT BEEN INSPECTED AND CERTIFIED BY FOREIGN BUYERS.

THOSE COMPANIES WILL BE THE "LAST PRIORITY, ACCORDING TO PANLILIO. "WE ASSUME THEY ARE ALREADY IN COMPLIANCE, SO OUR ACCREDITATION IS NOT NEEDED." SUCH COMPANIES MUST HAVE FOBAP CERTIFICATION, HOWEVER, TO APPLY FOR U.S. QUOTA. THUS FAR IN THE PROCESS, NO FIRMS HAVE LOST OR BEEN DENIED QUOTA DUE TO A FINDING OF SUBSTANDARD LABOR PRACTICES.

8. PANLILIO SAW NO PROBLEM IN THE FACT THE GTEB HAD TAKEN OVER THE FUNCTIONS THAT WERE TO HAVE BEEN GIVEN TO THE MONITORING COMMITTEE. "IT'S EVEN MORE THAN THE MOC ANTICIPATED, IN THE SENSE THAT WE'RE MANDATING COMPLIANCE. WE'RE THE FIRST COUNTRY DOING THIS." BUT PANLILIO DID REVEAL THAT, IN MOST CASES, COMPANIES SEEKING IMMEDIATE QUOTA ALLOCATION WERE PERMITTED TO PROVIDE AN AUDITED "DECLARATION OF COMPLIANCE" WITH RAPP STANDARDS. GTEB WOULD THEN ENDEAVOR TO SCHEDULE THE INDEPENDENT INSPECTION WITHIN SIX MONTHS TO VERIFY COMPLIANCE. PANLILIO SAID GTEB ASSESSES APPLICATIONS FOR QUOTA IN TERMS OF 1) SOCIAL ACCOUNTABILITY AND 2) ABILITY TO PRODUCE. HE SAID THAT FOR THE GOVERNMENT, "SOCIAL ACCOUNTABILITY" ESSENTIALLY MEANT COMPLIANCE WITH THE PHILIPPINES' RELATIVELY PROGRESSIVE LABOR LAWS. THE MOC, THEN, IS A TOOL TO ASSIST AND ENCOURAGE COMPANIES TO MEET THAT OR A HIGHER STANDARD.

9. GTEB HAS RETAINED TWO FIRMS TO CONDUCT INDEPENDENT AUDITS OF FIRMS: SGV (AN ARTHUR ANDERSON AFFILIATE) AND INTERTECH TESTING SERVICES. THESE FIRMS ARE USING GTEB'S CHECKLIST TO CONFIRM COMPLIANCE WITH LOCAL LAWS. MANUFACTURERS ARE REQUIRED TO PROVIDE SAMPLE PAYROLL, TAX, SOCIAL SECURITY, AND OTHER DOCUMENTS. THE OUTSIDE FIRM VERIFIES THE DOCUMENTS, THEN INSPECTS THE FACILITIES, INTERVIEWING 10 TO 25 PERCENT OF THE LABOR FORCE TO GAUGE COMPLIANCE WITH LABOR LAWS. IF A COMPANY FAILS THE INSPECTION, GTEB STAFF MEMBERS WORK WITH COMPANY OFFICIALS TO HELP RESOLVE PROBLEMS PRIOR TO A FOLLOW-UP INSPECTION. INSPECTIONS BASED ON THE MOC BEGAN IN MARCH. PANLILIO DID NOT HAVE DETAILS ON HOW MANY INSPECTIONS HAD TAKEN PLACE, BUT SAID THERE WAS "AT LEAST ONE GROUP OUT EVERY DAY." MOST COMPANIES UNDERGOING INSPECTIONS HAD 30 TO 600 EMPLOYEES. COMPANIES LARGER THAN THIS WERE "PROBABLY ACCREDITED BY THE BUYER," ACCORDING TO PANLILIO, AND WOULD BE INSPECTED LATER.

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E.O. 12958: N/A
TAGS: ELAB, KTEX, ETRD, USTR, RP
SUBJECT: PHILIPPINE GARMENT CODE OF CONDUCT IMPLEMENTATION
UPDATE

SUBCONTRACTORS: GAP IN COVERAGE

10. PANLILIO SAID NO INSPECTIONS OF SUBCONTRACTORS HAD TAKEN PLACE, AND NONE WERE PLANNED FOR THE TIME BEING. "IT'S A MATTER OF PRIORITIES." HE SAID GTEB INTENDED TO GO ONLY TO THE FIRST LAYER OF SUBCONTRACTORS IN ANY CASE, EXPLAINING THAT TO QUALIFY FOR QUOTA, 60 PERCENT OF THE WORK HAD TO BE IN-HOUSE. HOWEVER, HE LEFT OPEN THE POSSIBILITY OF INSPECTING LARGE, EXCLUSIVE SUBCONTRACTORS IN THE FUTURE. HE SAID GTEB COULD INSPECT ONLY COMPANIES SUBJECT TO AUDIT, LEAVING OUT SMALLER SUBCONTRACTORS. "WE DON'T DO HOME WORKERS."

ORGANIZED LABOR'S TAKE

11. ORGANIZED LABOR HAS STAYED LARGELY IN THE BACKGROUND SO FAR, BUT THAT MAY BE CHANGING. THE COUNTRY'S LEADING MAINSTREAM LABOR CENTER, THE TRADE UNION CONGRESS OF THE PHILIPPINES (TUCP), AND THE AMERICAN CENTER FOR INTERNATIONAL LABOR SOLIDARITY (ACILS), HAVE BOTH EXPRESSED AN INTEREST IN FOCUSING ON THE IMPLEMENTATION OF THE MOC TO DETERMINE IF IT IS HELPING OR HURTING WORKERS. ORGANIZED LABOR IS NOT NECESSARILY HOSTILE TO CODES PER SE, BUT IS HIGHLY SUSPICIOUS THAT THEY CAN TOO EASILY BE USED TO THE ADVANTAGE OF EMPLOYERS WITHOUT PROVIDING COMMENSURATE BENEFITS TO WORKERS. ACILS HAS PROPOSED A MAJOR NEW INITIATIVE TO EXAMINE THE EFFECTIVENESS OF CODES OF CONDUCT ALREADY IN PLACE.

12. CEDRIC BAGTAS, DEPUTY SECRETARY GENERAL OF THE TUCP, TOLD LABATT JULY 6 THAT TUCP WANTS TO VERIFY COMPLIANCE WITH INTERNATIONAL LABOR STANDARDS BY INDIVIDUAL COMPANIES THAT ARE MEMBERS OF THE INDUSTRY ASSOCIATIONS THAT SIGNED THE MOC. BAGTAS SAID HE HAD SPOKEN WITH REPRESENTATIVES OF INTERTECH, ONE OF THE TWO AUDITING FIRMS RETAINED BY GTEB. HE SAID HE WAS TOLD THAT OF THE 100 FIRMS INSPECTED BY INTERTECH TO DATE, ONLY FIVE HAD "PASSED" WITHOUT BEING GIVEN AN OPPORTUNITY TO MAKE ADJUSTMENTS. BAGTAS ALSO SAID IT WAS HIS UNDERSTANDING THAT, CONTRARY TO INDUSTRY'S COMMITMENT UNDER THE MOC, SOME MEMBER FIRMS WERE REFUSING TO PERMIT INSPECTIONS, THOUGH HE DID NOT KNOW THE EXTENT OF THE PRACTICE. HE ASSERTED THAT FIRMS NOT VOLUNTEERING TO UNDERGO AUDITS SHOULD NOT RECEIVE QUOTA. BAGTAS SAID GTEB HAD ASKED TUCP IF IT WOULD BE WILLING TO VOLUNTEER UNIONIZED FIRMS FOR INSPECTION IN RETURN FOR QUOTA ALLOCATIONS. THE ANSWER WAS AN ENTHUSIASTIC "YES," BUT BAGTAS SAID GTEB HAD NEVER FOLLOWED UP ON THE OFFER. BAGTAS STRESSED THAT CODES OF CONDUCT, TO BE EFFECTIVE, MUST IMPROVE LABOR STANDARDS AND THE LIVES OF WORKERS DOWN THROUGH THE SUBCONTRACTING CHAIN, INCLUDING HOME WORKERS. TO THAT END, TUCP WAS WILLING TO COOPERATE IN THE MOC PROCESS, IF INDUSTRY AND GOVERNMENT SHOWED COMPARABLE GOOD FAITH.

13. COMMENT: INDUSTRY LEADERS RECOGNIZE THAT MERELY SIGNING THE MOC IS NOT ENOUGH TO STAMP THE COUNTRY "SWEATSHOP FREE." THEY ARE WORRIED THAT WHEN THE QUOTA IS GONE, THE PHILIPPINES WILL NO LONGER BE COMPETITIVE IN GARMENTS IN THE WORLD MARKET. "LABOR IS ONE-THIRD OF OUR TOTAL COST," SAYS

ROBBINS. DONALD DEE, PRESIDENT OF BOTH CONGEP AND THE EMPLOYERS CONFEDERATION OF THE PHILIPPINES (ECOP), HAS REPEATEDLY MADE THE CASE THAT THE PHILIPPINES DESERVES RECOGNITION FOR THE EFFORT IT IS MAKING. HE ARGUES THAT THE MOC MAY NOT YET CONSTITUTE A PERFECT SYSTEM, BUT IT IS A LOT BETTER THAN THE COMPLETE LACK OF EFFORTS IN COUNTRIES THAT ARE RECEIVING, IN HIS PERCEPTION, PREFERENTIAL U.S. TREATMENT. HE SAYS HE PLANS TO MAKE THIS ARGUMENT DURING REQUESTED CONSULTATIONS ON QUOTA FLEXIBILITY IN WASHINGTON THIS MONTH (REF A). IN RESPONSE, WE HAVE EXPLAINED USTR'S POSITION: THAT WHILE SIGNING THE MOC AND THE NASCENT GTEB AUDIT SYSTEM ARE POSITIVE FIRST STEPS, THE PHILIPPINES NEEDS TO SHOW THAT THE PROCESS IS PRODUCING RESULTS AND, MOST IMPORTANTLY, THAT STRONG ENFORCEMENT MEASURES ARE IN PLACE AND SANCTIONS ARE BEING APPLIED AGAINST ERRING FIRMS. BUT INDUSTRY LEADERS CONTINUE TO COMPLAIN BITTERLY THAT OUR POLICY IS ALL STICK, AND NO CARROT. END COMMENT.

HUBBARD

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INFO: ////
SUBJ: BACKGROUND MATERIALS FOR THE U.S. - CAMBODIA
 LABOR STANDARDS CONSULTATIONS

TEXT:
 UNCLAS PHNOM PENH 001585

SENSITIVE

HANOI PLEASE PASS DAS BENNETT FREEMAN
 STATE FOR DRL/LEA AND EB/TPP/ATT
 LABOR FOR ILAB

E.O. 12958: N/A
 TAGS: ELAB, ETRD, KTEX, CB
 SUBJECT: BACKGROUND MATERIALS FOR THE U.S. - CAMBODIA
 LABOR STANDARDS CONSULTATIONS

REF: A) STATE 129734; B) STATE 128485

1. IN RESPONSE TO REF A, THE FOLLOWING ARE EMBASSY-DRAFTED BACKGROUND MATERIALS AND TALKING POINTS FOR THE U.S. - CAMBODIA LABOR STANDARDS CONSULTATIONS SET TO TAKE PLACE ON JULY 14 FROM 3:00 TO 6:00 PM. WE HAVE INCLUDED A PRELIMINARY AGENDA, OPENING REMARKS FOR THE U.S. DELEGATION, AND BACKGROUND AND TALKING POINTS ON THE MOST IMPORTANT AGENDA ITEMS. WE WILL REVISE THE MATERIALS AFTER A FINAL PRE-CONSULTATIONS MEETING WITH THE MINISTRY OF LABOR TOMORROW AND SEND AN UPDATED COPY TO HANOI FOR DAS FREEMAN. THE TALKING POINTS UNDER THE AGENDA ITEM ON THE ILO PROJECT REFLECT POINTS MADE IN REF B.

PRELIMINARY AGENDA

I. WORKING CONDITIONS/LABOR STANDARDS IN THE TEXTILE AND APPAREL INDUSTRY.

- A.UPDATE ON NEW LAWS/REGULATIONS
- B.REPORT ON MOSALVY LABOR INSPECTIONS. ISSUES OF PARTICULAR CONCERN: MANDATORY OVERTIME, INADEQUATE COMPENSATION FOR OVERTIME, POOR OR UNSAFE WORKING CONDITIONS, MISTREATMENT OF WORKERS BY FACTORY MANAGEMENT, LATE OR UNDERPAYMENT OF SALARIES.
- C.REPORT ON MOSALVY EFFORTS TO RESOLVE LABOR-MANAGEMENT DISPUTES.

II. RIGHT OF ASSOCIATION AND THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

- A.UPDATE ON SHOP STEWARD SYSTEM (INCLUDING INCIDENTS OF FIRING OF UNION OFFICERS OR SHOP STEWARDS)
- B.UPDATE ON UNION REGISTRATIONS
- C.UPDATE ON ILO/DANIDA PROJECT

III. UPDATE ON STATUS OF THE LABOR ADVISORY COMMITTEE

IV. UPDATE ON STATUS OF RATIFICATION PROCESS FOR ILO CONVENTIONS 87, 98, 100, 105, 111, AND 138

V. UPDATE ON STATUS OF ILO LABOR LAW IMPLEMENTATION PROJECT

VI. OTHER ISSUES (ILO/IPEC PROGRAM; NEW ILO CONVENTION, DATE FOR NEXT ROUND OF CONSULTATIONS, ETC)

U.S. OPENING REMARKS

--I WOULD LIKE TO CONGRATULATE MINISTER ITH SAM HENG AND HIS STAFF, AS WELL AS REPRESENTATIVES FROM OTHER MINISTRIES, FOR ORGANIZING THIS FIRST EVER ROUND OF CONSULTATIONS BETWEEN THE ROYAL GOVERNMENT OF CAMBODIA AND THE UNITED STATES ON THE IMPORTANT TOPIC OF LABOR STANDARDS. WE APPRECIATE ALL THE HARD WORK THAT THE GOVERNMENT HAS PUT INTO PREPARING FOR THESE CONSULTATIONS.

--I WOULD LIKE TO BEGIN BY INTRODUCING MR. BENNETT FREEMAN, DEPUTY ASSISTANT SECRETARY OF STATE FOR DEMOCRACY, HUMAN RIGHTS, AND LABOR, WHO ARRIVED FROM HANOI TODAY TO TAKE PART IN THIS MEETING. WE ARE VERY PLEASED THAT A SENIOR OFFICIAL FROM WASHINGTON IS ABLE TO PARTICIPATE IN THESE CONSULTATIONS. MR. FREEMAN'S PRESENCE HERE TODAY IS A CLEAR DEMONSTRATION OF THE IMPORTANCE THE U.S. ATTACHES TO LABOR STANDARDS AND WORKER RIGHTS ISSUES IN CAMBODIA.

--THE U.S. AND CAMBODIA HAVE A RECORD OF CLOSE AND SUCCESSFUL COOPERATION ON LABOR ISSUES GOING BACK ALMOST FIVE YEARS. IN 1995-97, USAID PROVIDED TECHNICAL ASSISTANCE TO THE GOVERNMENT THROUGH THE ASIAN AMERICAN FREE LABOR INSTITUTE TO SUPPORT THE DRAFTING AND PASSAGE OF CAMBODIA'S 1997 LABOR LAW. PASSING THE NEW LABOR LAW WAS A VERY IMPORTANT STEP

FORWARD FOR THE DEVELOPMENT OF A MARKET ECONOMY IN CAMBODIA, AND THE EMBASSY HAS REPORTED REGULARLY TO WASHINGTON ON THE MINISTRY'S EFFORTS TO IMPLEMENT THE LABOR LAW.

--SINCE THE LABOR LAW WAS PASSED, USAID HAS CONTINUED TO SUPPORT LOCAL NGOS WORKING IN THE LABOR FIELD, SEVERAL OF WHICH SPOKE AT THIS MORNING'S MEETING. ONE OF THESE ORGANIZATIONS, THE UNIVERSITY OF SAN FRANCISCO, OFFERS SEVERAL COURSES ON THE LABOR LAW AT IT'S CENTER FOR COMMUNITY LEGAL EDUCATION. AND IN MARCH, THE U.S. INFORMATION SERVICE SPONSORED THE HIGHLY SUCCESSFUL VISIT OF KATIE QUAN, A PROMINENT AMERICAN LABOR LEADER AND EXPERT ON INTERNATIONAL LABOR ISSUES. WE PARTICULARLY APPRECIATE THE PARTICIPATION OF SEVERAL MINISTRY OFFICIALS IN THE TELEVISION FORUM ON WORKER RIGHTS WHICH WE PRODUCED DURING MS. QUAN'S VISIT.

--THE SIGNING OF THE U.S. - CAMBODIA BILATERAL TEXTILE AGREEMENT IN JANUARY HAS MOVED OUR COOPERATION ON LABOR ISSUES TO A NEW LEVEL. IN ADDITION TO CALLING FOR LABOR STANDARDS CONSULTATIONS TWICE A YEAR, THE AGREEMENT CREATES A PRECEDENT-SETTING PROVISION WHERE CAMBODIA IS ELIGIBLE FOR A 14 PERCENT TEXTILE QUOTA BONUS IF WORKING CONDITIONS IN THE TEXTILE AND APPAREL SECTOR SUBSTANTIALLY COMPLY WITH CAMBODIA'S LABOR LAW AND INTERNATIONAL LABOR STANDARDS. THIS QUOTA BONUS WOULD AMOUNT TO MORE THAN 1.4 MILLION DOZENS OF EXTRA QUOTA FOR THE YEAR 2000 (WORTH AN ESTIMATED \$50-80 MILLION IN ADDITIONAL EXPORTS), AND WOULD REPRESENT AN IMPORTANT ECONOMIC BENEFIT FOR CAMBODIA. WE APPRECIATE VERY MUCH CAMBODIA'S WILLINGNESS TO TRY THIS NEW APPROACH TO IMPROVING WORKING CONDITIONS IN THE TEXTILE AND APPAREL SECTOR.

--IN ORDER TO MAXIMIZE CAMBODIA'S CHANCES FOR OBTAINING THE QUOTA BONUS, IT IS IMPORTANT FOR OUR TWO GOVERNMENTS TO CONTINUE DOING EXACTLY WHAT WE ARE DOING TODAY: SIT DOWN TOGETHER FOR AN HONEST AND FRANK DISCUSSION OF THE SITUATION IN THE TEXTILE AND APPAREL INDUSTRY. THE INFORMATION WE GATHER FROM THIS MEETING WILL PLAY AN IMPORTANT ROLE IN WASHINGTON'S DELIBERATIONS ON THE QUOTA BONUS ISSUE.

--THE U.S. DELEGATION FOUND THIS MORNING'S MEETING INTERESTING AND HIGHLY INFORMATIVE. WHILE THERE WAS OF COURSE A DIFFERENCE IN OPINION ON SOME ISSUES, WE BELIEVE OPEN DIALOGUE WITH ALL STAKEHOLDERS IN THE TEXTILE AND APPAREL INDUSTRY CAN HELP THE MINISTRY IN ITS EFFORTS TO ENFORCE THE LABOR LAW AND IMPROVE WORKING CONDITIONS IN FACTORIES. WE ENCOURAGE THE GOVERNMENT TO HOLD SIMILAR MEETINGS ON A REGULAR BASIS IN THE FUTURE.

--WE HOPE OUR DISCUSSIONS TODAY WILL BE FRANK, HONEST, AND FRUITFUL. WE WILL DO OUR BEST TO RESPOND TO YOUR QUESTIONS AND CONCERNS, AND WILL MAKE A FULL REPORT TO

WASHINGTON ON THIS MEETING AND THE MEETING THIS MORNING. AND ABOVE ALL, WE LOOK FORWARD TO HEARING THE MINISTRY'S VIEWS ON THE SITUATION IN THE TEXTILE AND APPAREL INDUSTRY, AS WELL AS YOUR REPORT ON RECENT DEVELOPMENTS WITH RESPECT IN THE IMPLEMENTATION OF THE LABOR LAW.

--THANK YOU VERY MUCH.

AGENDA ITEM I: WORKING CONDITIONS/LABOR STANDARDS IN THE TEXTILE AND APPAREL INDUSTRY.

BACKGROUND

THE LABOR STANDARDS PROVISIONS OF THE U.S. - CAMBODIA BILATERAL TEXTILE AGREEMENT FOCUS ON THE ISSUE OF IMPROVING WORKING CONDITIONS IN CAMBODIA'S GARMENT INDUSTRY. (THE AGREEMENT DOES NOT MENTION THE RESTRICTIONS ON THE RIGHT OF ASSOCIATION AND THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY WHICH WERE THE SUBJECT OF THE GSP PETITIONS FILED AGAINST CAMBODIA IN 199B.) COMPLAINTS ABOUT SUBSTANDARD WORKING CONDITIONS IN CAMBODIAN GARMENT FACTORIES SURFACED SOON AFTER THE INDUSTRY BEGAN ITS RAPID EXPANSION IN LATE 1996, BUT THE ISSUE BECAME MUCH MORE PROMINENT IN 1998 AFTER A MEDIA CAMPAIGN AND SERIES OF LABOR DEMONSTRATIONS BY THE FREE TRADE UNION OF THE WORKERS OF THE KINGDOM OF CAMBODIA (FTUWKC), A LABOR UNION FEDERATION LINKED TO OPPOSITION LEADER SAM RAINSY.

ASSESSING THE DEGREE TO WHICH WORKING CONDITIONS IN THE GARMENT INDUSTRY COMPLY WITH CAMBODIA'S LABOR LAW IS DIFFICULT. WHILE THE LABOR LAW CONTAINS GENERAL PROVISIONS REGARDING HOURS OF WORK, OVERTIME PAY RATES, NIGHT WORK, PAID HOLIDAYS, REST DAYS, AND PAID ANNUAL LEAVE, WORKPLACE HEALTH AND SAFETY REGULATIONS HAVE NOT YET BEEN ISSUED. A FURTHER PROBLEM IS THAT THERE IS NO SECTOR-WIDE DATA BASE ON WORKING CONDITIONS IN THE CAMBODIAN GARMENT INDUSTRY (THE CREATION OF SUCH A DATA BASE IS ONE OF THE OUTPUTS ENVISIONED FOR THE ILO PROJECT).

U.S. INFORMATION ON FACTORY WORKING CONDITIONS IS BASED ON MEETINGS BY EMBASSY OFFICERS WITH OVER 15 GROUPS OF DEMONSTRATING GARMENT WORKERS IN 1998, VISITS BY EMBASSY OFFICERS AND U.S. CUSTOMS OFFICIALS TO APPROXIMATELY 60 OF CAMBODIA'S APPROXIMATELY 130 GARMENT FACTORIES SINCE LATE 1997, AND INTERVIEWS WITH NGOS WORKING WITH GARMENT WORKERS. CONDITIONS CLEARLY VARY SIGNIFICANTLY FROM FACTORY TO FACTORY: SOME ARE MODERN, CLEAN, AND WELL-LIT WITH ADEQUATE VENTILATION, TOILETS, AND EMPLOYEE CANTEEN FACILITIES, WHILE OTHERS LOOK MORE LIKE CLASSIC SWEATSHOPS. MANAGEMENT STYLE AND THE NATURE OF LABOR-MANAGEMENT RELATIONS ALSO VARY STRONGLY BETWEEN FACTORIES. RELATIVELY PROGRESSIVE

MANAGERS IN SOME FACTORIES TRY TO MAINTAIN HARMONIOUS RELATIONS WITH WORKERS. IN OTHER FACTORIES, HOWEVER, THERE IS A PALPABLE SENSE OF INTIMIDATION, AND WORKERS ARE OFTEN UNWILLING TO SPEAK TO OUTSIDERS.

ALTHOUGH THERE IS NO HARD EMPIRICAL DATA ON HOW WIDESPREAD SUBSTANDARD WORKING CONDITIONS ARE IN THE GARMENT INDUSTRY, THE FOLLOWING ARE THE MOST COMMON COMPLAINTS REPORTED BY EMBASSY PHNOM PENH:

EXCESSIVE OR MANDATORY OVERTIME HOURS: THIS WAS PERHAPS THE MOST COMMON COMPLAINT HEARD IN 1998, ESPECIALLY IN THE LAST FEW MONTHS OF THE YEAR WHEN MANY FACTORIES WERE RUNNING FLAT OUT TO COMPLETE ORDERS BEFORE THE U.S. IMPOSED QUOTAS. THE MOL HAS STATED REPEATEDLY THAT WORKERS CANNOT BE FORCED TO WORK OVERTIME, BUT AS A PRACTICAL MATTER MOST WORKERS FEEL THEY CANNOT REFUSE MANAGEMENT REQUESTS TO WORK. MANY WORKERS ALSO WANT TO WORK OVERTIME IN ORDER TO EARN EXTRA MONEY, ALTHOUGH MOST FEMALE WORKERS ARE NOT COMFORTABLE WORKING LATE AT NIGHT. THE EMBASSY MET A NUMBER OF WORKERS IN 1998 WHO SAID THEY WORKED 70 HOURS A WEEK OR MORE.

INADEQUATE COMPENSATION FOR OVERTIME: THE LABOR LAW REQUIRES EMPLOYERS TO PAY TIME AND A HALF FOR OVERTIME WORK. HOWEVER, MOST GARMENT WORKERS WORK ON A PIECE RATE BASIS, AND THERE HAVE BEEN MANY COMPLAINTS THAT MANAGEMENT DOES NOT INCREASE PIECE RATES FOR WORK PERFORMED DURING OVERTIME HOURS. A RELATED ISSUE CONCERNS THE PIECE RATE SYSTEMS THEMSELVES, WHICH WORKERS COMPLAIN ARE OVERLY COMPLEX, DIFFICULT TO UNDERSTAND, AND MANIPULATED UNILATERALLY BY MANAGEMENT.

POOR OR UNSAFE WORKING CONDITIONS: THE MOST COMMON COMPLAINTS HAVE CONCERNED EXCESSIVELY HOT FACTORIES, UNSAFE AND POORLY MAINTAINED SEWING EQUIPMENT, AND INADEQUATE OR UNHYGENIC TOILET FACILITIES.

MISTREATMENT OF WORKERS BY FACTORY MANAGEMENT: THERE HAVE BEEN REGULAR COMPLAINTS ABOUT MISTREATMENT OR VIOLENCE AGAINST WORKERS BY CHINESE AND KOREAN FACTORY MANAGEMENT, ALTHOUGH THESE COMPLAINTS SEEM TO HAVE TAILED OFF IN 1999. THE BEHAVIOR OF KHMER MIDDLE MANAGEMENT AND FLOOR SUPERVISORS IS ALSO SOURCE OF FREQUENT COMPLAINTS. WORKERS UNDERSTANDABLY REACT VERY EMOTIONALLY WHEN MANAGERS OR SUPERVISORS HIT OR OTHERWISE MISTREAT THEIR CO-WORKERS.

LATE PAYMENT OR UNDERPAYMENT OF SALARIES. WAGES IN THE GARMENT INDUSTRY ARE VERY LOW, TYPICALLY AROUND THE LEGAL MINIMUM OF \$40, AND THERE ARE OCCASIONALLY REPORTS OF FACTORIES WHICH GO OUT OF BUSINESS WITHOUT PAYING THEIR WORKERS THEIR FINAL PAYCHECKS. A NUMBER OF WORKERS DEMONSTRATING AT THE EMBASSY IN 1998 PRODUCED PAY STATEMENTS SHOWING MONTHLY WAGES BELOW \$35 FOR 26 OR MORE DAYS WORK.

TALKING POINTS

--THE ISSUE OF IMPROVING WORKING CONDITIONS IN CAMBODIA'S GARMENT FACTORIES IS THE CENTRAL CHALLENGE BEFORE US. WE LOOK FORWARD TO HEARING THE MINISTRY'S VIEWS ON THE SITUATION IN THE FACTORIES, AND AS WELL AS ITS REPORT ON INSPECTION VISITS.

--IT IS IMPORTANT FOR THE U.S. AND CAMBODIA TO WORK TOGETHER TO FIND WAYS TO DEMONSTRATE CLEAR PROGRESS BY DECEMBER. IT WOULD BE VERY HELPFUL FOR THE MINISTRY TO BEGIN TO COMPILE A DATA BASE ON WORKING CONDITIONS IN THE FACTORIES SO THAT BOTH SIDES HAVE A BASIS FOR COMPARISON. IT MIGHT ALSO BE WORTHWHILE FOR THE GOVERNMENT TO CONSIDER ENGAGING AN INDEPENDENT MONITOR TO PROVIDE A REPORT ON INDUSTRY-WIDE WORKING CONDITIONS.

--WHAT PLANS DOES THE GOVERNMENT HAVE TO ENACT WORKPLACE HEALTH AND SAFETY REGULATIONS SO THAT FACTORY OWNERS HAVE A CLEAR SET OF GUIDELINES TO REFER TO?

--REPORTS OF EXCESSIVE, MANDATORY OVERTIME FOR MANY WORKERS HAVE CAUSED CONCERN IN THE UNITED STATES. DOES THE MINISTRY HAVE ANY INFORMATION ON HOW WIDESPREAD THIS PROBLEM IS?

--DOES THE MINISTRY OR GARMENT MANUFACTURERS ASSOCIATION COLLECT ANY DATA ON WAGES IN THE INDUSTRY? CAN THE MINISTRY ESTIMATE WHAT PERCENTAGE OF FACTORIES ARE COMPLYING WITH THE \$40-MONTHLY MINIMUM WAGE?

--A NUMBER OF ORGANIZATIONS HAVE COMPLAINED THAT THE \$40 MINIMUM WAGE IS INSUFFICIENT TO PROVIDE WORKERS WITH "A DECENT STANDARD OF LIVING COMPATIBLE WITH HUMAN DIGNITY" AS REQUIRED BY ARTICLE 104 OF THE LABOR LAW. WHAT IS THE GOVERNMENT'S VIEW ON THIS ISSUE? IS THERE ANY THOUGHT OF INCREASING THE MINIMUM WAGE? TO WHAT LEVEL?

AGENDA ITEM II: RIGHT OF ASSOCIATION AND THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

BACKGROUND

WHILE NOT DIRECTLY MENTIONED IN THE U.S. - CAMBODIA BILATERAL TEXTILE AGREEMENT, ALLEGED RESTRICTIONS ON THE RIGHT OF ASSOCIATION AND THE RIGHT TO COLLECTIVELY BARGAIN WERE THE FOCUS OF THE GSP PETITIONS FILED BY THE AFL-CIO AND THE INTERNATIONAL LABOR RIGHTS FUND IN JUNE, 1998.

CAMBODIA'S LABOR LAW ASSIGNS ELECTED SHOP STEWARDS A CENTRAL ROLE IN THE COUNTRY'S INDUSTRIAL RELATIONS SYSTEM. THE SHOP STEWARDS ARE RESPONSIBLE FOR A BROAD RANGE OF FUNCTIONS, INCLUDING PRESENTING INDIVIDUAL OR

COLLECTIVE GRIEVANCES TO MANAGEMENT, REFERRING COMPLAINTS AND CRITICISMS TO THE LABOR INSPECTOR, ENSURING THAT WORKPLACE HEALTH AND SAFETY PROVISIONS ARE ENFORCED, AND SUGGESTING MEASURES TO IMPROVE THE HEALTH AND SAFETY SITUATION IN FACTORIES. WHILE THERE IS SOME OVERLAP BETWEEN THE ROLES OF SHOP STEWARDS AND LABOR UNIONS UNDER THE LABOR LAW, SHOP STEWARDS, CANDIDATES FOR SHOP STEWARDS, AND FORMER SHOP STEWARDS ARE THE ONLY WORKER REPRESENTATIVES THAT RECEIVE LEGAL PROTECTION FROM DISMISSAL UNDER THE LABOR LAW (ARTICLE 293). ARTICLE 288 OF THE LAW ALSO GIVES LABOR UNIONS THE CLEAR RIGHT TO NOMINATE CANDIDATES FOR SHOP STEWARDS. THE MOL HAS CONDUCTED ELECTIONS FOR SHOP STEWARDS IN APPROXIMATELY 65 GARMENT FACTORIES BEGINNING WITH AN INITIAL WAVE OF ELECTIONS IN DECEMBER 1997. HOWEVER, THERE ARE ALLEGATIONS THAT MANY OF THE ELECTIONS HAVE BEEN FLAWED BY COLLUSION BETWEEN MOL INSPECTORS AND MANAGEMENT, AND THE EMBASSY HAS ENCOUNTERED SHOP STEWARDS IN A NUMBER OF FACTORIES THAT WERE CLEARLY INFLUENCED BY MANAGEMENT.

IN AN EFFORT TO STRENGTHEN CAMBODIA'S INDUSTRIAL RELATIONS SYSTEM, THE ILO DRAFT PROJECT DOCUMENT CALLS FOR DEVELOPING A GROUP OF FREELY-ELECTED SHOP STEWARDS, TRAINING THEM, AND THEN GRADUALLY ROLLING OUT MORE SOPHISTICATED INDUSTRIAL RELATIONS MECHANISMS IN GARMENT FACTORIES. THIS STRATEGY SHOULD DO MUCH TO CREATE A CRITICAL MASS OF CAPABLE WORKER/LABOR ACTIVISTS IN CAMBODIA. IN ADDITION, BY CARVING OUT AN EXPLICIT ROLE FOR ELECTED SHOP STEWARDS AND LABOR UNIONS, THE PROJECT COULD ACCELERATE SIGNIFICANTLY THE DEVELOPMENT OF WORKER ORGANIZATIONS IN CAMBODIA, WHICH IN TURN SHOULD MAKE IT POSSIBLE FOR WORKERS TO BARGAIN WITH MANAGEMENT ON A MORE EQUAL FOOTING.

ALTHOUGH THE MOL HAS REGISTERED AT LEAST 53 TRADE UNIONS, THE ISSUE OF BIAS IN THE UNION REGISTRATION PROCESS IS ONE OF THE PRINCIPAL ALLEGATIONS IN THE GSP PETITIONS FILED AGAINST CAMBODIA. THE PETITIONS CHARGED THAT THE MOL REGISTERED UNIONS LINKED TO THE CPP QUICKLY WHILE ERECTING UNNECESSARY PROCEDURAL BARRIERS TO THE REGISTRATION OF INDEPENDENT AND OPPOSITION-LINKED UNIONS. THE MOL TO SOME DEGREE ANSWERED THIS CRITICISM WHEN IT REGISTERED THE FTUWKC IN DECEMBER 1998, BUT THE UNION REGISTRATION PROCESS CERTAINLY COULD BE STREAMLINED. IN RESPONSE TO CRITICISM ON THIS POINT BY BANGKOK SOLIDARITY CENTER OFFICIAL PHIL ROBERTSON, THE MOL ISSUED A REVISED SUBDECREE ON THE TRADE UNION REGISTRATION PROCESS IN NOVEMBER 1998. THE NEW SUBDECREE STATES EXPLICITLY THAT PROFESSIONAL ORGANIZATIONS MAY DRAW UP THEIR CHARTERS FREELY PROVIDED THEY DO NOT CONFLICT WITH PUBLIC ORDER, AND MAKES IT CLEAR THAT THE LIST OF DOCUMENTS SPECIFIED BY THE SUBDECREE TO REGISTER UNIONS IS ONLY A GUIDELINE, NOT A REQUIREMENT (PRIOR TO THE SUBDECREE, THE MOL OFTEN REQUIRED UNIONS TO REDRAFT DOCUMENTS BEFORE THEY COULD BE REGISTERED, WHICH OFTEN RESULTED IN LENGTHY REGISTRATION DELAYS).

THE ILO IS CONDUCTING A TWO-YEAR, \$120,000 TRADE UNION CAPACITY BUILDING PROJECT FUNDED BY THE DANISH GOVERNMENT. THE PROJECT INVOLVES MONTHLY TRAINING WORKSHOPS FOR OFFICIALS OF EACH OF THE THREE LABOR UNION FEDERATIONS (INCLUDING THE FTUWKC) AS WELL AS FOR A GROUP OF TRADE UNION EDUCATORS. THE PROJECT IS THE SIGNIFICANT BECAUSE IT IS THE FIRST, DIRECT INTERNATIONAL SUPPORT TO THE TRADE UNION MOVEMENT IN CAMBODIA.

TALKING POINTS

--ELECTED SHOP STEWARDS OBVIOUSLY PLAY A KEY ROLE IN CAMBODIA'S INDUSTRIAL RELATIONS SYSTEM. WE BELIEVE IT IS VERY IMPORTANT THAT SHOP STEWARDS ARE FREELY AND FAIRLY ELECTED SO THAT WORKERS IN FACTORIES BELIEVE THEY HAVE GENUINE REPRESENTATIVES THAT CAN DEAL WITH MANAGEMENT ON THEIR BEHALF.

--WE ARE INTERESTED IN HOW THE MINISTRY CONDUCTS THE SHOP STEWARDS ELECTION, ESPECIALLY WITH REGARDS TO THREE POINTS: 1) HOW DO LABOR INSPECTORS ENSURE THAT TRADE UNIONS ARE ABLE TO NOMINATE CANDIDATES FOR THE SHOP STEWARDS AS CALLED FOR BY ARTICLE 288 OF THE LABOR LAW; 2) HOW DO THE LABOR INSPECTORS ENSURE THAT MANAGEMENT DOES NOT NOMINATE CANDIDATES FOR THE SHOP STEWARD POSITIONS, AND; 3) WHAT STEPS DO THE LABOR INSPECTORS TAKE TO MAKE SURE THE ELECTIONS ARE FREE AND FAIR WITH NO PRESSURE FROM MANAGEMENT? ARE THERE WRITTEN GUIDELINES ON HOW TO CONDUCT THE ELECTIONS?

--WE ARE ALSO INTERESTED IN THE MINISTRY'S VIEWS OF HOW THE SHOP STEWARD SYSTEM IS FUNCTIONING? ARE THE SHOP STEWARDS ACTIVE IN MOST FACTORIES? DO THEY DO A GOOD JOB OF REPRESENTING WORKERS TO MANAGEMENT? HAVE ANY SHOP STEWARDS BEEN TERMINATED EITHER WITH OR WITHOUT THE PERMISSION OF THE LABOR INSPECTORATE?

--WE WOULD APPRECIATE AN UPDATE ON THE UNION REGISTRATION PROCESS. HOW MANY UNIONS ARE IN THE PROCESS OF BEING REGISTERED? HAVE ANY UNIONS BEEN DENIED REGISTRATION? HOW LONG DOES IT USUALLY TAKE TO REGISTER A UNION?

--WHAT ARE THE MINISTRY'S VIEWS ON HOW THE INDUSTRIAL RELATIONS SYSTEM IN CAMBODIA COULD BE STRENGTHENED? WHAT STEPS NEED TO BE TAKEN TO CREATE A GROUP OF BETTER TRAINED AND MORE CAPABLE WORKER REPRESENTATIVES?

AGENDA ITEM III: UPDATE ON STATUS OF THE LABOR ADVISORY COMMITTEE

BACKGROUND

THE CAMBODIAN LABOR LAW CALLS FOR THE CREATION OF A TRIPARTITE LABOR ADVISORY COMMITTEE (LAC) CHAIRED BY THE MOL TO PERFORM A BROAD RANGE OF FUNCTIONS, INCLUDING: ADVISING THE MOL ON MINIMUM WAGE RATES; SPECIFYING PARTICULAR OCCUPATIONS WHICH ARE HAZARDOUS TO THE HEALTH, SAFETY, OR MORALITY OF ADOLESCENTS AND THUS OFF LIMITS TO ANYONE OVER THE LEGAL WORKING AGE OF 15 BUT UNDER 18; CONSULTING WITH THE MOL TO DETERMINE THE TYPES OF EMPLOYMENT AND WORKING CONDITIONS APPROPRIATE FOR CHILDREN AGED 12 TO 15 ENGAGED IN LIGHT WORK; AND CONSULTING WITH THE MOL ON THE ISSUANCE OF A SUBDEGREE ON WORKPLACE HEALTH AND SAFETY. ESTABLISHING THE LAC SHOULD ENABLE THE MOL TO MOVE AHEAD MORE QUICKLY WITH THE WRITING OF IMPORTANT REGULATIONS CALLED FOR BY THE LABOR LAW.

A SUBDEGREE ESTABLISHING THE LAC WAS SIGNED IN MAY 1998. IT CREATES A COMMITTEE OF 19 MEMBERS, 9 FROM GOVERNMENT MINISTRIES, 5 EMPLOYER REPRESENTATIVES, AND 5 WORKER REPRESENTATIVES. THE MOL HAS SENT SEVERAL LISTS OF MEMBERS TO THE COUNCIL OF MINISTERS FOR APPROVAL, BUT SEVERAL PROSPECTIVE MEMBERS WERE UNABLE TO SERVE AND THE COMMITTEE HAS NOT YET MET. THE OPPOSITION FTUWKC HAS REQUESTED A SEAT ON THE LAC, BUT THE MINISTRY HAS ASKED IT TO FIRST PROVE ITS "REPRESENTATIVENESS." (ARTICLE 351 OF THE LABOR LAW STATES THAT THE LAC SHOULD INCLUDE REPRESENTATIVES OF WORKERS' UNIONS THAT ARE "THE MOST REPRESENTATIVE AT THE NATIONAL LEVEL." IT WILL BE DIFFICULT FOR THE FTUWKC TO PROVE THAT IT IS REPRESENTATIVE IN THIS SENSE' BECAUSE THE UNION HAS NOT YET REGISTERED ANY FACTORY-LEVEL UNITS.)

TALKING POINTS

--WE CONGRATULATE THE MINISTRY FOR ISSUING THE SUBDEGREE ESTABLISHING THE LAC LAST MAY. THE LABOR LAW GIVES THE LAC MANY IMPORTANT JOBS TO DO, INCLUDING IN THE AREA OF WORKPLACE HEALTH AND SAFETY. WE BELIEVE IT CAN ALSO SERVE AS AN IMPORTANT FORUM DISCUSSION IMPORTANT LABOR ISSUES WITH THE GOVERNMENT'S SOCIAL PARTNERS.

--WE WOULD APPRECIATE AN UPDATE ON WHERE THE LAC STANDS. IS IT LIKELY TO BEGIN ITS WORK SOON?

--AS THE GOVERNMENT DECIDES ON A LIST OF MEMBERS FOR THE LAC, WE URGE YOU TO MAKE THE GROUP AS REPRESENTATIVE AS POSSIBLE SO THAT AS MANY GROUPS AS POSSIBLE ARE REPRESENTED.

AGENDA ITEM V: ILO LABOR LAW IMPLEMENTATION PROJECT

BACKGROUND

THE U.S. - CAMBODIA BILATERAL TEXTILE CONTAINS A PROVISION REQUIRING CAMBODIA TO SUPPORT (AND THE U.S. TO SEEK FUNDING FOR) A PROGRAM TO IMPROVE WORKING CONDITIONS IN CAMBODIA'S TEXTILE AND APPAREL INDUSTRY. SINCE THE AGREEMENT WAS NEGOTIATED IN JANUARY, THE EMBASSY HAS WORKED CLOSELY WITH THE BANGKOK ILO OFFICE AND THE DEPARTMENT OF LABOR IN WASHINGTON TO PRODUCE SEVERAL DRAFTS OF A PROJECT DOCUMENT WHICH WOULD STRENGTHEN MOL INSPECTION EFFORTS THROUGH THE IMPLEMENTATION OF A "CERTIFICATE OF COMPLIANCE" SYSTEM AND BOLSTER CAMBODIA'S SYSTEM OF INDUSTRIAL RELATIONS. THE PROJECT IS BUDGETED AT \$2.2 MILLION; THE RGC AND CAMBODIAN GARMENT MANUFACTURERS ASSOCIATION HAVE EACH PLEDGED \$200,000. THE DEPARTMENT OF LABOR HAS ALSO INDICATED THAT ARRANGEMENTS CAN BE MADE FOR \$500,000 FROM THE ILO'S CHILD LABOR PROGRAM TO BE MADE AVAILABLE FOR THE PROJECT AS PART OF AN OVERALL FUNDING PACKAGE.

NEXT STEPS ON THE PROJECT INCLUDE IRONING OUT REMAINING DIFFERENCES ON PROJECT DESIGN (WE ARE NOT CLEAR WHAT DOL'S OBJECTIONS ARE) AND SECURING THE REMAINING \$1.3 MILLION IN FUNDING. TWO POSSIBLE FUNDING SOURCES ARE THE WHITE HOUSE "NO SWEAT" INITIATIVE LINKED TO THE APPAREL INDUSTRY PARTNERSHIP AGREEMENT AND POSSIBLE DONATIONS FROM THE PRIVATE SECTOR.

TALKING POINTS

--WE HAVE MADE A LOT OF PROGRESS ON THE ILO LABOR LAW IMPLEMENTATION PROJECT SINCE THE TEXTILE AGREEMENT WAS SIGNED IN JANUARY. THE ILO HAS CONSULTED WITH BOTH THE CAMBODIAN AND AMERICAN GOVERNMENTS, AND PREPARED TWO DRAFTS OF THE PROJECT DOCUMENT. WE HAVE COMMENTED ON THESE DRAFTS DIRECTLY TO THE ILO.

--THE U.S. DEPARTMENT OF LABOR HAS HAD DISCUSSIONS WITH THE ILO IN GENEVA AS WELL AS WITH U.S. TRADE UNIONS ON THE PROJECT DESIGN. WHILE WE ARE IN AGREEMENT ON MANY ASPECTS OF THE PROJECT, THE DEPARTMENT OF LABOR BELIEVES THAT THE CURRENT DRAFT WILL NEED SIGNIFICANT CHANGES THAT WE ARE ADDRESSING. WE DO NOT ANTICIPATE THAT THESE CHANGES WILL BE IMPOSSIBLE TO ACHIEVE, AND WE ARE CONFIDENT THAT THE PROJECT PROPOSAL CAN BE REFINED TO MEET U.S. VIEWS.

--WE WILL CONTINUE TO WORK HARD ON THE PROJECT DESIGN. ONCE WE REACH AGREEMENT WITH THE CAMBODIAN GOVERNMENT AND THE ILO, WE ARE VERY PLEASED THAT THE U.S. DEPARTMENT OF LABOR HAS INDICATED THAT ARRANGEMENTS CAN BE MADE FOR \$500,000 FROM THE ILO'S CHILD LABOR PROGRAM TO BE MADE AVAILABLE FOR THE PROJECT AS PART OF AN OVERALL FUNDING PACKAGE.

--WHILE WE CONTINUE TO WORK ON THE PROJECT DESIGN AND LOOK FOR ADDITIONAL FUNDING, IT IS IMPORTANT FOR THE MINISTRY TO DO WHAT IT CAN TO IMPROVE WORKING

CONDITIONS IN THE TEXTILE AND APPAREL INDUSTRY SO THAT
CAMBODIA HAS THE BEST POSSIBLE CHANCE TO RECEIVE THE 14
PERCENT QUOTA BONUS. AS WE NOTED BEFORE, A FIRST STEP
MIGHT BE TO COMPILE A INDUSTRY-WIDE DATA BASE OF
WORKING CONDITIONS IN CAMBODIA'S GARMENT FACTORIES,
EITHER BY THE MINISTRY OR AN INDEPENDENT MONITOR.

--WE STAND READY TO ASSIST YOU IN THIS EFFORT IN ANY
WAY WE CAN.

QUINN

SECT: SECTION: 01 OF 01

SSN: 1585

TOR: 990712082446 M3954629

DIST:

SIT: ALLEN ARVIZU BUSBY DEROSA GUARNIERI KEITH LIEBERTHAL OSIUS PRITCHARD
SCHWARTZ STROMSETH WECHSLER
SIT: NSC

Cable

PREC: ROUTINE
CLASS: UNCLASSIFIED
LINE1: RAAUZYUW RUEHKVA6217 2031556-UUUU--RHEHAAX.
LINE2: ZNR UUUUU ZZH
LINE3: R 211556Z JUL 00
LINE4: FM AMEMBASSY KIEV
OSRI: RUEHKV
DTG:
ORIG: AMEMBASSY KIEV
TO: RUEHC/SECSTATE WASHDC 7363
INFO: RUEHRL/AMEMBASSY BERLIN 0366
RUEHBS/USEU BRUSSELS
RUEHTV/AMEMBASSY TEL AVIV 0209
RUEHAK/AMEMBASSY ANKARA 0197
RUEHTH/AMEMBASSY ATHENS 0004
RUEHCH/AMEMBASSY CHISINAU 0510
RUEHVEN/USMISSION USOSCE 0773
RUEHBM/AMEMBASSY BUCHAREST 0676
RUEHSF/AMEMBASSY SOFIA 0520
RUEHWR/AMEMBASSY WARSAW 3793
RUEHRO/AMEMBASSY ROME 0586
RUEHSQ/AMEMBASSY SKOPJE 0046
RUEHTI/AMEMBASSY TIRANA 0056
RUEHLO/AMEMBASSY LONDON 2072
RUEHOT/AMEMBASSY OTTAWA 0604
RUEHBK/AMEMBASSY BANGKOK 0078
RUEHTC/AMEMBASSY THE HAGUE 0172
RUEHPG/AMEMBASSY PRAGUE 0607
RUEHUP/AMEMBASSY BUDAPEST 0021
RUEHFR/AMEMBASSY PARIS 1430
RUEHGO/AMEMBASSY RANGOON 0002
RUEHKO/AMEMBASSY TOKYO 0563
RUEHBS/AMEMBASSY BRUSSELS 0326
RUEHCP/AMEMBASSY COPENHAGEN 0040
RUEHMO/AMEMBASSY MOSCOW 8542
RUEHPS/USOFFICE PRISTINA 0002
RUEHGV/USMISSION GENEVA 0446
RUCNCIS/CIS COLLECTIVE
RUEAWJA/DEPT OF JUSTICE WASHDC
RUCNFB/DIRFBI WASHDC
SUBJ: U.S.-UKRAINE REGIONAL WORKSHOP AGAINST
TRAFFICKING IN WOMEN AND CHILDREN
TEXT: UNCLAS SECTION 01 OF 18 KIEV 006217

DEPT PLEASE PASS TO WHITE HOUSE-MELANE VERVEER
DEPT PLEASE PASS TO AMB-DESIGNATE PASCUAL
DEPT FOR EUR/WST, S/NIS, S/NIS/C, INL/ENT, L, PRM
DEPT ALSO FOR ANITA BOTTI
JUSTICE FOR CIVIL RIGHTS DIVISION-DAAG ISHIMURA,
DOJ/OPDAT-BOYLAN, NATIONAL INSTITUTE OF JUSTICE-
FINKENAUER; ORGANIZED CRIME SECTION AND CHILD

EXPLOITATION AND OBSCENITY SECTION, CRIMINAL DIVISION

BUDAPEST PLEASE PASS TO ILEA

E.O. 12958: N/A

TAGS: PHUM, KRCM, KWMN, SMIG, KSEP, EAID, PREL, UP

SUBJECT: U.S.-UKRAINE REGIONAL WORKSHOP AGAINST
TRAFFICKING IN WOMEN AND CHILDREN

REF: A) STATE 70234; B) KIEV 18445

SUMMARY AND EMBASSY COMMENTS

1. ON JUNE 21-23 THE UNITED STATES AND UKRAINE CO-
HOSTED A REGIONAL WORKSHOP AGAINST TRAFFICKING IN
WOMEN AND CHILDREN FOR INTERNATIONAL LAW ENFORCEMENT
OFFICIALS. IN ADDITION TO REPRESENTATIVES FROM THE
U.S. AND UKRAINE, PARTICIPANTS AND OBSERVERS FROM
ISRAEL, THE CZECH REPUBLIC, MOLDOVA, ALBANIA, GERMANY,
THE NETHERLANDS, POLAND, THE UNITED KINGDOM, BELGIUM,
THE EU COMMISSION, INTERPOL, THE INTERNATIONAL
ORGANIZATION FOR MIGRATION (IOM), THE UN CENTER FOR
INTERNATIONAL CRIME PREVENTION, ORGANIZATION FOR
SECURITY AND COOPERATION IN EUROPE (OSCE), THE
INTERNATIONAL LABOR ORGANIZATION (ILO), UN MISSION IN
UKRAINE, AND SEVERAL NON-GOVERNMENTAL ORGANIZATIONS,
INCLUDING LA STRADA AND WINROCK INTERNATIONAL,
ATTENDED THE WORKSHOP.

2. THE TRAFFICKING WORKSHOP WAS ANNOUNCED BY
PRESIDENTS CLINTON AND KUCHMA AT THEIR JUNE 5 MEETING
IN KIEV, RECOGNIZING UKRAINE AS A MAJOR SOURCE COUNTRY
OF WOMEN AND CHILDREN WHO FALL VICTIM TO TRAFFICKING
AND AGREED TO CO-HOST THE WORKSHOP AS AN IMPORTANT
STEP TO COMBAT THIS INTERNATIONAL CRIMINAL ACTIVITY.
KEY SPEAKERS AT THE WORKSHOP INCLUDED MELANNE VERVEER,
THE CHIEF OF STAFF FOR FIRST LADY HILLARY RODHAM
CLINTON, AMBASSADOR STEVEN PIFER, UKRAINIAN VICE
PREMIER FOR HUMANITARIAN AFFAIRS MYKOLA ZHULYNSKY, AND
MINISTER OF INTERNAL AFFAIRS YURIY KRAVCHENKO.

3. DURING THE WORKSHOP PARTICIPANTS, WORKING IN
PLENARY SESSIONS AND WORKING GROUPS, EXPRESSED THEIR
CONCERN WITH THE INCREASED INTERNATIONAL SCOPE OF THE
PROBLEM; EMPHASIZED THAT TRAFFICKING IN PERSONS IS AN
ECONOMIC AND CRIME PROBLEM THAT REQUIRES AN INTEGRATED
APPROACH AT NATIONAL, REGIONAL AND INTERNATIONAL
LEVELS AND ADOPTED AN ACTION PLAN FOR THE REGION.
THIS PLAN OFFERS SUGGESTIONS FOR FUTURE STEPS AND
PRACTICES TO FIGHT TRAFFICKING IN PERSONS, ESPECIALLY
WOMEN AND CHILDREN. THE GOU IS DEVELOPING CONCRETE
MEASURES TO IMPLEMENT THE ACTION PLAN.

4. FOLLOWING ARE THE MAJOR CONCLUSIONS AND
RECOMMENDATIONS WHICH CAME OUT OF THE WORKSHOP:

--A LEGAL FRAMEWORK IS NEEDED TO ADDRESS TRAFFICKING
IN HUMAN BEINGS, NOT JUST WOMEN AND CHILDREN;

UNCLAS SECTION 02 OF 18 KIEV 006217

DEPT PLEASE PASS TO WHITE HOUSE-MELANE VERVEER
DEPT PLEASE PASS TO AMB-DESIGNATE PASCUAL
DEPT FOR EUR/WST, S/NIS, S/NIS/C, INL/ENT, L, PRM
DEPT ALSO FOR ANITA BOTTI
JUSTICE FOR CIVIL RIGHTS DIVISION-DAAG ISHIMURA,
DOJ/OPDAT-BOYLAN, NATIONAL INSTITUTE OF JUSTICE-
FINKENAUER; ORGANIZED CRIME SECTION AND CHILD
EXPLOITATION AND OBSCENITY SECTION, CRIMINAL DIVISION

BUDAPEST PLEASE PASS TO ILEA

E.O. 12958: N/A

TAGS: PHUM, KRCM, KWMN, SMIG, KSEP, EAID, PREL, UP
SUBJECT: U.S.-UKRAINE REGIONAL WORKSHOP AGAINST
TRAFFICKING IN WOMEN AND CHILDREN

--A SINGLE GOVERNMENT COORDINATING BODY ON ANTI-
TRAFFICKING ISSUES IS REQUIRED, PREFERABLY AT THE
PRESIDENTIAL LEVEL, AS WELL AS ANTI-TRAFFICKING UNITS
AT THE REGIONAL LEVEL;

--THERE IS A SERIOUS LACK OF COORDINATION AND
INTERACTION BETWEEN NGOS AND GOVERNMENT AGENCIES;

--COORDINATION AND COOPERATION WITH RELIGIOUS
ORGANIZATIONS AND INSTITUTIONS ON ANTI-TRAFFICKING
ISSUES SHOULD BE DEVELOPED;

--TOLL-FREE HOTLINES ARE NEEDED;

--EFFORTS AGAINST EMPLOYMENT AGENCIES THAT ENGAGE IN
DECEPTIVE PRACTICES SHOULD BE INCREASED, TO INCLUDE
REVOCATION OF LICENCES;

--INCREASED TRAINING FOR POLICE AND PROSECUTORS IS
REQUIRED;

--PROCEDURES FOR THE INVESTIGATION AND PROSECUTION OF
CASES MUST BE INSTITUTIONALIZED;

--PUBLIC INFORMATION CAMPAIGNS ARE NEEDED TO INFORM
THE GENERAL POPULATION OF THE PROBLEM.

5. THE WORKSHOP ACCOMPLISHED A NUMBER OF
KEY OBJECTIVES. THE PRESENCE OF SENIOR UKRAINIAN AND
U.S. OFFICIALS, ESPECIALLY MELANNE VERVEER, CHIEF OF
STAFF OF THE OFFICE OF THE FIRST LADY, GAVE THE ISSUE
UNPRECEDENTED NATIONAL MEDIA ATTENTION IN UKRAINE.
THE PARTICIPATION OF MINISTER OF INTERIOR KRACHENKO AT
THE WORKSHOP DURING THE MORNING SESSION ON JUNE 21
ELEVATED THE PRIORITY OF THE ANTI-TRAFFICKING ISSUE
FOR UKRAINIAN LAW ENFORCEMENT. THE WORKSHOP ALSO
PROVIDED AN OPPORTUNITY FOR NGOS TO ESTABLISH CONTACTS
AND A DIALOGUE WITH LAW ENFORCEMENT AND OTHER
GOVERNMENT AGENCIES AND INTERNATIONAL ORGANIZATIONS AT

A LEVEL WHICH DID NOT EXIST PREVIOUSLY. AS A RESULT OF THE WORKSHOP, UKRAINIAN AND ISRAELI LAW ENFORCEMENT AGENCIES ARE WORKING TOGETHER ON AN INTERNATIONAL TRAFFICKING CASE. END SUMMARY AND EMBASSY COMMENTS.

REGIONAL LAW ENFORCEMENT WORKSHOP ON TRAFFICKING

6. ON JUNE 21-23, APPROXIMATELY 150 PARTICIPANTS AND OBSERVERS FROM THE U.S., UKRAINE, ISRAEL, THE CZECH REPUBLIC, MOLDOVA, ALBANIA, GERMANY, THE NETHERLANDS, UNCLAS SECTION 03 OF 18 KIEV 006217

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DOJ/OPDAT-BOYLAN, NATIONAL INSTITUTE OF JUSTICE-
FINKENAUER; ORGANIZED CRIME SECTION AND CHILD
EXPLOITATION AND OBSCENITY SECTION, CRIMINAL DIVISION

BUDAPEST PLEASE PASS TO ILEA

E.O. 12958: N/A
TAGS: PHUM, KRCM, KWMN, SMIG, KSEP, EAID, PREL, UP
SUBJECT: U.S.-UKRAINE REGIONAL WORKSHOP AGAINST
TRAFFICKING IN WOMEN AND CHILDREN

POLAND, THE UNITED KINGDOM, BELGIUM, THE EU COMMISSION, INTERPOL, THE INTERNATIONAL ORGANIZATION FOR MIGRATION (IOM), THE UN CENTER FOR INTERNATIONAL CRIME PREVENTION, ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE (OSCE), THE INTERNATIONAL LABOR ORGANIZATION (ILO), UN MISSION, AND SEVERAL NGOS, INCLUDING LA STRADA AND WINROCK INTERNATIONAL, TOOK PART IN THE WORKSHOP. ATTENDEES INCLUDED POLICE OFFICIALS, PROSECUTORS, JUDGES, OTHER LAW ENFORCEMENT OFFICIALS, REPRESENTATIVES OF THE DIPLOMATIC CORPS, REPRESENTATIVES OF INTERNATIONAL ORGANIZATIONS, REPRESENTATIVES FROM THE MINISTRY OF FOREIGN AFFAIRS, THE UKRAINIAN PARLIAMENT (VERHOVNA RADA), MINISTRY OF JUSTICE, BORDER GUARDS, STATE COMMITTEE ON YOUTH, FAMILY AND SPORT, NGOS AND OTHER GOVERNMENT AGENCIES.

7. VICE PRIME MINISTER OF UKRAINE FOR HUMANITARIAN AFFAIRS MYKOLA ZHULYNSKY OPENED THE CONFERENCE BY HIGHLIGHTING THE PROBLEM OF TRANSPARENT BORDERS, INADEQUATE LAWS, LACK OF ECONOMIC OPPORTUNITIES AND THE STATUS OF WOMEN AS CONTRIBUTING FACTORS TO TRAFFICKING IN WOMEN AND CHILDREN. HE EMPHASIZED THAT THIS PROBLEM IS OF INCREASING CONCERN FOR THE GOVERNMENT OF UKRAINE AND DESCRIBED THE VARIOUS GOV EFFORTS TO TRY TO COMBAT TRAFFICKING INCLUDING: 1998 AMENDMENTS TO THE MARRIAGE AND FAMILY CODE AND CRIMINAL CODE; ADOPTION IN 1999 BY THE CABINET OF MINISTERS OF AN ANTI-TRAFFICKING PROGRAM, ESTABLISHMENT OF REGIONAL EMPLOYMENT CENTERS FOR WOMEN, THE REVOCATION BY THE MINISTRY OF LABOR IN 1999

OF 125 LICENSES FOR EMPLOYMENT AGENCIES, IMPLEMENTATION OF A SMALL-ENTERPRISE PROGRAM FOR WOMEN BY THE UNDP, AND THE ESTABLISHMENT OF A 24-HOUR HOTLINE FOR WOMEN. HE ALSO NOTED THE EXISTENCE OF THREE "WOMEN TO WOMEN" CENTERS IN DNIPROPETROVSK, DONETSK, AND LVIV ESTABLISHED BY NGOS. ZHULYNSKY EXPRESSED HIS SUPPORT FOR THESE CENTERS AND STATED THAT THEY SHOULD SERVE AS MODELS FOR THE ESTABLISHMENT OF SUCH CENTERS IN EACH OF THE OBLASTS IN UKRAINE. ZHULYNSKY UNDERScoreD THAT THE MINISTRY OF INTERIOR HAS THE PRIMARY RESPONSIBILITY IN ADDRESSING THE TRAFFICKING PROBLEM, THAT THIS IS A GLOBAL PROBLEM, AND THAT UKRAINE IS OBLIGATED TO DO ITS PART IN COMBATING TRAFFICKING. HE EXPRESSED HIS APPRECIATION TO THE USG FOR ITS CONTINUED ASSISTANCE TO THE UKRAINIAN GOVERNMENT ON THIS PROBLEM.

8. MINISTER OF INTERNAL AFFAIRS KRAVCHENKO WAS THE NEXT SPEAKER. HE REFERRED TO TRAFFICKING IN PERSONS AS A PROBLEM THAT TRANSCENDS PURELY LEGAL ISSUES AND UNCLAS SECTION 04 OF 18 KIEV 006217

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POINTED OUT THAT UKRAINE IS ONE OF THE FEW COUNTRIES THAT HAS ENACTED ANTI-TRAFFICKING LAWS. KRAVCHENKO STATED THAT THE MI
NISTRY OF INTERNAL AFFAIRS HAS
ESTABLISHED SPECIAL UNITS TO INVESTIGATE TRAFFICKING AND HAS UNCOVERED 24 CRIME GROUPS INVOLVED IN TRAFFICKING ACTIVITIES.

9. AMBASSADOR PIFER NOTED THAT THE PRESENCE OF VICE PRIME MINISTER ZHULYNSKY, MINISTER OF INTERNAL AFFAIRS KRAVCHENKO, AND MELANNE VERVEER, CHIEF OF STAFF TO THE OFFICE OF THE FIRST LADY, UNDERScoreD THE IMPORTANCE THAT THE BOTH THE U.S. AND GOU ATTACHED TO THE TRAFFICKING PROBLEM. THE AMBASSADOR STATED THAT PRESIDENT CLINTON AND SECRETARY OF STATE ALBRIGHT ARE COMMITTED TO THE GLOBAL FIGHT AGAINST TRAFFICKING AND STRESSED THAT THE USG STRATEGY IS BASED ON PREVENTION, PROTECTION AND PROSECUTION. HE POINTED OUT THAT THE WORKSHOP WAS A RESULT OF A COMMITMENT MADE BY PRESIDENTS CLINTON AND KUCHMA ON JUNE 5 TO HELP

UKRAINE WITH THE TRAFFICKING PROBLEM.

KEYNOTE SPEECH

10. MELANNE VERVEER, CHIEF OF STAFF TO THE OFFICE OF THE FIRST LADY, WAS THE KEYNOTE SPEAKER AT THE WORKSHOP. SHE REFERRED TO MRS. CLINTON'S ANNOUNCEMENT TWO YEARS AGO IN THE CITY OF LVIV IN WESTERN UKRAINE THAT INITIATED THE U.S.-EU ANTI-TRAFFICKING CAMPAIGN AND STRESSED THAT NO COUNTRY CAN ERADICATE THE PROBLEM BY ITSELF. VERVEER EXPLAINED THAT TRAFFICKING IS NOT JUST A WOMEN'S ISSUE BUT MORE BROADLY A SOCIETAL ISSUE. VERVEER STATED THAT SHE WAS IMPRESSED WITH THE MINISTRY OF EDUCATION'S COLLABORATIVE EFFORTS WITH NGOS TO EDUCATE SCHOOL CHILDREN AND THAT THIS ACTION WAS A MODEL FOR NGO-GOVERNEMENT COOPERATION. SHE ALSO ANNOUNCED A FIVE HUNDRED THOUSAND DOLLAR PROGRAM FUNDED BY THE INTERNATIONAL LABOR ORGANIZATION FOR UKRAINE TO FIGHT DISCRIMINATION AGAINST WOMEN IN THE WORKPLACE.

UN PROTOCOL ON TRAFFICKING IN PERSONS

11. KRISTINA KANGASPUNTA, UN CENTER FOR INTERNATIONAL CRIME PREVENTION, PROVIDED AN OVERVIEW ON THE STATUS OF NEGOTIATIONS ON THE DRAFT UN PROTOCOL TO PREVENT, SUPPRESS, PUNISH, TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN. SHE EXPLAINED THAT NEGOTIATIONS WERE INITIATED IN JANUARY 1999 AND THAT IT IS ANTICIPATED THAT THE FINAL VERSION WILL BE SIGNED IN UNCLAS SECTION 05 OF 18 KIEV 006217

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DECEMBER 2000 IN PALERMO, ITALY.
ACCORDING TO KANGASPUNTA, CURRENT ISSUES THAT NEED TO BE RESOLVED INCLUDE THE DEFINITION OF "TRAFFICKING IN PERSONS" AND THE ISSUE OF "CONSENT." SHE INDICATED THAT THE PROTOCOL WILL PROVIDE ADDITIONAL TOOLS TO LAW ENFORCEMENT AGENCIES, STRENGTHENS THE JUDICIARY BY CRIMINALIZING TRAFFICKING IN ALL COUNTRIES AND PROVIDES FOR PROTECTION FOR TRAFFICKED PERSONS.

12. KANGASPUNTA ALSO PROVIDED AN OVERVIEW OF THE

GLOBAL PROGRAM ON TRAFFICKING STATING THAT COUNTRY PROGRAMS WERE ONGOING IN THE PHILIPPINES, AUSTRIA, FINLAND, GERMANY, THE NETHERLANDS, POLAND, THE CZECH REPUBLIC, AND A NEW PROGRAM IS TO BE INITIATED IN BRAZIL. PART OF THE PLAN IS TO ESTABLISH A DATABASE TO BE SHARED BY ALL COUNTRIES AND TO ASSIST COUNTRIES IN IMPROVING THE RESPONSE BY LAW ENFORCEMENT, HEIGHTEN AWARENESS, AND IMPROVE VICTIM/WITNESS PROTECTION.

PRESENTATION OF THE ACTION PLAN

13. ANITA BOTTI, DEPUTY DIRECTOR OF THE PRESIDENT'S INTERAGENCY COUNCIL ON WOMEN, NOTED THE TIMELINESS OF THE WORKSHOP FOLLOWING ON THE RECENT ANTI-TRAFFICKING ACTIVITIES, INCLUDING THE OSCE CONFERENCE IN INSTANBUL ON TRAFFICKING, DISCUSSIONS IN VIENNA ON THE UN PROTOCOL ON TRAFFICKING AND THE ASIA-PACIFIC CONFERENCE. BOTTI SUGGESTED THAT THE CONFEREES TAKE A PRACTICAL APPROACH TO THE PROBLEM AND WORK OUT MECHANISMS TO IMPLEMENT THE DRAFT ACTION PLAN, INCLUDING IMPROVING THE EXCHANGE OF INFORMATION, ESTABLISHING BEST PRACTICES, AND BRINGING GOVERNMENT AND NGOS TO WORK TOGETHER ON THE PROBLEM. SHE PRAISED UKRAINE FOR TAKING THE LEAD ON THE ISSUE AND POINTED OUT THAT THERE IS A NEED TO FOCUS ON PREVENTION, WITH EMPHASIS ON EDUCATION AND LEGAL FRAMEWORKS, PROTECTION AND PROSECUTION. BOTTI URGED THE PARTICIPANTS TO REVIEW THE DRAFT ACTION PLAN AND TO LOOK AT PRACTICAL WAYS FOR IMPLEMENTING THE PLAN.

TRAFFICKING AS AN ASPECT OF TRANSNATIONAL CRIME

14. AMY O'NEILL-RICHARDS AND KATHLEEN TRAINOR FROM THE STATE DEPARTMENT GAVE A PRESENTATION WHICH DEFINED TRAFFICKING, PROVIDED GLOBAL STATISTICS (E.G. UP TO 1,000,000 PERSONS PER YEAR; 40-50% UNDER 18; TRAFFICKING MOST PREVELANT IN ASIA). O'NEILL-RICHARDS REVIEWED THE STATUS OF TRAFFICKING AND THE UNIQUE CIRCUMSTANCES IN ASIA, AFRICA, LATIN AMERICA AND THE UNCLAS SECTION 06 OF 18 KIEV 006217

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UNITED STATES. TRAINOR FOCUSED ON THE SITUATION IN THE NEW INDEPENDENT STATES, AND CENTRAL AND EASTERN EUROPE. SHE STATED THAT IT IS ESTIMATED THAT 100,000 PERSONS, INCLUDING 35,000 FROM UKRAINE, ARE TRAFFICKED ANNUALLY. ACCORDING TO TRAINOR, WOMEN TYPICALLY BETWEEN 15-25 YEARS OF AGE AND MORE EDUCATED THAN IN OTHER REGIONS OF THE WORLD, ARE MOST SUBJECT TO FALSE EMPLOYMENT CONTRACTS. SHE EXPLAINED THAT THE TREND IS FOR YOUNGER VICTIMS TO BE INVOLVED, PARTICULARLY HOMELESS CHILDREN OR THOSE IN ORPHANAGES. TRAINOR STATED THAT TRAFFICKERS USED MODELING AGENCIES, MARRIAGE AGENCIES AND EVEN CAREER FAIRS AT SCHOOLS TO RECRUIT WOMEN AND GIRLS AND THAT ALL LEVELS OF CRIME ARE INVOLVED - ENTREPRENEURS, SMALL TRAFFICKING GROUPS, AND LARGE SYNDICATES.

ACTION BY LAW ENFORCEMENT AGENCIES AND NGOS IN UKRAINE

15. IRYNA TARGULOVA, OFFICE OF THE OMBUDSMAN OF THE SUPREME RADA OF UKRAINE, EXPLAINED THAT THE OMBUDSMAN SUPERVISES THE ISSUE OF TRAFFICKING AND HUMAN RIGHTS AT THE LEGISLATIVE LEVEL. SHE EXPLAINED THAT THE GOU HAS SET UP A SPECIAL ANTI-TRAFFICKING PROGRAM BUT THAT THERE IS A NEED TO COLLECT DATA SINCE THERE ARE NO RELIABLE STATISTICS ON TRAFFICKING. AS WELL, THE POLICE HAVE NO SPECIAL TOOLS TO INVESTIGATE TRAFFICKING AND THIS NEEDS TO BE IMPROVED. SHE POINTED OUT, HOWEVER, THAT A NUMBER OF CASES ARE BEING PROSECUTED. TARGULOVA INDICATED THAT THERE IS A PROBLEM WITH PROTECTING AND REINTEGRATING VICTIMS AND THAT NGOS MUST PLAY A KEY ROLE IN THIS PROCESS. SHE POINTED OUT THAT VICTIMS ARE UNWILLING TO WORK WITH LAW ENFORCEMENT AND THEY MUST BE PERSUADED TO COOPERATE WHEN THEY RETURN TO UKRAINE. TARGULOVA ALSO SPOKE ABOUT THE PROBLEM OF FOREIGN ADOPTIONS AND THAT DESPITE LEGAL IMPROVEMENTS, FRADULENT DOCUMENTS ARE STILL FOUND IN THE ADOPTION PROCESS.

16. HRYHORIY TYTARCHUK, OFFICE OF THE PROSECUTOR GENERAL OF UKRAINE, STATED THAT THE PROBLEM OF TRAFFICKING BEGAN IN THE EARLY 90'S WHEN THE BORDERS WERE OPENED AND THE SITUATION WAS EXCACERBATED BY DECLINING LIVING CONDITIONS. HE EXPLAINED THAT LAW ENFORCEMENT AUTHORITIES WERE NOT PREPARED FOR THIS TRANSITION PERIOD. IN 1995, IN A CASE IN WHICH A WOMAN WAS FREED IN THE NETHERLANDS, YUGOSLAV CITIZENS WERE SUCCESSFULLY PROSECUTED IN DNEIROPETROVSK. THIS CASE IMPLICATED PASSPORT OFFICIALS AND TWO CRIMINAL GROUPS WERE UNCOVERED. ONE GROUP TRAFFICKED AT LEAST 35 WOMEN THROUGH POLAND AND THE OTHER TRAFFICKED ABOUT UNCLAS SECTION 07 OF 18 KIEV 006217

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100 VICTIMS VIA HUNGARY TO YUGOSLAVIA. FIVE PERSONS
WERE CONVICTED FOR FORGERY AND ILLEGAL BORDER
CROSSING SINCE THERE WAS NO LAW AGAINST TRAFFICKING
AT THAT TIME. DURING THIS PERIOD, OTHER PERSONS WERE
DEPORTED AND NOT CHARGED WITH ANY CRIMES. THE
CRIMINAL CODE WAS AMENDED IN 1998 TO ADD A NEW SECTION
124.1, WHICH PENALIZES THE TRAFFICKING IN PERSONS.
CASES ARE NOW PROSECUTED THROUGHOUT THE COUNTRY.
THERE IS SOME INTERNATIONAL COOPERATION, WITH THE
CZECH REPUBLIC, FOR EXAMPLE, WHERE 20 WOMEN WERE
RECENTLY LOCATED. LAW ENFORCEMENT AGENCIES ARE NOT
ALWAYS INTERESTED IN PROSECUTING THESE CASES AND
COOPERATION AMONG PROSECUTORS IS VERY COMPLEX. IN
1995 AND 1996 THERE WERE SEVERAL ADOPTION CASES IN
KIEV AND DONETSK WHICH LED TO PEOPLE BEING CHARGED
WITH CRIMINAL OFFENSES.

17. VOLODYMYR BABENKO, CHIEF OF INVESTIGATIONS,
MINISTRY OF FOREIGN AFFAIRS, STATED THAT ECONOMIC
DEPRAVATION IS THE MAIN CAUSE OF THE TRAFFICKING
PROBLEM. AS WELL, HE EXPLAINED THAT ANTI-TRAFFICKING
WAS NOT A PRIORITY I
N THE PAST. ACCORDING TO BABENKO,
WOMEN ARE LURED BY OFFERS OF EMPLOYMENT AND ARE NOT
ONLY BEING USED FOR PROSTITUTION, BUT ARE INVOLVED IN
THE NARCOTICS TRADE AND OTHER CRIMES. HE POINTED OUT
THAT THE GOU IS INTENSIFYING ITS LAW ENFORCEMENT
EFFORTS IN THIS AREA: UKRAINE HAS ADOPTED ANTI-
TRAFFICKING LEGISLATION, 24 CRIMINAL CASES ARE BEING
INVESTIGATED, THE GOU HAS SIGNED SEVERAL BILATERAL
LEGAL ASSISTANCE AGREEMENTS ON COMBATING ORGANIZED
CRIME, INCLUDING TRAFFICKING. (NOTE: THE US/GOU LAW
ENFORCEMENT WORKING GROUP ACTION PLAN SIGNED ON JUNE 5
INCLUDES TRAFFICKING AS ONE OF THE AREAS OF
COOPERATION. END NOTE.)

18. BABENKO EXPLAINED THAT ADDITIONAL LEGISLATIVE
CHANGES ARE PENDING, A GOVERNMENT ANTI-TRAFFICKING
PROGRAM HAS BEEN ESTABLISHED, AND THE MINISTRY OF
INTERNAL AFFAIRS HAS ESTABLISHED A SPECIAL UNIT TO
DEAL WITH THIS PROBLEM.
THIS WILL HELP TO IDENTIFY AND PROSECUTE CRIMINALS AND
ORGANIZED CRIME GROUPS, BUT HE EXPLAINED THAT THE LACK
OF EXPERIENCE IN PROSECUTING SUCH CASES IS A PROBLEM.
BABENKO CALLED UPON TURKEY, GREECE AND GERMANY, IN
PARTICULAR, TO IMPROVE COOPERATION WITH THE GOU ON
TRAFFICKING CASES.

19. DR. ANATOLIY ZAKALYUK OF THE NATIONAL ACADEMY OF LAW SCIENCES, EXPLAINED THAT TRAFFICKING IS A PROBLEM UNCLAS SECTION 08 OF 18 KIEV 006217

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OF TRANSNATIONAL ORGANIZED CRIME THAT NEEDS TO BE STUDIED. HE STATED THAT SOME WORK HAS BEEN INITIATED ON THE RELATIONSHIP OF TRAFFICKING TO ORGANIZED CRIME. ZAKALYUK POINTED OUT THAT PREVENTION IS IMPORTANT, BUT THAT CURRENT MEASURES ARE INSUFFICIENT.

20. KATERYNA LEVCHENKO, LA STRADA-UKRAINE, EXPLAINED THAT LA STRADA AND OTHER NGOS HAVE BEEN WORKING ON TRAFFICKING ISSUES SINCE THE EARLY 1990S, AT A TIME WHEN THE UKRAINIAN GOVERNMENT DID NOT ACKNOWLEDGE THAT THERE WAS A PROBLEM. SHE STATED THAT IN 1997, FOLLOWING A CONFERENCE IN VIENNA, THE GOU BEGAN TO RECOGNIZE THE ISSUE. LEVCHENKO POINTED OUT THAT LA STRADA IS WORKING AT THE GRASSROOTS LEVEL WITH VICTIMS, GOVERNMENT AND INTERNATIONAL FORUMS, AND IS DEVELOPING AN ANTI-TRAFFICKING CURRICULUM FOR THE SCHOOLS IN UKRAINE AND OTHER PREVENTION PROGRAMS. LEVCHENKO CRITICIZED THE UKRAINIAN GOVERNMENT'S LACK OF A COORDINATED RESPONSE TO VICTIMS AND EMPHASIZED THAT NO ONE IN THE GOVERNMENT APPEARS TO BE IN CHARGE OF THE TRAFFICKING PROGRAM. SHE WAS ALSO CRITICAL OF THE GOVERNMENT FOR NOT INCLUDING NGOS IN GOVERNMENT PLANNING ON TRAFFICKING PROGRAMS. SHE STRESSED THAT TRAFFICKING IS DIFFERENT FROM PROSTITUTION AND THAT MEN ARE ALSO VICTIMS OF TRAFFICKING.

CHALLENGES FACING SOURCE, TRANSIT AND DESTINATION COUNTRIES

21. DURING THE DISCUSSION IN THE PLENARY SESSION ON CHALLENGES FACING THE SOURCE, TRANSIT AND DESTINATION COUNTRIES, UKRAINE, THE CZECH REPUBLIC, ISRAEL, GERMANY AND POLAND PROVIDED COUNTRY PRESENTATIONS AS FOLLOWS:

--UKRAINE: CONDITIONS IN UKRAINE HAVE WORSENEDED SIGNIFICANTLY SINCE THE COLLAPSE OF THE SOVIET UNION AND TRAFFICKING HAS BECOME A VERY LUCRATIVE BUSINESS.

IN 1998, THE LAWS WERE AMENDED TO ADDRESS THE PROBLEM OF ILLEGAL ADOPTION AND TRAFFICKING. THE MEDIA HAS EXAGGERATED THE SITUATION BY CITING UNSUBSTANTIATED NUMBERS OF TRAFFICKED WOMEN (I.E. 400,000). TRAFFICKING SCHEMES, HOWEVER, HAVE LURED WOMEN TO PARIS AND OTHER LOCATIONS.

--CZECH REPUBLIC: THE CZECH GOVERNMENT HAS ADOPTED A SERIOUS ATTITUDE TO TRAFFICKING AND IN 1995 ENACTED LAWS CONCERNING ILLEGAL MIGRATION AND TRAFFICKING IN PROSTITUTES. THE TRAFFICKING CATEGORIES INCLUDE WOMEN TRAFFICKED ABROAD, FOREIGN WOMEN TRAFFICKED INTO THE UNCLAS SECTION 09 OF 18 KIEV 006217

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CZECH REPUBLIC AND CZECH WOMEN EXPLOITED IN THE SEX INDUSTRY. NIGHTCLUBS POSE A PARTICULAR DANGER BECAUSE THEY OFTEN ARE A COVER FOR EXPLOITING WOMEN AND ILLEGAL OPERATIONS FREQUENTLY ARE RUN OUT OF THESE CLUBS. PROSTITUTION IS NOT A CRIME, BUT FACILITATING SUCH ACTIVITY IS PUNISHABLE CRIMINALLY. A TREND IS DEVELOPING WHERE TRAFFICKERS AND PROSTITUTES COLLABORATE AGAINST THE POLICE.

--ISRAEL: ISRAEL IS A DESTINATION COUNTRY BUT NOT A MAJOR ONE. A COMBINED STRATEGY HAS BEEN DEVELOPED TO CONFRONT TRAFFICKERS. THE REASONS FOR TRAFFICKING INCLUDE LARGE MIGRATION INTO THE COUNTRY, LOWERED MORAL STANDARDS, AND LARGE NUMBERS OF FOREIGN WORKERS IN THE COUNTRY. ALTHOUGH MOST WOMEN KNOW WHAT THEY ARE GETTING INTO THEY ARE NOT AWARE OF THE CONDITIONS. THERE ARE ALSO CLEAR EXAMPLES OF WOMEN TRAFFICKED INTO ISRAEL. THERE ARE NO LAWS CURRENTLY IN FORCE CONCERNING TRAFFICKING, BUT SUCH LEGISLATION IS ABOUT TO BE ENACTED AND WILL AUTHORIZE SPECIALIZED POLICE ANTI-TRAFFICKING UNITS.

BREAKOUT SESSIONS ON ANTI-TRAFFICKING ISSUES

22. ON THE AFTERNOON OF JUNE 21 AND JUNE 22, THE PARTICIPANTS WORKED IN THREE SEPARATE BREAKOUT SESSIONS ON VICTIM PROTECTION/ASSISTANCE, REGIONAL AND INTERNATIONAL COOPERATION, AND PROSECUTION AND

INVESTIGATION OF ANTI-TRAFFICKING CASES. THE FOLLOWING IS A SUMMARY OF THEIR DISCUSSIONS.

VICTIM PROTECTION

23. THE GROUP BEGAN ITS WORK BY ATTEMPTING TO DEFINE WHO IS THE "VICTIM" AND WHAT "PROTECTION" AND "ASSISTANCE" MEAN. THE GROUP, CHAIRED BY OLEKSANDR MISCHENKO, DEPUTY HEAD, CONSULAR DEPARTMENT OF THE MINISTRY OF FOREIGN AFFAIRS, AND MARTA BAZIUK, WINROCK INTERNATIONAL, AGREED THAT THERE WAS A NEED TO FORM A WORKING GROUP CONSISTING OF NGO AND GOU REPRESENTATIVES TO DETERMINE WHO ARE THE "VICTIMS" AND WHAT SHOULD BE DONE IN TERMS OF PROTECTION. THE FOLLOWING KEY POINTS WERE NOTED BY THE WORKING GROUP:

-- THE NEED TO WORK WITH LAW ENFORCEMENT TO INCREASE THE AWARENESS OF THE ISSUE; THE FEAR VICTIMS HAVE OF PROVIDING INFORMATION; THE MISTRUST AND LACK OF UNDERSTANDING WHEN FAMILIES COME TO THE POLICE FOR HELP; AND THE DIFFICULTY IN OBTAINING INFORMATION FROM VICTIMS AND FAMILIES.

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DOJ/OPDAT-BOYLAN, NATIONAL INSTITUTE OF JUSTICE-
FINKENAUER; ORGANIZED CRIME SECTION AND CHILD
EXPLOITATION AND OBSCENITY SECTION, CRIMINAL DIVISION

BUDAPEST PLEASE PASS TO ILEA

E.O. 12958: N/A

TAGS: PHUM, KRMC, KWMN, SMIG, KSEP, EAID, PREL, UP
SUBJECT: U.S.-UKRAINE REGIONAL WORKSHOP AGAINST
TRAFFICKING IN WOMEN AND CHILDREN

-- NEED FOR RESEARCH ON COMPANIES ADVERTISING FOR EMPLOYMENT OPPORTUNITIES OVERSEAS; IS THERE A WAY TO CHECK THE BONA FIDES THROUGH REGISTRATION? (NOTE: THE REPRESENTATIVE FROM THE LVIV CENTER EXPLAINED THAT IT IS WORKING ON A DATABASE OF EMPLOYMENT AND MARRIAGE AGENCIES.)

-- NOTED THAT SOME OF THE VICTIMS ARE RETURNING AS RECRUITERS; HOW CAN THIS BE PREVENTED?

-- MFA REPRESENTATIVES NOTED THAT UKRAINIAN CONSULAR OFFICIALS ARE TASKED WITH PROTECTING THE RIGHTS OF ALL UKRAINIAN CITIZENS WHO ASK FOR HELP IN RETURNING TO UKRAINE AND REQUESTED NGOS TO REFER INQUIRIES FROM FAMILIES AND OTHER SOURCES TO THE MFA. THE MFA REPRESENTATIVE EXPLAINED THAT THE MFA HAS A 24-HOUR HOTLINE, TEL: (380) (44) 293-4942 OR-(380) (44) 493-0056, AND STATED THAT THE INFORMATION WILL BE DIRECTED

TO THE APPROPRIATE EMBASSIES AND CONSULATES.

-- REPATRIATION WAS IDENTIFIED AS A MAJOR ISSUE. UKRAINIAN CONSULAR OFFICIALS NOTED SOME SUCCESSFUL CASES IN RETURNED WOMEN AND ASKED FOR HELP FROM THE NGOS IN URGING VICTIMS TO COME TO THEM FOR ASSISTANCE. IT WAS NOTED THAT SOME CONSULATES DO NOT HAVE FUNDS TO RETURN VICTIMS AND THAT IN GENERAL VERY LIMITED FUNDING WAS AVAILABLE FOR SERVICES TO RETURN VICTIMS, FOR SHELTERS, JOB TRAINING, ETC. LA STRADA OFFERED TO HOLD SEMINARS FOR CONSULAR OFFICIALS AND MFA REPRESENTATIVES SUPPORTED THIS PROPOSAL. AN ISRAELI OFFICIAL CLAIMED THAT UKRAINIAN WOMEN ARE STRANDED IN ISRAEL BECAUSE THEY CANNOT AFFORD THE USD 600 AIRFARE TO RETURN HOME.

-- NGO AND CONSULAR OFFICIALS NOTED THE IMPORTANCE OF THE WORKSHOP IN PROVIDING AN OPPORTUNITY FOR DEVELOPING CONTACTS TO ASSIST VICTIMS AND TO LEARN OF THE SERVICES THAT THE NGOS CAN PROVIDE.

-- IT HAS NOTED THAT BORDER GUARDS DO NOT EFFECTIVELY CHECK FOR TRAFFICKING IN HUMANS AND SUGGESTED THE NEED FOR TRAINING FOR THE BORDER GUARDS TO CHECK VEHICLES TRANSPORTING GROUPS OF WOMEN.

-- NOTED THE PROBLEM OF CORRUPTION OF LAW ENFORCEMENT OFFICIALS AND THAT THIS BECOMES A BARRIER TO FAMILIES SEEKING ASSISTANCE AND TO VICTIMS REPORTING CRIME.

-- NOTED THE NEED FOR A COMPUTERIZED SYSTEM TO SHARE INFORMATION QUICKLY AND EFFICIENTLY.
UNCLAS SECTION 11 OF 18 KIEV 006217

DEPT PLEASE PASS TO WHITE HOUSE-MELANE VERVEER
DEPT PLEASE PASS TO AMB-DESIGNATE PASCUAL
DEPT FOR EUR/WST, S/NIS, S/NIS/C, INL/ENT, L, PRM
DEPT ALSO FOR ANITA BOTTI
JUSTICE FOR CIVIL RIGHTS DIVISION-DAAG ISHIMURA,
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BUDAPEST PLEASE PASS TO ILEA

E.O. 12958: N/A
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24. LA STRADA DESCRIBED A RECENT CASE THAT OCCURRED IN FEBRUARY OF THIS YEAR WHERE THE NEEDS OF VICTIMS WERE NOT MET. THE CASE INVOLVED SEVEN UKRAINIAN MOTHERS WHO CONTACTED LA STRADA FOR ASSISTANCE AFTER THEIR DAUGHTERS WERE TRAFFICKED AND FORCED INTO PROSTITUTION IN MONTENEGRO. LA STRADA FIRST TRIED TO CONTACT INTERPOL BUT DID NOT GET A RESPONSE FOR OVER TWO DAYS. LA STRADA THEN REACHED OUT TO INTERNATIONAL HUMAN RIGHTS GROUPS. LA STRADA WAS FRUSTRATED IN ITS

EFFORTS TO ASSIST THE VICTIMS, AS THERE WAS NO CENTRAL POINT OF CONTACT IN THE GOVERNMENT TO ASSIST THEM. ULTIMATELY, THE LOCAL MONTENEGRO POLICE RESCUED THE GIRLS AND TOOK THEM TO A GOVERNMENT CENTER. EVEN IN THIS CASE, THE LOCAL POLICE WHO AFFECTED THE RESCUE HAD BEEN FREQUENTING THE BROTHELS. IN ANOTHER CASE, A WOMAN WHO WAS TRAFFICKED TO TURKEY WAS HELD IN A DETENTION CENTER OR JAIL FOR SIX MONTHS.

INTERNATIONAL AND REGIONAL COOPERATION

25. THIS GROUP, CHAIRED BY A VOLODYMYR BABENKO, CHIEF OF INVESTIGATIONS, MINISTRY OF INTERIOR, AND STEVEN COOK, CHIEF OF THE IOM MISSION IN UKRAINE, DISCUSSED THE FOLLOWING TRAFFICKING-RELATED ISSUES:

--IOM PROVIDED INFORMATION ON ITS PROJECT IN TIRANA INITIATED ON JANUARY 1 ON THE VOLUNTARY RETURN AND REINTEGRATION OF WOMEN. TO DATE, 70 WOMEN FROM MOLDOVA, UKRAINE, BULGARIA AND RUSSIA HAVE BEEN RETURNED. UNDER THIS PROGRAM INFORMATION IS RECEIVED FROM ALBANIAN POLICE STATIONS AND INTERNATIONAL ORGANIZATIONS. WOMEN ARE THEN INTERVIEWED IN THE POLICE STATIONS, AND THE PROCESS OF DOCUMENTATION IS INITIATED (SINCE MOST DO NOT HAVE DOCUMENTS) THROUGH EMBASSIES IN ALBANIA. SINCE UKRAINE DOES NOT HAVE AN EMBASSY IN ALBANIA, THE DOCUMENTATION IS OBTAINED THROUGH THE UKRAINIAN EMBASSY IN ATHENS. AN IOM SHELTER PROVIDES SERVICES UNTIL REPATRIATION. IOM MISSIONS IN RELEVANT COUNTRIES ARE NOTIFIED SO THAT THEY KNOW WHAT TO EXPECT, AND THEN THE IOM MISSIONS ORGANIZE REINTEGRATION PROGRAMS. WHEN THE DOCUMENTATION IS READY, IOM ASSISTS AT THE AIRPORT, ORGANIZES ONWARD TRANSPORTATION AND COORDINATES INTEGRATION ASSISTANCE WITH NGOS. IOM POINTED OUT THAT IT HAS DIFFICULTIES IN OBTAINING TRAVEL DOCUMENTS. IN UKRAINE, IOM WORKS CLOSELY WITH THE MINISTRY OF FOREIGN AFFAIRS AND THE MFA HAS NOTIFIED ITS CONSULATES OF IOM ACTIVITIES AND SERVICES. IOM HAS ALSO BEEN SHARING INFORMATION WITH THE MINISTRY OF INTERNAL AFFAIRS.

UNCLAS SECTION 12 OF 18 KIEV 006217

DEPT PLEASE PASS TO WHITE HOUSE-MELANE VERVEER
DEPT PLEASE PASS TO AMB-DESIGNATE PASCUAL
DEPT FOR EUR/WST, S/NIS, S/NIS/C, INL/ENT, L, PRM
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--LA STRADA EXPLAINED THAT IT HAS RECEIVED OVER 4,000 CALLS ON ITS HOTLINE SINCE 1997 AND THAT THERE IS A NEED FOR MORE SHELTERS. THE MINISTRY OF AFFAIRS REPRESENTATIVE STATED THAT THERE ARE A NUMBER OF SHELTERS WHERE WOMEN CAN STAY UP TO 30 DAYS WHILE THEIR IDENTIFICATION IS SORTED OUT AND MINORS GO TO SPECIAL SHELTERS. THE POLICE WORK IN THESE SHELTERS AND PSYCHOLOGICAL CONSULTANTS ARE AVAILABLE.

--THE NEED FOR BETTER COORDINATION OF THE ACTIVITIES OF THE CRISIS CENTERS AND TRAINING PROGRAMS FOR YOUNG WOMEN IN VARIOUS OBLASTS WAS STRESSED. LA STRADA EXPLAINED THAT IN SPEAKING OF INTERNATIONAL AND REGIONAL COOPERATION, THE NGOS CAN PROVIDE ASSISTANCE. IN THE NETHERLANDS, FOR EXAMPLE, LAW ENFORCEMENT IS RESPONSIBLE FOR REPORTING CASES TO THE NGOS, WHICH CAN THEN PROVIDE PSYCHOLOGICAL ASSISTANCE. WHEN WOMEN RETURN TO UKRAINE, THEY STILL NEED HELP AND THE NGOS CAN ASSIST.

--IT WAS NOTED THAT 95% OF THE WOMEN ARE SENT ABROAD BY EMPLOYMENT FIRMS AND THE ISSUE OF CHANGING LICENSING REQUIREMENTS WAS RAISED. THE MINISTRY OF INTERNAL AFFAIRS STATED THAT THERE IS A SPECIAL AGENCY RESPONSIBLE FOR THIS AND POINTED OUT THAT THE NATIONAL POLICE HAS THE AUTHORITY TO CARRY OUT INVESTIGATIONS OF FIRMS, BUT FREQUENTLY THEIR ACTIVITIES ARE CARRIED OUT LEGALLY. OTHER PARTICIPANTS NOTED THAT THESE FIRMS HAVE THE RIGHT TO ADVERTISE THEIR SERVICES, AND STRESSED THE IMPORTANCE OF EDUCATION AS A DETERRENT TO MISLEADING ADVERTISING FOR JOBS. IT WAS NOTED THAT THE BORDER GUARDS ARE LIMITED IN STOPPING WOMEN AT THE BORDER BECAUSE MOST WOMEN HAVE VISAS TO THE COUNTRIES TO WHICH THEY ARE TRAVELING.

--IT WAS NOTED THAT THERE WAS A NEED FOR BETTER COORDINATION OF ACTIVITIES OF NGOS, INTERNATIONAL ORGANIZATIONS, AND UKRAINIAN GOVERNMENT AGENCIES ON THESE ISSUES.

INVESTIGATION AND PROSECUTION OF TRAFFICKING CASES

26. THIS GROUP, CHAIRED BY GENERAL YAROSLAV KONDRATIEV, RECTOR, NATIONAL ACADEMY OF INTERNAL AFFAIRS, AND DEPUTY ASSISTANT ATTORNEY GENERAL STUART ISHIMARU, CIVIL DIVISION, U.S. DEPARTMENT OF JUSTICE, ADDRESSED QUESTIONS CONCERNING LAWS AGAINST TRAFFICKING, TRAINING PROGRAMS FOR LAW ENFORCEMENT OFFICIALS, CONSULAR AND VISA ISSUES RELATING TO UNCLAS SECTION 13 OF 18 KIEV 006217

DEPT PLEASE PASS TO WHITE HOUSE-MELANE VERVEER
DEPT PLEASE PASS TO AMB-DESIGNATE PASCUAL
DEPT FOR EUR/WST, S/NIS, S/NIS/C, INL/ENT, L, PRM
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FINKENAUER; ORGANIZED CRIME SECTION AND CHILD
EXPLOITATION AND OBSCENITY SECTION, CRIMINAL DIVISION

BUDAPEST PLEASE PASS TO ILEA

E.O. 12958: N/A

TAGS: PHUM, KRCM, KWMN, SMIG, KSEP, EAID, PREL, UP
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TRAFFICKING, LAWS PROVIDING FOR ASSISTANCE TO
TRAFFICKING VICTIMS AND INSTITUTIONAL PROCEDURES FOR
PROSECUTING TRAFFICKING VICTIMS. THE FOLLOWING WAS
DISCUSSED:

A. GERMANY: THREE LAWS HAVE BEEN ENACTED CRIMINALIZING
THE TRAFFICKING OF HUMAN BEINGS, AGGRAVATED
TRAFFICKING AND PIMPING. EVERY YEAR TRAINING IS
PROVIDED FOR THE FEDERAL POLICE.

--THERE WERE 801 REGISTERED VICTIMS IN 1999: 21.7%
UKRAINIAN; 14.4% POLISH; 11.4% RUSSIAN; 11%
LITHUANIAN; 6.9% CZECH REPUBLIC; 5.9% BELARUS.

--THE NUMBER OF VICTIMS HAS DROPPED FROM THE PREVIOUS
YEAR. NOT CLEAR IF THIS IS AS A RESULT OF THE SUCCESS
OF PREVENTION CAMPAIGNS OR UNDERREPORTING.

--BECAUSE OF THE STRENGTH OF THE PROGRAMS TO PROTECT
VICTIMS AND WITNESSES, WOMEN ARE READY AND WILLING TO
TESTIFY AND MANY OF THEM ARE UKRAINIAN WOMEN.

B. UKRAINE: TRAINING PROGRAMS HAVE BEEN ESTABLISHED AT
THE UNIVERSITY OF INTERNAL AFFAIRS FOR YOUNG AND SENIOR
OFFICERS AND YOUNG ADULT EDUCATION. THERE IS HEAVY
RELIANCE ON WORKING WITH COUNTRIES IN CENTRAL AND
EASTERN EUROPE, PARTICULARLY GERMANY, HUNGARY AND
POLAND. NEW CRIMINAL PROVISIONS ARE PENDING IN THE
DRAFT CRIMINAL CODE. THERE IS A NEED TO DEVELOP A
BETTER DATABASE OF STATISTICS ON TRAFFICKING. THERE
IS A LOT OF DISCUSSION AND TENSION BETWEEN NGOS AND
LAW ENFORCEMENT IN TERMS OF DISSEMINATION OF
INFORMATION, TRAINING, INTERVIEWING VICTIMS, FUNDING
OF NGOS, ETC.

C. POLAND: NEW PENAL LEGISLATION IN 1998 INCLUDES
PROVISIONS CONCERNING THE ILLEGAL TRADE OF HUMAN
BEINGS, PUNISHABLE BY 3-15 YEARS CONFINEMENT, CRIMINAL
SANCTIONS FOR ABDUCTION FOR PROSTITUTION, PIMPING AND
INCEST.

D. ALBANIA: THE EXISTING LEGISLATION IS TOO WEAK,
CRIME IS HIGH, AND THE LEGISLATION DOES NOT
DISTINGUISH BETWEEN PROSTITUTION AND TRAFFICKING. NEW
LEGISLATION MUST DEFINE TRAFFICKING AND PROVIDE FOR
CRIMINAL OFFENSES AND PENALTIES.

E. THE NETHERLANDS: ON SEPTEMBER 1, 2000, THE BAN ON BROTHELS WILL BE LIFTED AS PART OF AN EFFORT TO MINIMIZE CRIMINAL ACTIVITY AND ADDRESS DEMANDS FOR UNCLAS SECTION 14 OF 18 KIEV 006217

DEPT PLEASE PASS TO WHITE HOUSE-MELANE VERVEER
DEPT PLEASE PASS TO AMB-DESIGNATE PASCUAL
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BUDAPEST PLEASE PASS TO ILEA

E.O. 12958: N/A
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GOVERNMENT CONTROL. EFFORTS WILL BE FOCUSED ON TIGHTENING BORDER CONTROLS, IMPROVING EDUCATION, INCREASED COORDINATION IN LAW ENFORCEMENT AND ESTABLISHING A NEW RESEARCH TEAM. A NEW OFFICE OF THE OMBUDSMAN OF TRAFFICKING HAS BEEN ESTABLISHED TO ADDRESS CULTURAL EDUCATION AND DEVELOPMENT AND SOCIO-ECONOMIC PROBLEMS. BY LIFTING THE BAN ON BROTHELS, THE PURPOSE IS TO REGULATE THE COLLECTION OF TAXES, IMPROVE HEALTH CARE AND CONDITIONS FOR WOMEN.

F. ISRAEL: THE PROBLEM HAS BECOME A HIGHER PRIORITY FOR LAW ENFORCEMENT. THERE IS A NEED FOR ENHANCED COOPERATION. THERE IS NO SPECIFIC LAW ON TRAFFICKING IN WOMEN, BUT HUMAN BEINGS. TRAFFICKING OF WOMEN ENCOMPASSES MANY OTHER CRIMES, INCLUDING RAPE, DRUGS, ASSAULTS, ETC. THE POLICE DEAL WITH THE TRAFFICKING PHENOMENA BY PROSECUTING THESE OTHER CRIMES. THE QUESTION IS HOW WILL POLICE INCREASE LAW ENFORCEMENT EFFORTS? THERE IS A NEED TO COOPERATE WITH OTHER AUTHORITIES AND A NEED FOR PROTECTION FOR THE WOMEN WHO WILL TESTIFY. THERE IS A NEED TO ESTABLISH SAFE HOUSES FOR THESE PERSONS. TRAFFICKING IS ALSO PART OF OTHER CRIMES, INCLUDING ORGANIZED CRIME, TRAFFICKING IN ARMS, AND NARCOTIC WHICH ARE PRIORITY CRIMES.

G. UNITED STATES: THERE ARE LAWS WHICH ADDRESS INVOLUNTARY SERVITUDE(E.G., SWEATSHOPS, DOMESTIC SERVANTS), THE MANN ACT WHICH CRIMINALIZES THE TRANSPORTATION OF PERSONS ACROSS STATE BORDERS FOR PURPOSES OF PROSTITUTION OR SEXUAL EXPLOITATION, AND IMMIGRATION LAWS. AS WELL, THE FOLLOWING SUGGESTIONS WERE PROVIDED FOR A VIABLE ACTION PLAN:

--COUNTRIES MUST HAVE LAWS THAT PROHIBIT TRAFFICKING IN ALL FORMS;

--INSTUTIONALIZE PROCEDURES FOR THE INVESTIGATION AND

PROSECUTION OF TRAFFICKING CASES, INCLUDING
APPROPRIATE VICTIM SERVICES;

--COUNTRIES SHOULD HAVE TRAINING PROGRAMS;

--INTERNATIONAL COOPERATION, BOTH IN SUBSTANTIVE AREAS
AND BY REGIONS, AND THE ESTABLISHMENT OF TASKFORCES;

--NEED FOR PUBLICITY, BOTH TO HIGHLIGHT THE PROBLEM
AND TO PROVIDE DETERRENCE BY PUBLICIZING SUCCESSFUL
PROSECUTIONS.

ANTI-TRAFFICKING PROGRAMS OF INTERNATIONAL
UNCLAS SECTION 15 OF 18 KIEV 006217

DEPT PLEASE PASS TO WHITE HOUSE-MELANE VERVEER
DEPT PLEASE PASS TO AMB-DESIGNATE PASCUAL
DEPT FOR EUR/WST, S/NIS, S/NIS/C, INL/ENT, L, PRM
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BUDAPEST PLEASE PASS TO ILEA

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ORGANIZATIONS

27. DURING THIS PLENARY SESSION, REPRESENTATIVES OF
OSCE, IOM, AND THE EUROPEAN COMMISSION MADE
PRESENTATIONS ON ACTIVITIES OF THEIR ORGANIZATIONS.

A. OSCE: AMBASSADOR BURKHARD, OSCE OFFICE IN UKRAINE,
EXPLAINED THAT OSCE EXPANDED ITS MANDATE IN 1999 TO
ADDRESS THE PREVENTION OF TRAFFICKING IN PERSONS.
NINE RULE OF LAW PROGRAMS ARE CURRENTLY UNDERWAY THAT
INCLUDE LEGISLATIVE REVIEW AND STRENGTHENING
GOVERNMENTAL STRUCTURES. IN UKRAINE, OSCE IS
UNDERTAKING NEW ACTIVITIES IN CLOSE COLLABORATION WITH
IOM THAT INCLUDE PUBLIC AWARENESS PROGRAMS AND SUPPORT
OF THE NATIONAL COORDINATION COUNCIL CHAIRED BY THE
OMBUDSMAN. ON MARCH 29, OSCE HOSTED A REGIONAL
AWARENESS SEMINAR IN KHARKIV, THAT INCLUDED OSCE, COE
AND IOM REPRESENTATIVES. OSCE HAS ALSO ORGANIZED
THREE VISITS FOR UKRAINIAN OFFICIALS TO TURKEY,
BELGIUM, AND MOST RECENTLY TO ITALY. THE LAST VISIT
INCLUDED PRIMARILY SENIOR UKRAINIAN LAW ENFORCEMENT
OFFICIALS AND PARLIAMENTARIANS.

B. IOM: STEVE COOK, IOM REPRESENTATIVE IN UKRAINE,
EXPLAINED THAT IOM IS PLANNING TO WORK CLOSELY WITH
OSCE AND IS BUILDING ON ITS PILOT PUBLIC AWARENESS
CAMPAIGN WHICH WAS COMPLETED TWO YEARS AGO. THE PILOT

CAMPAIGN WAS ONLY FOUR MONTHS IN DURATION AND IOM HOPES TO INSTITUTIONALIZE THIS CAMPAIGN WITHIN THE GOU. IN THE PREVENTION AREA, IOM PLANS TO REFINE ITS PUBLIC AWARENESS CAMPAIGN BY DEVELOPING BROCHURES THAT CONTAIN PRACTICAL ADVICE AND CONTACT INFORMATION, WORK WITH "INTERNEWS" WHICH IS DEVELOPING A FIVE-PART DOCUMENTARY (FUNDED BY USAID), RUNNING ADS IN NEWSPAPERS TO COUNTER THOSE ADVERTISEMENTS THAT OFFER JOBS OVERSEAS, AND CONDUCT TRAINING FOR GOVERNMENT OFFICIALS AND JOURNALISTS. CONCERNING PROTECTION AND REINTEGRATION, IOM WILL FOCUS ON SETTING UP A STRUCTURED MECHANISM FOR REPATRIATING VICTIMS OF TRAFFICKING. IOM CURRENTLY PROVIDES VICTIMS WITH EMERGENCY TRAVEL DOCUMENTS, A STIPEND, AND TRANSPORTATION. LA STRADA WILL THEN PROVIDE RECEPTION SERVICES TO INCLUDE: OVERNIGHT ACCOMMODATIONS, MEDICAL SERVICES, AND VOCATIONAL TRAINING. LA STRADA IS ALSO PLANNING TO DEVELOP AN ENHANCED NGO NETWORK AND TO DESIGN AN EDUCATIONAL CURRICULUM IN COOPERATION WITH THE MINISTRY OF EDUCATION. AS TO PROSECUTION, IOM WILL UNDERTAKE RESEARCH ON HOW TRAFFICKING RINGS OPERATE, CONDUCT A LEGISLATIVE REVIEW OF CURRENT UKRAINIAN LAWS AND IDENTIFY GAPS, AND PROVIDE UNCLAS SECTION 16 OF 18 KIEV 006217

DEPT PLEASE PASS TO WHITE HOUSE-MELANE VERVEER
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TRAINING.

C. EUROPEAN COMMISSION: BERNHARD BOGENSPERGER, EXTERNAL RELATIONS OFFICE, EUROPEAN COMMISSION, GAVE A BRIEF PRESENTATION ON EU ACTIVITIES REGARDING TRAFFICKING IN PERSONS. HE POINTED OUT THAT ONE AREA WHICH HAD NOT BEEN DISCUSSED DURING THIS WORKSHOP IS THE ROLE OF NEW TECHNOLOGIES (I.E. INTERNET) IN THE TRAFFICKING OF WOMEN SUCH AS THE DISPLAY OF MAIL-ORDER BRIDE CATALOGUES. IN 1996, THE EU CREATED A COMPREHENSIVE STRATEGY TO COMBAT TRAFFICKING IN PERSONS. THE EU PROVIDED ECU 6.5 MILLION FOR THE "STOP" PROGRAM FOR ANTI-TRAFFICKING FOR 1996-2000. FOR THIS YEAR, THE "STOP" PROGRAM WILL FOCUS ON VICTIM ASSISTANCE AND IMPROVING NGO-LAW ENFORCEMENT COOPERATION. THE EU PLANS TO RENEW THE "STOP" PROGRAM AT THE END OF THE YEAR. THE "DAPHNE" PROGRAM HAS BEEN

RENEWED FOR 2000-2003 AND WILL FOCUS ON DEVELOPING ACTIVITIES CONCERNING VIOLENCE AGAINST WOMEN AND CHILDREN. LAST MONTH, THE EC RECEIVED NUMEROUS PROPOSALS FOR "DAPHNE" FUNDING. BOTH THE "DAPHNE" AND "STOP" PROGRAM ARE AVAILABLE TO EU CANDIDATE COUNTRIES. THE "TACIS" PROGRAM HAS BEEN RENEWED FOR 2000-2006 WITH A MANDATE TO SUPPORT ACTIVITIES WITHIN THE JUSTICE AND HOME AFFAIRS (CRIMINAL JUSTICE) AREA IN CENTRAL AND EASTERN EUROPE. THE EC REPRESENTATIVE CONCLUDED HIS PRESENTATION BY NOTING THAT TRAFFICKING IN PERSONS WAS HIGHLIGHTED AS A TOP PRIORITY IN THE OCTOBER 1999 TAMPERE SUMMIT AND THE ISSUE CONTINUES TO BE PART OF THE US-EU TRANSATLANTIC DIALOGUE.

WORKER EXPLOITATION TASKFORCE EXPERIENCE

28. STUART ISHIMARU, DEPUTY ASSISTANT ATTORNEY GENERAL, AND JANET ALBERT, TRIAL ATTORNEY, CIVIL RIGHTS DIVISION, U.S. DEPARTMENT OF JUSTICE, PROVIDED INFORMATION ON THE CREATION BY THE ATTORNEY GENERAL OF THE WORKER EXPLOITATION TASKFORCE IN RESPONSE TO A DISTURBING RISE IN INVOLUNTARY SERVITUDE CASES. ACCORDING TO ISHIMARU, THE TASKFORCE IS AN INTERAGENCY WORKING GROUP FOCUSED ON ENHANCING COLLABORATION AND COORDINATION OF A MULTITUDE OF U.S. AGENCIES ON THE WORKER EXPLOITATION/TRAFFICKING IN PERSONS ISSUE. ISHIMARU EXPLAINED THAT THE TASKFORCE GENERALLY LEARNS ABOUT SUCH CASES FROM THE CHILD EXPLOITATION AND OBSCENITY SECTION IN THE CRIMINAL DIVISION, THE CIVIL RIGHTS DIVISION, AND THROUGH THE U.S. ATTORNEY'S OFFICES AROUND THE COUNTRY. THE FOLLOWING POINTS WERE MADE:

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E.O. 12958: N/A

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SUBJECT: U.S.-UKRAINE REGIONAL WORKSHOP AGAINST
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--THERE ARE FOUR GENERAL PROBLEM AREAS: DOMESTIC
SERVITUDE, AGRICULTURAL INDUSTRY, SWEATSHOPS
(PARTICULARLY IN THE GARMENT INDUSTRY) AND THE SEX
INDUSTRY.

--THE WORKER EXPLOITATION TASKFORCE ALSO CREATED
REGIONAL TASKFORCES IN 15 DIFFERENT REGIONS. TRAINING
ON WORKER EXPLOITATION ISSUES ALSO TAKES PLACE IN

THESE REGIONS AND THE TASKFORCE IS WORKING WITH NGOS AS THEY ARE ABLE TO REACH OUT TO TRAFFICKING VICTIMS.

--THERE HAVE BEEN SEVERAL SUCCESSFUL PROSECUTIONS IN TRAFFICKING CASES IN THE U.S. IN ONE CASE INVOLVING CHINESE WOMEN WHO WERE TRAFFICKED FOR THE SEX INDUSTRY, THE PRIMARY DEFENDANT RECEIVED A SENTENCE OF NINE YEARS AND WAS ORDERED TO PAY USD 40,000 IN RESTITUTION TO THE VICTIMS. IN ANOTHER CASE, WHICH INVOLVED MEXICAN WOMEN AND CHILDREN (INCLUDING SOME AS YOUNG AS 14 YEARS OLD) WHO WERE TRAFFICKED TO FLORIDA AND SOUTH CAROLINA FOR FORCED PROSTITUTION, SEVEN DEFENDANTS WERE SENTENCED TO CONFINEMENT AND THE LEAD DEFENDANT WAS ALSO ORDERED TO PAY A MILLION USD IN RESTITUTION.

--THE WORKER EXPLOITATION TASKFORCE HAS ALSO BEEN SUCCESSFUL IN GARNERING MEDIA ATTENTION, SUCH AS PARADE MAGAZINE IN THE WASHINGTON POST SUNDAY EDITION, WHICH FEATURED THE TASKFORCE HOTLINE THAT IS CAPABLE OF HANDLING OVER 100 DIFFERENT LANGUAGES. AS A RESULT, THE TASKFORCE HAS RECEIVED NUMEROUS CALLS ABOUT POSSIBLE VIOLATIONS.

--THE PRESENTATION ALSO INCLUDED A LIST OF "BEST PRACTICES" IN U.S. TRAFFICKING CASES, INCLUDING INTERNATIONAL COOPERATION, MUTUAL LEGAL ASSISTANCE TREATIES, EXISTING CRIMINAL STATUTES, CONFISCATION OF ASSETS, VICTIM/WITNESS ASSISTANCE, PROPOSED LEGISLATION, COORDINATION BETWEEN FEDERAL AND LOCAL POLICE, AND REGIONAL TASK FORCES.

ILLEGAL MIGRATION AND TRAFFICKING IN PEOPLE

29. PROFESSOR YURIY RYMARENKO, INSTITUTE OF STATE AND LAW, NATIONAL ACADEMY OF SCIENCES OF UKRAINE, EXPLAINED THAT TRAFFICKING IN PEOPLE IS PART OF THE FLOW OF ILLEGAL MIGRATION AND NOTED THAT THE ROUTES USED BY TRAFFICKERS ARE THE SAME AS THOSE USED BY SMUGGLERS OF ILLEGAL MIGRANTS. RYMARENKO USED THE TERM "SEMI-LEGAL" MIGRATION IN REFERRING TO TRAFFICKING SINCE IT IS NOT UNCOMMON FOR TRAFFICKED UNCLAS SECTION 18 OF 18 KIEV 006217

DEPT PLEASE PASS TO WHITE HOUSE-MELANE VERVEER
DEPT PLEASE PASS TO AMB-DESIGNATE PASCUAL
DEPT FOR EUR/WST, S/NIS, S/NIS/C, INL/ENT, L, PRM
DEPT ALSO FOR ANITA BOTTI
JUSTICE FOR CIVIL RIGHTS DIVISION-DAAG ISHIMURA,
DOJ/OPDAT-BOYLAN, NATIONAL INSTITUTE OF JUSTICE-
FINKENAUER; ORGANIZED CRIME SECTION AND CHILD
EXPLOITATION AND OBSCENITY SECTION, CRIMINAL DIVISION

BUDAPEST PLEASE PASS TO ILEA

E.O. 12958: N/A

TAGS: PHUM, KRCM, KWMN, SMIG, KSEP, EAID, PREL, UP
SUBJECT: U.S.-UKRAINE REGIONAL WORKSHOP AGAINST

TRAFFICKING IN WOMEN AND CHILDREN

WOMEN TO ARRIVE IN A COUNTRY WITH LEGAL DOCUMENTS, I.E. VISAS, PASSPORTS, ETC., AND LATER GET INVOLVED IN ILLEGAL ACTIVITY, SUCH AS PROSTITUTION. HE ALSO POINTED OUT SOME COMMON FEATURES BETWEEN TRAFFICKING AND ILLEGAL MIGRATION INCLUDING BRUTALITY, LACK OF HUMAN RIGHTS, ETC.

CONFERENCE WRAP-UP

30. AT THE CONCLUSION OF THE WORKSHOP THE PARTICIPANTS EXPRESSED THEIR CONCERN THAT TRAFFICKING IS A SERIOUS CRIME AND HUMAN RIGHTS PROBLEM THAT REQUIRES AN INTEGRATED APPROACH AT NATIONAL, REGIONAL AND INTERNATIONAL LEVELS TO ENSURE SIGNIFICANT PROGRESS. THERE WAS GENERAL AGREEMENT THAT LAW ENFORCEMENT AGENCIES AND NON-GOVERNMENTAL ORGANIZATIONS SHOULD FURTHER COOPERATE TO ASSIST VICTIMS AND TO PROSECUTE CRIMINALS INVOLVED IN TRAFFICKING. THE PARTICIPANTS APPROVED THE PROPOSED ACTION PLAN DISTRIBUTED AT THE BEGINNING OF THE WORKSHOP AND GOU REPRESENTATIVES UNDERTOOK TO DEVELOP SPECIFIC MEASURES TO IMPLEMENT THE ACTION PLAN.

PIFER

TOR: 07/21/00 13:11:57

DIST: SIT: BABBITT BANBURY BLACK BRZEZINSKI NSC DAVIDSON ELKIND FELDMAN FISHEL HINCKLEY MCLEAN MEDISH NAPLAN PATTEN SCHWARTZ SMITHP STRICKLAND WEISS WILCOX WOLOSKY

Cable

PREC: PRIORITY
CLASS: UNCLASSIFIED
LINE1: PAAUZYUW RUEHBYA3075 2590500-UUUU--RHEHAAX.
LINE2: ZNR UUUUU ZZH
LINE3: P 150500Z SEP 00
LINE4: FM AMEMBASSY CANBERRA
OSRI: RUEHBY
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ORIG: AMEMBASSY CANBERRA
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INFO: RUEHDN/AMCONSUL SYDNEY 1415
RUEHBN/AMCONSUL MELBOURNE 4686
RUEHPT/AMCONSUL PERTH 2677
SUBJ: 2000 HUMAN RIGHTS REPORT FOR AUSTRALIA
TEXT: UNCLAS SECTION 01 OF 10 CANBERRA 003075

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FOR DRL/CRT, EAP/ANP, AND EAP/RSA

E.O. 12958: N/A
TAGS: PHUM, ELAB, AS
SUBJECT: 2000 HUMAN RIGHTS REPORT FOR AUSTRALIA

REF: A) STATE 156494 B) PERRY-ELBY/WASER E-MAIL

1. (U) SENSITIVE BUT UNCLASSIFIED - NOFORN -- ENTIRE TEXT
2. (U) FOLLOWING IS THE 2000 COUNTRY HUMAN RIGHTS REPORT FOR AUSTRALIA. IN ACCORD WITH REF B, WE ARE SUBMITTING A COMPLETE TEXT DUE TO A SIGNIFICANT REWORK OF MANY OF THE SECTIONS IN THE REPORT. A FULL TEXT ALONG WITH DESCRIPTIONS OF THE CHANGES MADE WILL BE SENT VIA E-MAIL.
3. (SBU/NF) AUSTRALIA IS A CONSTITUTIONAL DEMOCRACY WITH A FEDERAL PARLIAMENTARY FORM OF GOVERNMENT IN WHICH CITIZENS PERIODICALLY CHOOSE THEIR REPRESENTATIVES IN FREE AND FAIR MULTIPARTY ELECTIONS. THE GOVERNMENT RESPECTS THE CONSTITUTIONAL PROVISIONS FOR AN INDEPENDENT JUDICIARY IN PRACTICE.

FEDERAL AND STATE POLICE ARE UNDER THE FIRM CONTROL OF THE CIVILIAN AUTHORITIES AND CARRY OUT THEIR FUNCTIONS IN ACCORDANCE WITH THE LAW. THERE WERE OCCASIONAL REPORTS THAT POLICE COMMITTED ABUSES.

A HIGHLY DEVELOPED MARKET-BASED ECONOMY, WHICH INCLUDES MANUFACTURING, MINING, AGRICULTURE, AND SERVICES, PROVIDES MOST CITIZENS WITH A HIGH PER CAPITA INCOME. A WIDE RANGE OF GOVERNMENT PROGRAMS OFFERS ASSISTANCE FOR DISADVANTAGED CITIZENS.

THE GOVERNMENT GENERALLY RESPECTS THE HUMAN RIGHTS OF ITS CITIZENS, AND THE LAW AND JUDICIARY PROVIDE EFFECTIVE MEANS OF DEALING WITH INDIVIDUAL INSTANCES OF ABUSE. THERE WERE OCCASIONAL REPORTS THAT POLICE BEAT OR OTHERWISE ABUSED PERSONS. THE GOVERNMENT ADMINISTERS MANY PROGRAMS TO IMPROVE THE SOCIOECONOMIC CONDITIONS OF ABORIGINES AND TORRES STRAITS ISLANDERS, WHO TOGETHER FORM ABOUT 2 PERCENT OF THE POPULATION, AND TO ADDRESS A LONG HISTORY OF DISCRIMINATION AGAINST THEM. SOCIETAL VIOLENCE AND DISCRIMINATION AGAINST WOMEN ARE PROBLEMS THAT ARE BEING ADDRESSED ACTIVELY. TRAFFICKING IN WOMEN, A GROWING PROBLEM, ALSO IS BEING ADDRESSED.

RESPECT FOR HUMAN RIGHTS

SECTION 1 RESPECT FOR THE INTEGRITY OF THE PERSON, INCLUDING FREEDOM FROM:

A. POLITICAL AND OTHER EXTRAJUDICIAL KILLING

THERE WERE NO REPORTS OF POLITICAL KILLINGS BY GOVERNMENT OFFICIALS. HOWEVER, 85 PERSONS DIED IN PRISONS, POLICE CUSTODY, OR DURING POLICE ATTEMPTS TO DETAIN THEM IN 1999 (SEE SECTION 1.C.).

B. DISAPPEARANCE

THERE WERE NO REPORTS OF POLITICALLY MOTIVATED DISAPPEARANCES.

C. TORTURE AND OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT

THE LAW PROHIBITS ALL SUCH PRACTICES; HOWEVER, POLICE ON OCCASION MISTREAT SUSPECTS IN CUSTODY. INDIGENOUS GROUPS CHARGE THAT POLICE HARASSMENT OF INDIGENOUS PEOPLE IS PERVASIVE AND THAT RACIAL DISCRIMINATION AMONG POLICE AND PRISON CUSTODIANS PERSISTS. AMNESTY INTERNATIONAL REPORTED SEVERAL INCIDENTS THAT INVOLVED SUCH ABUSES. STATE AND TERRITORIAL POLICE FORCES HAVE INTERNAL AFFAIRS UNITS THAT INVESTIGATE ALLEGATIONS OF ABUSE AND REPORT TO A CIVILIAN OMBUDSMAN.

IN 1999, THE TOTAL NUMBER OF DEATHS IN CUSTODY FELL BY 10 TO 85. OF THESE, 26 DEATHS OCCURRED IN POLICE CUSTODY OR DURING ATTEMPTS BY POLICE TO DETAIN SUSPECTS. THE REMAINDER OCCURRED IN PRISON CUSTODY. OF THE TOTAL DEATHS IN CUSTODY, 29 PERSONS DIED FROM HANGING. NINETEEN PERSONS DIED OF NATURAL CAUSES. EIGHT DIED AS A RESULT OF INJURIES SUSTAINED WHILE FLEEING POLICE DURING HIGH-SPEED PURSUIT. ANOTHER EIGHT DIED OF OTHER INJURIES. THE POLICE SHOT AND KILLED SIX PERSONS. IN ALL CASES WHERE DEADLY FORCE IS USED, THE

CIRCUMSTANCES OF THE CASE ARE REVIEWED AND POLICE HAVE BEEN SANCTIONED IN CASES WHERE ABUSES HAVE BEEN FOUND TO OCCUR. THREE PERSONS DIED FROM SELF-INFLICTED GUNSHOT WOUNDS. ELEVEN PERSONS DIED AS A RESULT OF DRUG OVERDOSES. ONE DIED FROM UNSPECIFIED CAUSES. THERE WERE NO JUVENILE DEATHS IN CUSTODY DURING 1999. HOWEVER, IN FEBRUARY 2000, A 15-YEAR-OLD ABORIGINAL BOY COMMITTED SUICIDE IN A DARWIN DETENTION UNCLAS SECTION 02 OF 10 CANBERRA 003075

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CENTER WHILE SERVING A MANDATORY 28-DAY SENTENCE FOR PROPERTY OFFENSES.

ABORIGINAL ADULTS REPRESENT 1.6 PERCENT OF THE ADULT POPULATION BUT CONSTITUTED APPROXIMATELY 20 PERCENT OF THE TOTAL PRISON POPULATION, ACCORDING TO A MARCH REPORT BY THE AUSTRALIAN BUREAU OF STATISTICS. DURING 1999, ABORIGINES ACCOUNTED FOR 19 (ROUGHLY 22 PERCENT) OF THE 85 DEATHS IN CUSTODY. SIX DIED IN POLICE CUSTODY OR DURING ATTEMPTS BY POLICE TO DETAIN THEM. OF THE SIX, THREE DIED FROM HANGING; ONE DIED OF NATURAL CAUSES; AND TWO DIED FROM INJURIES. THIRTEEN DIED IN PRISON. OF THE THIRTEEN, THREE DIED FROM HANGING; SEVEN DIED OF NATURAL CAUSES; TWO DIED FROM INJURIES; AND ONE DIED FROM A DRUG OVERDOSE.

PRISON CONDITIONS MEET MINIMUM INTERNATIONAL STANDARDS, AND THE GOVERNMENT PERMITS VISITS BY HUMAN RIGHTS MONITORS.

WITHIN THE PAST YEAR, CONSIDERABLE CONTROVERSY HAS ARISEN OVER THE MANDATORY SENTENCING POLICIES OF THE NORTHERN TERRITORY AND WESTERN AUSTRALIA. THESE POLICIES SET AUTOMATIC PRISON TERMS FOR MULTIPLE CONVICTIONS OF CERTAIN CRIMES. HUMAN RIGHTS GROUPS AND INTERNATIONAL BODIES SUCH AS THE HUMAN RIGHTS COMMITTEE OF THE UN HAVE TAKEN ISSUE WITH THE MANDATORY SENTENCING POLICIES, WHICH THEY ALLEGE HAVE RESULTED IN PRISON TERMS FOR RELATIVELY MINOR CRIMES AND INDIRECTLY TARGET ABORIGINALS. IN PARTICULAR, JUVENILE OFFENSES SUBJECT TO MANDATORY SENTENCES HAVE BEEN WIDELY CRITICIZED AFTER THE DEATH IN FEBRUARY OF AN ABORIGINAL BOY SERVING AN AUTOMATICALLY IMPOSED SENTENCE IN WESTERN AUSTRALIA. WESTERN AUSTRALIA HAS AGREED TO REFORM THE SYSTEM AS IT APPLIES TO JUVENILES IN ORDER TO PUT MORE YOUTH OFFENDERS INTO REHABILITATION PROGRAMS. ON JULY 29, THE HUMAN RIGHTS COMMITTEE ISSUED AN ASSESSMENT OF AUSTRALIA'S HUMAN RIGHTS RECORD, WHICH WAS HIGHLY CRITICAL OF MANDATORY SENTENCING. DESPITE THE DOMESTIC AND INTERNATIONAL PRESSURE,

THE COMMONWEALTH GOVERNMENT HAS DECIDED NOT TO INTERFERE IN WHAT IT CONSIDERS THE STATES' PREROGATIVE, ARGUING THAT THE LAWS WERE PASSED BY DEMOCRATICALLY ELECTED GOVERNMENTS AFTER FULL POLITICAL DEBATE, MAKING IT IN APPROPRIATE FOR THE FEDERAL GOVERNMENT TO INTERVENE.

D. ARBITRARY ARREST, DETENTION, OR EXILE

THE LAW PROHIBITS ARBITRARY ARREST, DETENTION, OR EXILE, AND THE GOVERNMENT OBSERVES THIS PROHIBITION.

E. DENIAL OF FAIR PUBLIC TRIAL

THE CONSTITUTION PROVIDES FOR AN INDEPENDENT JUDICIARY, AND THE GOVERNMENT RESPECTS THIS PROVISION IN PRACTICE. THE JUDICIARY PROVIDES CITIZENS WITH A FAIR AND EFFICIENT JUDICIAL PROCESS.

THERE IS A WELL-DEVELOPED SYSTEM OF FEDERAL AND STATE COURTS, WITH THE HIGH COURT OF AUSTRALIA AT ITS APEX. ALMOST ALL CRIMINAL TRIALS ARE CONDUCTED BY COURTS ESTABLISHED UNDER STATE AND TERRITORIAL LEGISLATION. THE FEDERAL COURT AND THE HIGH COURT HAVE VERY LIMITED ROLES TO PLAY.

THE LAW PROVIDES FOR THE RIGHT TO A FAIR TRIAL, AND AN INDEPENDENT JUDICIARY VIGOROUSLY ENFORCES THIS RIGHT.

WHEN TRIALS ARE CONDUCTED IN LOCAL COURTS, THE MAGISTRATES SIT ALONE. IN HIGHER COURTS, NAMELY THE STATE DISTRICT OR COUNTY COURTS AND THE STATE OR TERRITORIAL SUPREME COURTS, TRIALS ARE USUALLY CONDUCTED BEFORE A JUDGE AND JURY. THE JURY DECIDES ON THE FACTS AND A VERDICT AFTER A TRIAL CONDUCTED BY A JUDGE.

THERE WERE NO REPORTS OF POLITICAL PRISONERS.

F. ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME, OR CORRESPONDENCE

THE LAW PROHIBITS SUCH PRACTICES; GOVERNMENT AUTHORITIES GENERALLY RESPECT THESE PROHIBITIONS, AND VIOLATIONS ARE SUBJECT TO EFFECTIVE LEGAL SANCTION.

SECTION 2 RESPECT FOR CIVIL LIBERTIES, INCLUDING:

A. FREEDOM OF SPEECH AND PRESS

ALTHOUGH THERE IS NO BILL OF RIGHTS, IN TWO DECISIONS THE HIGH COURT HAS INDICATED THAT FREEDOM OF POLITICAL DISCOURSE IS IMPLIED IN THE CONSTITUTION. THE GOVERNMENT RESPECTS THESE RIGHTS IN PRACTICE. AN INDEPENDENT PRESS, AN EFFECTIVE UNCLAS SECTION 03 OF 10 CANBERRA 003075

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E.O. 12958: N/A
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JUDICIARY, AND A FUNCTIONING DEMOCRATIC POLITICAL SYSTEM
COMBINE TO ENSURE FREEDOM OF SPEECH AND OF THE PRESS,
INCLUDING ACADEMIC FREEDOM.

B. FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

THE FREEDOM OF ASSOCIATION IS CODIFIED IN THE WORKPLACE
RELATIONS ACT OF 1996. WHILE THE RIGHT TO PEACEFUL ASSEMBLY
IS NOT CODIFIED IN LAW, CITIZENS EXERCISE IT WITHOUT
GOVERNMENT RESTRICTION.

C. FREEDOM OF RELIGION

THE CONSTITUTION PROVIDES FOR FREEDOM OF RELIGION AND THE
GOVERNMENT RESPECTS THIS RIGHT IN PRACTICE.

D. FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL,
EMIGRATION, AND REPATRIATION

THE LAW PROVIDES FOR THESE RIGHTS, AND THE GOVERNMENT
RESPECTS THEM IN PRACTICE.

THE GOVERNMENT ENCOURAGES IMMIGRATION BY SKILLED MIGRANTS,
FAMILY MEMBERS, AND REFUGEES.

THE LAW PROVIDES FOR THE GRANT OF ASYLUM AND/OR REFUGEE
STATUS IN ACCORDANCE WITH THE 1951 UN CONVENTION RELATING TO
THE STATUS OF REFUGEES AND ITS 1967 PROTOCOL. THE GOVERNMENT
COOPERATES WITH THE OFFICE OF THE UN HIGH COMMISSIONER FOR
REFUGEES AND OTHER HUMANITARIAN ORGANIZATIONS IN ASSISTING
REFUGEES. THERE IS NO PROVISION FOR FIRST ASYLUM. IN APRIL
1999, THE GOVERNMENT OFFERED TEMPORARY SAFE HAVEN TO 4,000
KOSOVAR REFUGEES. ON SEPTEMBER 1, 1999, 550 EAST TIMORESE
WERE GIVEN SIMILAR TEMPORARY PROTECTION. IN NOVEMBER 1999,
THE GOVERNMENT CHANGED ITS POLICY ON UNDOCUMENTED MIGRANTS
AND ASYLUM SEEKERS. PREVIOUSLY THOSE WHO CLAIMED A FEAR OF
PERSECUTION IF RETURNED TO THEIR COUNTRY OF ORIGIN WERE
EITHER ISSUED OR DENIED PROTECTION VISAS, PROVIDING FOR FULL
RESIDENCE AND EMPLOYMENT RIGHTS, WITH NO INTERMEDIATE
MEASURES. WITH THE CHANGE IN POLICY, UNDOCUMENTED ARRIVALS
ARE ISSUED A TEMPORARY PROTECTION VISA VALID FOR 3 YEARS
ONLY. THIS VISA DOES NOT PROVIDE FOR APPLICATION FOR FAMILY
REUNIFICATION AND LIMITS ACCESS TO PUBLIC BENEFITS TO MEDICAL
ASSISTANCE ONLY. AFTER 3 YEARS, A CASE IS TO BE REVIEWED, AT
WHICH POINT A FULL PROTECTION VISA WOULD BE ISSUED IF THE
PERSON WERE STILL UNABLE TO RETURN HOME.

UNDER THE MIGRATION REFORM ACT OF 1994, ASYLUM-SEEKERS, WHO
ARRIVE AT THE BORDER WITHOUT PRIOR AUTHORIZATION TO ENTER THE
COUNTRY, ARE AUTOMATICALLY DETAINED, BUT MAY BE RELEASED FROM
DETENTION IF THEY MEET CERTAIN CRITERIA--INCLUDING AGE, ILL-

HEALTH, AND EXPERIENCES OF TORTURE OR OTHER TRAUMA. THE MAJORITY OF ASYLUM SEEKERS ARE DETAINED FOR THE DURATION OF THE ASYLUM ADJUDICATION PROCESS. THE GOVERNMENT'S 2000-01 BUDGET INCLUDES INCENTIVES TO REDUCE THE AMOUNT OF TIME PROTECTION SEEKERS ARE HELD IN DETENTION. THE DETENTION POLICY HAS LED TO EXTENSIVE LITIGATION INITIATED BY HUMAN RIGHTS AND REFUGEE ADVOCACY GROUPS, WHICH CHARGE THAT THE SOMETIMES-LENGTHY DETENTIONS VIOLATE THE HUMAN RIGHTS OF THE ASYLUM SEEKERS. THE UN HUMAN RIGHTS COMMITTEE AND THE UN STATED IN APRIL 1997 THAT AUSTRALIA HAD VIOLATED THE RIGHTS OF A BOAT PERSON BY DETAINING HIM FOR MORE THAN 4 YEARS WHILE HIS APPLICATIONS TO REMAIN IN THE COUNTRY WERE BEING CONSIDERED. THE HUMAN RIGHTS COMMITTEE STATED THAT HIS DETENTION WAS ARBITRARY AND IN VIOLATION OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS. IN AN APRIL 1997 REPORT TO PARLIAMENT, THE FEDERALLY FUNDED BUT INDEPENDENT AUSTRALIAN HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION (HREOC) ALSO CONDEMNED THE GOVERNMENT'S TREATMENT OF ASYLUM SEEKERS AS BREACHING INTERNATIONAL TREATY OBLIGATIONS. HOWEVER, IN 1999, HREOC ACKNOWLEDGED THAT CONDITIONS IN DETENTION CENTERS HAD IMPROVED SINCE ITS 1997 REPORT.

IN 2000-01, THE GOVERNMENT PLANNED TO ACCEPT 76,000 MIGRANTS, WITH AN ADDITIONAL 12,000 ADMITTED UNDER THE HUMANITARIAN PROGRAM. THIS FIGURE INCLUDES 2,000 PLACES FOR THOSE PERSONS ALREADY IN THE COUNTRY WHO ARE GRANTED REFUGEE STATUS. AS IN 1997-98, THE HUMANITARIAN PROGRAM CONTINUES TO GIVE PRIORITY TO THE FORMER YUGOSLAVIA, THE MIDDLE EAST, AND AFRICA. PERSONS ADMITTED UNDER THE HUMANITARIAN PROGRAM HAVE IMMEDIATE ACCESS TO A WIDE RANGE OF GOVERNMENT WELFARE AND HEALTH BENEFITS, INCLUDING INCOME SUPPORT, ENGLISH EDUCATION, AND TRANSLATING AND INTERPRETING SERVICES. FOR THE FISCAL YEAR 2000-01, THE GOVERNMENT HAS ALLOCATED APPROXIMATELY \$30 MILLION FOR RESETTLEMENT SERVICES FOR REFUGEES.

SECTION 3 RESPECT FOR POLITICAL RIGHTS: THE RIGHT OF CITIZENS
UNCLAS SECTION 04 OF 10 CANBERRA 003075

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E.O. 12958: N/A
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TO CHANGE THEIR GOVERNMENT

THE CONSTITUTION PROVIDES CITIZENS WITH THE RIGHT TO CHANGE THEIR GOVERNMENT PEACEFULLY, AND CITIZENS EXERCISE THIS RIGHT IN PRACTICE THROUGH PERIODIC, FREE, AND FAIR ELECTIONS HELD ON THE BASIS OF UNIVERSAL SUFFRAGE AND MANDATORY VOTING. IN OCTOBER 1998, VOTERS ELECTED THE LIBERAL-NATIONAL PARTY

COALITION TO A SECOND 3-YEAR TERM OF OFFICE. ON NOVEMBER 6, 1999, VOTERS REJECTED A REFERENDUM TO AMEND THE CONSTITUTION TO BECOME A REPUBLIC.

NO LEGAL IMPEDIMENTS EXIST TO PREVENT WOMEN AND INDIGENOUS PEOPLE FROM HOLDING PUBLIC OFFICE. HOWEVER, HISTORICAL PATTERNS OF BIAS AGAINST WOMEN HAVE CONTRIBUTED TO THEIR UNDERREPRESENTATION IN GOVERNMENT AND POLITICS. APPROXIMATELY 25 PERCENT OF FEDERAL PARLIAMENTARIANS ARE WOMEN, AN INCREASE FROM THE 22 PERCENT IN THE LAST PARLIAMENT. BOTH THE GOVERNMENT AND THE OPPOSITION HAVE DECLARED THEIR INTENT TO INCREASE THE NUMBERS OF WOMEN ELECTED TO PUBLIC OFFICE.

THE DELETERIOUS EFFECTS OF POOR EDUCATIONAL ACHIEVEMENT AND A GENERALLY INFERIOR SOCIOECONOMIC STATUS HAVE CONTRIBUTED SIGNIFICANTLY TO THE UNDERREPRESENTATION OF ABORIGINALS AMONG POLITICAL LEADERS. ONE ABORIGINAL WAS ELECTED TO THE FEDERAL SENATE IN THE OCTOBER 1998 ELECTIONS; THERE WERE NO ABORIGINALS IN THE PREVIOUS PARLIAMENT.

SECTION 4 GOVERNMENTAL ATTITUDE REGARDING INTERNATIONAL AND NON-GOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS

A WIDE VARIETY OF HUMAN RIGHTS GROUPS OPERATE WITHOUT GOVERNMENT RESTRICTION (AND IN SOME INSTANCES WITH GOVERNMENT FUNDING), INVESTIGATING AND PUBLISHING THEIR FINDINGS ON HUMAN RIGHTS CASES. GOVERNMENT OFFICIALS COOPERATE AND RESPOND TO THEIR VIEWS. THE MOST SIGNIFICANT OF THESE IS THE FEDERALLY FUNDED, BUT INDEPENDENT HUMAN RIGHTS AND EMPLOYMENT OPPORTUNITY COMMISSION (HREOC). OVERALL COMPLAINTS OF DISCRIMINATION FILED WITH HREOC DROPPED FROM 2,249 IN 1996-97 TO 1,522 IN 1997-98, A 32 PERCENT REDUCTION.

IN AUGUST, THE GOVERNMENT ANNOUNCED A REVIEW OF ITS COOPERATION WITH UN HUMAN RIGHTS TREATY COMMITTEES. WHILE MAINTAINING ITS COMMITMENT TO INVOLVEMENT WITH THE COMMITTEES, THE GOVERNMENT HAS DECIDED TO LIMIT VISITS BY SUCH COMMITTEES TO CASES WHERE A "COMPELLING REASON" EXISTS FOR THE VISIT. MOREOVER, THE GOVERNMENT SAYS IT WILL NOT DELAY REMOVAL OF UNSUCCESSFUL ASYLUM SEEKERS WHO APPEAL TO ONE OF THE UN HUMAN RIGHTS MECHANISMS.

IN JULY, THE UN HUMAN RIGHTS COMMITTEE SAID AUSTRALIA SHOULD DO MORE TO SECURE FOR INDIGENOUS AUSTRALIANS A STRONGER ROLE IN DECISION MAKING OVER THEIR TRADITIONAL LANDS AND NATURAL RESOURCES. THE COMMITTEE URGED AUSTRALIA TO DO MORE TO PROVIDE REMEDY TO MEMBERS OF THE "STOLEN GENERATION" (SEE SECTION 5). THE COMMITTEE ENCOURAGED ADOPTION OF A BILL OF RIGHTS OR A CONSTITUTIONAL PROVISION GIVING EFFECT TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS. IT ALSO RECOMMENDED REVIEW OF MANDATORY SENTENCING POLICIES (SEE SECTION 1.C) AND MANDATORY DETENTION OF ILLEGAL ARRIVALS (SEE SECTION 2.D). THE GOVERNMENT ARGUED THAT MANY OF THE RECOMMENDATIONS WERE NEITHER NECESSARY NOR DESIRABLE AND REITERATED ITS BELIEF THAT MANDATORY DETENTION OF ILLEGAL ARRIVALS WAS CONSISTENT WITH ITS TREATY OBLIGATIONS.

SECTION 5 DISCRIMINATION BASED ON RACE, SEX, RELIGION,
DISABILITY, LANGUAGE, OR SOCIAL STATUS

THE LAW PROHIBITS DISCRIMINATION BASED ON THESE FACTORS, AND
THE GOVERNMENT AND AN INDEPENDENT JUDICIARY VIGOROUSLY
ENFORCE THE PROHIBITION.

FROM JULY 1998 TO JUNE 1999, 37 CASES OF ASSAULT AGAINST GAYS
AND LESBIANS WERE REPORTED IN THE STATE OF NEW SOUTH WALES
(NSW). ACCORDING TO A RECENT STUDY BY THE AUSTRALIAN
INSTITUTE OF CRIMINOLOGY, 37 MURDERS OF GAY MEN WERE
DETERMINED TO BE HATE CRIMES IN NSW DURING THE PERIOD OF 1989-
99.

WOMEN

SOCIAL ANALYSTS AND COMMENTATORS ESTIMATE THAT DOMESTIC
VIOLENCE MAY AFFECT AS MANY AS ONE FAMILY IN THREE OR FOUR.
WIFE BEATING IS PARTICULARLY PREVALENT IN CERTAIN ABORIGINAL
COMMUNITIES. THE GOVERNMENT RECOGNIZES THAT DOMESTIC
VIOLENCE AND ECONOMIC DISCRIMINATION ARE SERIOUS PROBLEMS AND
UNCLAS SECTION 05 OF 10 CANBERRA 003075

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THE STATUTORILY INDEPENDENT SEX DISCRIMINATION COMMISSIONER
ACTIVELY ADDRESSES THESE AND OTHER AREAS OF DISCRIMINATION.
A 1996 AUSTRALIAN BUREAU OF STATISTICS (ABS) STUDY FOUND THAT
111,000 WOMEN WHO WERE MARRIED OR IN A COMMON-LAW
RELATIONSHIP EXPERIENCED AN INCIDENT OF VIOLENCE BY THEIR
PARTNER IN THE PREVIOUS 12-MONTH PERIOD. ALMOST ONE IN FOUR
WOMEN WHO HAVE BEEN MARRIED OR IN A COMMON-LAW RELATIONSHIP
HAVE EXPERIENCED VIOLENCE BY A PARTNER AT SOME TIME DURING
THE RELATIONSHIP, ACCORDING TO THE ABS STUDY.

TRAFFICKING IN EAST ASIAN WOMEN FOR THE SEX TRADE IS A
GROWING PROBLEM (SEE SECTION 6.F.).

WOMEN HAVE EQUAL STATUS UNDER THE LAW, AND THE LAW PROVIDES
FOR PAY EQUITY. THERE ARE HIGHLY ORGANIZED AND EFFECTIVE
PRIVATE AND PUBLIC WOMEN'S RIGHTS ORGANIZATIONS AT THE
FEDERAL, STATE, AND LOCAL LEVELS. A FEDERAL-LEVEL OFFICE OF
THE STATUS OF WOMEN MONITORS WOMEN'S RIGHTS. THE FEDERAL SEX
DISCRIMINATION COMMISSIONER RECEIVES COMPLAINTS AND ATTEMPTS
TO RESOLVE THOSE THAT ARE DEEMED VALID. ACCORDING TO
GOVERNMENT STATISTICS, SEX DISCRIMINATION COMPLAINTS FELL BY

37 PERCENT FROM THE PREVIOUS YEAR. IN JULY, THE AUSTRALIAN BUREAU OF STATISTICS ESTIMATED THE RATIO OF FEMALE TO MALE FULL-TIME AVERAGE HOURLY EARNINGS WAS 83 PERCENT. A STUDY RELEASED BY THE AUSTRALIAN INSTITUTE OF MANAGEMENT IN MAY WAS MORE PESSIMISTIC. IT FOUND THAT WOMEN WERE PAID ONLY 66 PERCENT OF THEIR MALE COUNTERPARTS' WAGES. IT ALSO DETERMINED THAT THERE WERE FEWER FEMALE BOARD MEMBERS IN BOTH LARGE AND SMALL COMPANIES THAN THE PREVIOUS YEAR.

IN AUGUST, PRIME MINISTER JOHN HOWARD ANNOUNCED HIS INTENTION TO INITIATE LEGISLATION, WHICH WOULD BLOCK THE USAGE OF THE FEDERAL SEX DISCRIMINATION ACT TO OVERRIDE STATE LAWS GOVERNING IN VITRO FERTILIZATION (IVF). THE EFFECT OF THIS NEW LEGISLATION WOULD BE TO ALLOW STATES TO LIMIT THE IVF PROCESS BASED ON MARITAL STATUS, THUS BARRING SINGLE WOMEN AND LESBIAN COUPLES, FROM MAKING USE OF IVF TREATMENT. TWO STATES, WEST AUSTRALIA AND SOUTH AUSTRALIA, CURRENTLY HAVE SUCH LEGISLATION ON THE BOOKS.

CHILDREN

THE GOVERNMENT DEMONSTRATES ITS STRONG COMMITMENT TO CHILDREN'S RIGHTS AND WELFARE THROUGH ITS PUBLICLY FUNDED SYSTEMS OF EDUCATION AND MEDICAL CARE. THE GOVERNMENT PROVIDES REBATES OF AT LEAST 20 PERCENT OF THE COST OF CHILDCARE TO ALL PARENTS AND PROVIDES ADDITIONAL CHILDCARE SUBSIDIES TO LOWER INCOME FAMILIES.

THE FEDERAL HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION RECEIVES COMPLAINTS AND ATTEMPTS TO RESOLVE THOSE IT FINDS VALID. SIMILARLY, THE SIX STATES AND TWO TERRITORIES INVESTIGATE COMPLAINTS OF NEGLECT OR CHILD ABUSE AND INSTITUTE PRACTICAL MEASURES AIMED AT PROTECTING THE CHILD WHEN SUCH COMPLAINTS PROVE FOUNDED. THE GOVERNMENT HAS ENACTED STRICT LEGISLATION AIMED AT RESTRICTING THE TRADE IN, AND POSSESSION OF, CHILD PORNOGRAPHY, AND WHICH FURTHER ALLOWS SUSPECTED PEDOPHILES TO BE TRIED IN AUSTRALIA REGARDLESS OF WHERE THE CRIME WAS COMMITTED. THERE IS NO SOCIETAL PATTERN OF ABUSE.

THE GOVERNMENT AND DOMESTIC NGOS HAVE RESPONDED PROMPTLY TO THE PROBLEM OF A SMALL NUMBER OF CHILDREN WHO HAVE BEEN SMUGGLED INTO THE COUNTRY, GENERALLY FOR THE SEX TRADE.

THE NGO END CHILD PROSTITUTION, PORNOGRAPHY AND TRAFFICKING (ECPAT) HAS CONDUCTED AN AGGRESSIVE PUBLIC EDUCATION CAMPAIGN TO RAISE AWARENESS OF THE ISSUE AND OFFER STRATEGIES TO COMBAT TRAFFICKING IN CHILDREN. ECPAT SUCCESSFULLY LOBBIED THE DEPARTMENT OF IMMIGRATION AND MULTICULTURAL AFFAIRS (DIMA) TO CONDUCT POLICE CHECKS OF UNACCOMPANIED CHILDREN ENTERING THE COUNTRY TO VERIFY THAT THEY ARE NOT PART OF A TRAFFICKING OPERATION (SEE SECTION 6.F.). IN AUGUST 2000, THE DEPARTMENT OF FAMILY AND COMMUNITY SERVICES RELEASED ITS "PLAN OF ACTION" AGAINST THE COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN.

PEOPLE WITH DISABILITIES

LEGISLATION PROHIBITS DISCRIMINATION AGAINST DISABLED PERSONS IN EMPLOYMENT, EDUCATION, OR OTHER STATE SERVICES. THE DISABILITY DISCRIMINATION COMMISSIONER PROMOTES COMPLIANCE WITH FEDERAL LAWS THAT PROHIBIT DISCRIMINATION AGAINST DISABLED PERSONS. THE COMMISSIONER ALSO PROMOTES ENERGETIC IMPLEMENTATION AND ENFORCEMENT OF STATE LAWS THAT REQUIRE EQUAL ACCESS AND OTHERWISE PROTECT THE RIGHTS OF DISABLED PERSONS. ON JULY 21, 1999, THE HUMAN RIGHTS AND EQUAL UNCLAS SECTION 06 OF 10 CANBERRA 003075

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OPPORTUNITY COMMISSION FOUND THAT A PRIVATE PRIMARY SCHOOL HAD VIOLATED THE FEDERAL DISABILITY DISCRIMINATION ACT WHEN IT REFUSED TO ENROLL A 7-YEAR-OLD GIRL WITH SPINA BIFIDA IN ITS KINDERGARTEN PROGRAM. A FEDERAL COURT DISMISSED AN APPEAL OF THE RULING BY THE SCHOOL ON MAY 18 AND THE GIRL WAS AWARDED FINANCIAL COMPENSATION.

NO FEDERAL LEGISLATION MANDATES THE UNIFORM PROVISION OF ACCESSIBILITY FOR THE DISABLED. IT IS LAWFUL TO DENY EMPLOYMENT OR SERVICES TO THOSE WITH DISABILITIES IF THERE ARE REASONABLE GROUNDS FOR BELIEVING THAT THE DISABLED PERSON WOULD BE UNABLE TO CARRY OUT THE WORK OR WOULD REQUIRE THE EMPLOYER OR SERVICE PROVIDER TO FURNISH SERVICES OR FACILITIES THAT COULD NOT REASONABLY BE PROVIDED.

INDIGENOUS PEOPLE

THE RACIAL DISCRIMINATION ACT OF 1975 PROHIBITS DISCRIMINATION ON GROUNDS OF RACE, COLOR, DESCENT, OR NATIONAL OR ETHNIC ORIGIN. THE MINISTRY FOR ABORIGINAL AFFAIRS, IN CONJUNCTION WITH THE ELECTED ABORIGINAL AND TORRES STRAITS ISLANDER COMMISSION (ATSIC), HAS THE MAIN RESPONSIBILITY FOR INITIATING, COORDINATING, AND MONITORING ALL GOVERNMENTAL EFFORTS TO IMPROVE THE QUALITY OF LIFE OF INDIGENOUS PEOPLE. A WIDE VARIETY OF GOVERNMENT INITIATIVES AND PROGRAMS SEEK TO IMPROVE ALL ASPECTS OF ABORIGINAL AND TORRES STRAITS ISLANDER LIFE. IN 1998, THE FEDERAL GOVERNMENT SPENT APPROXIMATELY \$1.13 BILLION ON HEALTH, WELFARE, EDUCATION, AND REGIONAL DEVELOPMENT PROGRAMS TARGETED AT ASSISTING ABORIGINAL PEOPLE. SPENDING ON INDIGENOUS-SPECIFIC PROGRAMS IS NOW THE HIGHEST ON RECORD IN REAL TERMS AND IN 1998 AMOUNTED TO ALMOST \$14,000 ANNUALLY PER ABORIGINAL HOUSEHOLD.

IN PRACTICE, HOWEVER, INDIGENOUS AUSTRALIANS CONTINUE TO

EXPERIENCE SIGNIFICANTLY HIGHER RATES OF IMPRISONMENT, INFERIOR ACCESS TO MEDICAL AND EDUCATIONAL INSTITUTIONS, GREATLY REDUCED LIFE EXPECTANCY RATES, ELEVATED LEVELS OF UNEMPLOYMENT, AND GENERAL DISCRIMINATION, WHICH CONTRIBUTE TO A FEELING OF POWERLESSNESS.

ACCORDING TO THE AUSTRALIAN INSTITUTE OF CRIMINOLOGY (AIC), INDIGENOUS PEOPLE WERE IMPRISONED AT 11 TIMES THE RATE OF NON-INDIGENOUS PEOPLE IN 1998. THIS WAS DOWN FROM AN OVERREPRESENTATION RATE OF 14.2 IN 1988. AIC REPORTS THE OVERREPRESENTATION RATE AMONG INDIGENOUS YOUTH TO HAVE BEEN 18.5 IN 1998, DOWN FROM 26.1 IN 1988. OVER 45 PERCENT OF ABORIGINAL MEN BETWEEN THE AGES OF 20 AND 30 YEARS HAVE BEEN ARRESTED AT SOME TIME IN THEIR LIVES. HUMAN RIGHTS OBSERVERS CLAIM THAT SOCIOECONOMIC CONDITIONS GIVE RISE TO THE COMMON PRECURSORS OF INDIGENOUS CRIME, E.G., UNEMPLOYMENT, HOMELESSNESS, AND BOREDOM.

INDIGENOUS GROUPS CHARGE THAT POLICE HARASSMENT OF INDIGENOUS PEOPLE INCLUDING JUVENILES IS PERVASIVE AND THAT RACIAL DISCRIMINATION AMONG POLICE AND PRISON CUSTODIANS PERSISTS. A HUMAN RIGHTS DELEGATION THAT VISITED IN 1996 ALLEGED A PATTERN OF MISTREATMENT AND ARBITRARY ARRESTS OCCURRING AGAINST A BACKDROP OF SYSTEMATIC DISCRIMINATION. MOST OF THE JUVENILES INTERVIEWED COMPLAINED ABOUT VIOLENCE OCCURRING AFTER APPREHENSION AND DURING QUESTIONING ABOUT ALLEGED OFFENSES. IN NOVEMBER 1998, THE QUEENSLAND GOVERNMENT LAUNCHED AN INQUIRY AFTER IT WAS DISCOVERED THAT AN 11-YEAR-OLD ABORIGINAL BOY HAD BEEN HELD FOR 3 DAYS IN AN ADULT DETENTION CENTER BECAUSE NO YOUTH FACILITY WAS AVAILABLE IN THAT REMOTE PART OF THE STATE. GOVERNMENT STATISTICS CONFIRM THE COMMON PERCEPTION AMONG INDIGENOUS PEOPLE THAT POLICE SYSTEMATICALLY MISTREAT THEM. GOVERNMENT REPORTS HAVE SUGGESTED THAT THE PURSUIT OF ECONOMIC SELF-DETERMINATION FOR INDIGENOUS PEOPLE WOULD GREATLY ASSIST IN SOLVING THE CRIME PROBLEMS IN INDIGENOUS COMMUNITIES AND THE DIFFERENCES IN RATES OF IMPRISONMENT.

THE AVERAGE LIFE EXPECTANCY OF AN INDIGENOUS PERSON IS 20 YEARS LESS THAN THAT OF A NON-INDIGENOUS PERSON. THE INFANT MORTALITY RATE FOR INDIGENOUS CHILDREN IS 2 TIMES THAT OF NON-INDIGENOUS CHILDREN. THE MATERNAL MORTALITY RATE FOR INDIGENOUS WOMEN IS 5 TIMES THAT OF NON-INDIGENOUS WOMEN. THE INCIDENCE OF ILLNESSES SUCH AS TUBERCULOSIS, LEPROSY, HEPATITIS, AND OF SEXUALLY TRANSMITTED DISEASES IS 10 TIMES GREATER AMONG INDIGENOUS PEOPLE THAN NON-INDIGENOUS PEOPLE. ACCORDING TO THE COMMONWEALTH DEPARTMENT OF EDUCATION, TRAINING AND YOUTH AFFAIRS, INDIGENOUS YOUTH ARE 2.5 TIMES MORE LIKELY THAN NON-INDIGENOUS TO LEAVE SCHOOL BEFORE COMPLETING HIGH SCHOOL. ACCORDING TO THE 1996 CENSUS, ONLY ABOUT 2 PERCENT OF INDIGENOUS PEOPLE REPORTED HAVING A

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UNIVERSITY BACHELOR DEGREE AS COMPARED TO 11 PERCENT OF OTHER AUSTRALIANS.

GOVERNMENT PROGRAMS, INCLUDING A \$750 MILLION INDIGENOUS LAND FUND AND A "FEDERAL SOCIAL JUSTICE PACKAGE," AIM AT AMELIORATING THE CHALLENGES FACED BY INDIGENOUS AUSTRALIANS. IN JULY 1998, AFTER A COMPROMISE WITH ITS OPPONENTS, THE GOVERNMENT WAS ABLE TO PASS AMENDMENTS TO THE 1993 NATIVE TITLE ACT. THE ATSIAC STATED THAT THE AMENDED ACT PROVIDED GAINS FOR ABORIGINAL PEOPLE BUT STILL CONTAINS "SUBSTANTIAL PAIN" FOR NATIVE TITLE CLAIMANTS. ABORIGINAL LEADERS WERE PLEASED BY THE REMOVAL OF THE TIME LIMIT FOR LODGING NATIVE TITLE CLAIMS BUT EXPRESSED DEEP CONCERN ABOUT THE WEAKENING OF ABORIGINAL RIGHTS TO NEGOTIATE WITH NON-ABORIGINAL LEASEHOLDERS OVER THE DEVELOPMENT OF RURAL PROPERTY. ABORIGINAL GROUPS CONTINUE TO EXPRESS CONCERN THAT THE AMENDED ACT LIMITS THE FUTURE ABILITY OF ABORIGINAL PEOPLE TO PROTECT THEIR PROPERTY RIGHTS. AT PRESENT, 14.25 PERCENT OF AUSTRALIAN LAND IS OWNED OR CONTROLLED BY ABORIGINAL PEOPLE ACCORDING TO THE AUSTRALIAN SURVEYING AND LAND INFORMATION GROUP. IN MARCH, THE UN COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION (CERD) EXPRESSED SERIOUS CONCERN THAT THE GOVERNMENT'S NATIVE TITLE AMENDMENTS WOULD ALLOW THE STATES AND TERRITORIES TO PASS LEGISLATION CONTAINING PROVISIONS "REDUCING FURTHER THE PROTECTION OF NATIVE TITLE CLAIMANTS." THE CERD DECLARED "UNSATISFACTORY" THE GOVERNMENT'S RESPONSE TO CONCERNS ABOUT THE NATIVE TITLE REGIME EXPRESSED IN 1999.

ON AUGUST 26, 1999, THE GOVERNMENT, IN IDENTICAL MOTIONS PASSED BY BOTH HOUSES OF THE FEDERAL PARLIAMENT, EXPRESSED PUBLIC REGRET FOR PAST MISTREATMENT OF THE ABORIGINAL MINORITY; HOWEVER, THE GOVERNMENT-SPONSORED MOTION OF RECONCILIATION WAS CRITICIZED BY MANY ABORIGINAL LEADERS AS NOT GOING FAR ENOUGH. PRIME MINISTER HOWARD ACKNOWLEDGED THE "MOST BLEMISHED CHAPTER IN OUR NATIONAL HISTORY" AND SUBMITTED A SEVEN-POINT MOTION TO PARLIAMENT. HOWARD PROPOSED THAT PARLIAMENT EXPRESS "ITS DEEP AND SINCERE REGRET" THAT ABORIGINES HAD "SUFFERED INJUSTICES UNDER THE PRACTICES OF PAST GENERATIONS, AND FOR THE HURT AND TRAUMA THAT MANY INDIGENOUS PEOPLE CONTINUE TO FEEL." HOWEVER, BOTH ABORIGINAL AND OPPOSITION LEADERS STATED THAT ONLY A FULL APOLOGY WOULD BE SUFFICIENT. THE GOVERNMENT ALSO CONTINUES TO OPPOSE AN OFFICIAL APOLOGY IN THE SPECIFIC CASE OF THE "STOLEN GENERATION" OF ABORIGINAL CHILDREN, WHO WERE TAKEN FROM THEIR PARENTS BY THE GOVERNMENT FROM 1910 TO THE EARLY 1970'S AND RAISED BY FOSTER PARENTS AND ORPHANAGES. THE GOVERNMENT'S POSITION REMAINS THAT THE PRESENT GENERATION HAS NO RESPONSIBILITY TO APOLOGIZE FOR THE WRONGS OF A PREVIOUS GENERATION. IN AUGUST, A FEDERAL COURT RULED AGAINST TWO SUCH CHILDREN'S CLAIMS FOR GOVERNMENT COMPENSATION BY STATING

THAT THE TWO COULD NOT SUFFICIENTLY PROVE THAT THEY HAD BEEN TAKEN WITHOUT THEIR PARENTS' CONSENT. THE PRESIDING JUDGE STRESSED, HOWEVER, THAT THE RULING DOES NOT SETTLE THE QUESTION OF COMPENSATION FOR "STOLEN" CHILDREN AS A WHOLE. THE ATSIK HAS PROPOSED THE GOVERNMENT ESTABLISH A REPARATIONS TRIBUNAL TO AVOID COSTLY FUTURE LEGAL BATTLES.

AS OF OCTOBER, THE FEDERAL GOVERNMENT HAD ALLOCATED AN ADDITIONAL \$7 MILLION OVER 4 YEARS TO THE LINK UP PROGRAM, WHICH WAS CREATED TO REUNITE MEMBERS OF THE STOLEN GENERATION WITH THEIR FAMILIES. THE ATSIK SPENT OVER \$630,000 DURING THE FINANCIAL YEAR ENDING JUNE 30 ON LOCATION, REUNION, AND COUNSELING SUPPORT FOR MEMBERS OF THE STOLEN GENERATION. ACROSS THE NATION, LINK UP COUNSELORS ARE ASSISTING OVER 3,000 ABORIGINAL CLIENTS. THE ATSIK REPORTS THAT DURING THE FINANCIAL YEAR ENDING JUNE 30, 1999 IT ASSISTED THE REUNION OF SLIGHTLY MORE THAN 100 CLIENTS WITH THEIR FAMILIES.

FOLLOWING THE OCTOBER 1998 RE-ELECTION OF THE GOVERNMENT, PRIME MINISTER HOWARD GAVE IMMIGRATION AND MULTICULTURAL AFFAIRS MINISTER PHILIP RUDDOCK ADDITIONAL DUTIES WITH REGARD TO ABORIGINAL AUSTRALIANS BY MAKING HIM THE MINISTER ASSISTING THE PRIME MINISTER FOR IMMIGRATION. IN HIS VICTORY SPEECH FOLLOWING RE-ELECTION, HOWARD SAID THAT HE WOULD MAKE RECONCILIATION WITH ABORIGINES ONE OF HIS SECOND TERM PRIORITIES. HOWEVER, DURING 2000, HOWARD STATED THAT RECONCILIATION WAS NOT ACHIEVABLE IN THE TIMELINE SET, AND HE REFUSED TO PARTICIPATE IN THE RECONCILIATION WALK ACROSS THE SYDNEY HARBOUR BRIDGE, ALTHOUGH SEVERAL GOVERNMENT MINISTERS DID. IN JUNE 1999, THE COUNCIL ON ABORIGINAL RECONCILIATION RELEASED ITS DRAFT DOCUMENT OF RECONCILIATION FOR PUBLIC COMMENT AND DISCUSSION. CREATED BY PARLIAMENT IN 1991, THE COUNCIL HELD ITS CULMINATING NATIONAL EVENT, CORROBOREE 2000, IN MAY, AT WHICH TIME IT RELEASED A DOCUMENT OF RECONCILIATION, WHICH IT INTENDED TO SERVE AS A NATIONAL BLUEPRINT FOR HEALING BETWEEN INDIGENOUS CITIZENS AND THE WIDER COMMUNITY. THE FINAL REPORT IS DUE LATER THIS YEAR.
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THE COUNCIL EXPIRED AT THE END OF THE YEAR UNDER LEGISLATION PASSED IN 1990.

NATIONAL/RACIAL/ETHNIC MINORITIES

ALTHOUGH ASIANS MAKE UP LESS THAN 5 PERCENT OF THE

POPULATION, THEY ACCOUNT FOR 40 PERCENT OF RECENT IMMIGRANTS. PUBLIC OPINION SURVEYS INDICATE GROWING CRITICISM OF IMMIGRATION. IN A SURVEY PUBLISHED IN 1996 BY THE CHINESE-LANGUAGE NEWSPAPER SING TAO, MORE THAN HALF THE RESPONDENTS SAID THAT THEY HAD BEEN ABUSED VERBALLY OR PHYSICALLY IN THE PREVIOUS 2 MONTHS. LEADERS IN THE ETHNIC AND IMMIGRANT COMMUNITIES EXPRESSED CONCERN THAT INCREASED NUMBERS OF ILLEGAL ARRIVALS AS WELL AS VIOLENCE AT MIGRANT DETENTION CENTERS CONTRIBUTE TO AN ATMOSPHERE OF VILIFICATION OF IMMIGRANTS AND MINORITIES. HOWEVER, ACCORDING TO THE HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION, DURING THE FINANCIAL YEAR ENDING JUNE 30, THE NUMBER OF RACIAL DISCRIMINATION COMPLAINTS FELL 37 PERCENT FROM THE PREVIOUS YEAR.

SECTION 6 WORKER RIGHTS

A. THE RIGHT OF ASSOCIATION

THE LAW AND PRACTICE PROVIDE WORKERS, INCLUDING PUBLIC SERVANTS, FREEDOM OF ASSOCIATION DOMESTICALLY AND INTERNATIONALLY. APPROXIMATELY 32 PERCENT OF THE WORK FORCE IS UNIONIZED.

UNIONS CARRY OUT THEIR FUNCTIONS FREE FROM GOVERNMENT OR POLITICAL CONTROL, BUT MOST LOCAL AFFILIATES BELONG TO STATE BRANCHES OF THE AUSTRALIAN LABOR PARTY (ALP). UNION MEMBERS MUST MAKE UP AT LEAST 50 PERCENT OF THE DELEGATES TO ALP CONFERENCES, BUT UNIONS DO NOT PARTICIPATE OR VOTE AS A BLOC.

THE 1996 WORKPLACE RELATIONS ACT SIGNIFICANTLY RESTRICTED THE RIGHT OF WORKERS TO TAKE INDUSTRIAL ACTION BY CONFINING IT TO THE PERIOD OF BARGAINING, WHERE IT REMAINS A PROTECTED ACTION. IN APRIL 1999, A UNION SUCCESSFULLY CHALLENGED THIS PROVISION IN FEDERAL COURT. IN ITS DECISION, THE COURT REFUSED TO GRANT AN INJUNCTION AGAINST THE UNION FOR TAKING INDUSTRIAL ACTION OUTSIDE OF A BARGAINING PERIOD BECAUSE IT WAS IN SUPPORT OF MAINTAINING EXISTING WAGES AND CONDITIONS. THE INTERNATIONAL LABOR ORGANIZATION (ILO) IS EXAMINING WHETHER SEVERAL PROVISIONS OF THE WORKPLACE RELATIONS ACT VIOLATE ILO CONVENTIONS. LEGISLATION THAT WENT INTO FORCE IN 1994 FOR THE FIRST TIME LEGALIZED WHAT HAD ALWAYS BEEN A DE FACTO RIGHT TO STRIKE.

LAWS AND REGULATIONS PROHIBIT RETRIBUTION AGAINST STRIKERS AND LABOR LEADERS, AND THEY ARE EFFECTIVELY ENFORCED. IN PRACTICE EMPLOYERS TEND TO AVOID LEGAL REMEDIES, E.G., SECONDARY BOYCOTT INJUNCTIONS, AVAILABLE TO THEM IN ORDER TO PRESERVE A LONG-TERM RELATIONSHIP WITH THEIR UNIONS.

DURING THE YEAR, THE MOST NOTABLE INDUSTRIAL ACTION WAS TAKEN BY IRON ORE MINERS IN THE PILBARA REGION OF WESTERN AUSTRALIA AGAINST THE MULTINATIONAL RESOURCES COMPANY BHP. A SERIES OF ROLLING STRIKES OVER A PERIOD OF SEVERAL MONTHS WAS TAKEN AGAINST THE COMPANY FOR ITS REFUSAL TO NEGOTIATE A COLLECTIVE AGREEMENT WITH WORKERS IN THE MINES, BUT RATHER TO INTRODUCE INDIVIDUAL CONTRACTS INTO THE WORKPLACE. THE UNIONS EVENTUALLY ACHIEVED A COURT INJUNCTION AGAINST BHP OFFERING ANY FURTHER INDIVIDUAL CONTRACTS ON THE GROUNDS THAT THE

ACTION BREACHED INDUSTRIAL LEGISLATION. THIS FORCED THE COMPANY TO THE BARGAINING TABLE UNTIL THE FULL CASE COULD BE HEARD. THE CASE IS BEFORE THE FEDERAL COURT AND IS YET TO BE CONCLUDED. MEANWHILE, THE NEGOTIATIONS HAVE STALLED ON THE ISSUE OF UNION INVOLVEMENT IN THE WORKPLACE.

UNIONS FREELY MAY FORM AND JOIN FEDERATIONS OR CONFEDERATIONS, AND THEY ACTIVELY PARTICIPATE IN INTERNATIONAL BODIES.

B. THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY

THE LAW AND PRACTICE PROVIDE WORKERS WITH THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY, AND THE LAW PROTECTS THEM FROM ANTIUNION DISCRIMINATION.

THE WORKPLACE RELATIONS ACT CONTAINS CURBS ON UNION POWER, RESTRICTIONS ON STRIKES, AND A NEW UNFAIR-DISMISSAL SYSTEM. SEVERAL UNIONS ARE CONSIDERING CHALLENGING THE LAW ON THE GROUNDS THAT IT VIOLATES THE RIGHT TO ASSEMBLY PROVIDED FOR IN SEVERAL INTERNATIONAL LABOR ORGANIZATION CONVENTIONS THAT AUSTRALIA HAS SIGNED. THE PRIMARY CURB ON UNION POWER IS THE ABOLITION OF CLOSED SHOPS AND UNION DEMARCATIONS. ALTHOUGH UNCLAS SECTION 09 OF 10 CANBERRA 003075

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UNIONS ARE WEAKENED, THIS PROVISION COULD CREATE MANY SMALL AND COMPETING UNIONS AT INDIVIDUAL WORKSITES. THE RESTRICTIONS ON STRIKES INCLUDE HEAVY FINES FOR LABOR UNREST DURING THE LIFE OF AN AGREEMENT AND TOUGHER SECONDARY-BOYCOTT PROVISIONS. THE NEW UNFAIR-DISMISSAL SYSTEM FURTHER LIMITS REDRESS AND COMPENSATION CLAIMS.

THE NEGOTIATION OF CONTRACTS COVERING WAGES AND WORKING CONDITIONS IS GRADUALLY SHIFTING FROM THE CENTRALIZED SYSTEM OF THE PAST. PREVIOUSLY LEGISLATION PROVIDED FOR THE NEGOTIATION OF SIMPLER "ENTERPRISE AGREEMENTS," WHICH WERE NEGOTIATED BY INDIVIDUAL COMPANIES WITH THEIR WORKERS OR WITH THE RELEVANT UNION(S). THE FEDERAL AND STATE GOVERNMENTS ADMINISTERED CENTRALIZED MINIMUM-WAGE AWARDS AND PROVIDED QUASI-JUDICIAL ARBITRATION, SUPPLEMENTED BY INDUSTRY-WIDE OR COMPANY-BY-COMPANY COLLECTIVE BARGAINING. THE WORKPLACE RELATIONS ACT ALSO PROVIDES FOR THE NEGOTIATION OF AUSTRALIAN WORKPLACE AGREEMENTS (AWAS) BETWEEN EMPLOYERS AND INDIVIDUAL WORKERS. THESE AGREEMENTS ARE SUBJECT TO FAR FEWER GOVERNMENT REGULATIONS THAN THE AWARDS. AT PRESENT, THE AWAS

ARE REQUIRED TO BE ROUGHLY EQUIVALENT TO BASIC WORKING CONDITIONS IN THE AWARD THAT WOULD APPLY TO THE SECTOR TO WHICH THE FIRM BELONGS.

THERE ARE NO EXPORT PROCESSING ZONES. THE DARWIN TRADE DEVELOPMENT ZONE, NORTHERN TERRITORY, ATTEMPTS TO INCREASE EXPORTS VIA A GEOGRAPHICALLY DEFINED FREE TRADE ZONE. IN PRACTICE, THE DARWIN INITIATIVE IS FOCUSED ALMOST EXCLUSIVELY ON ITS ASIAN NEIGHBORS TO THE NORTH AND WEST.

C. PROHIBITION OF FORCED OR COMPULSORY LABOR

ALTHOUGH THERE ARE NO LAWS PROHIBITING IT, FORCED LABOR, INCLUDING FORCED AND BONDED LABOR BY CHILDREN, GENERALLY IS NOT PRACTICED. HOWEVER AS A RESULT OF THE DISCOVERY IN APRIL 1999 OF CHILDREN IN SEVERAL CLOTHING SWEATSHOPS IN SYDNEY AND MELBOURNE, THE ATTORNEY GENERAL'S DEPARTMENT IS STUDYING THE EXISTING LAWS AND CONSIDERING WHETHER NEW LEGISLATION WOULD STRENGTHEN THE GOVERNMENT'S ABILITY TO COMBAT THE PROBLEM. MOST CASES OF ABUSES IN THE PAST FEW YEARS HAVE INVOLVED MEMBERS OF ETHNIC COMMUNITIES FROM NATIONS WHERE CHILD LABOR IS NOT UNCOMMON.

D. STATUS OF CHILD LABOR PRACTICES AND MINIMUM AGE FOR EMPLOYMENT

THERE IS NO FEDERALLY MANDATED MINIMUM AGE OF EMPLOYMENT, BUT STATE-IMPOSED COMPULSORY EDUCATIONAL REQUIREMENTS, MONITORED AND ENFORCED BY STATE EDUCATIONAL AUTHORITIES, EFFECTIVELY PREVENT MOST CHILDREN FROM JOINING THE WORK FORCE UNTIL THEY ARE 15 OR 16 YEARS OF AGE. FEDERAL AND STATE GOVERNMENTS MONITOR AND ENFORCE A NETWORK OF LAWS, WHICH VARY FROM STATE TO STATE, GOVERNING THE MINIMUM SCHOOL-LEAVING AGE, THE MINIMUM AGE TO CLAIM UNEMPLOYMENT BENEFITS, AND THE MINIMUM AGE TO ENGAGE IN SPECIFIED OCCUPATIONS.

THE LAW DOES NOT EXPLICITLY PROHIBIT FORCED AND BONDED LABOR BY CHILDREN, BUT SUCH PRACTICES GENERALLY ARE NOT KNOWN TO OCCUR, ALTHOUGH THERE WERE ISOLATED INSTANCES OF SUCH ABUSES (SEE SECTION 6.C.).

E. ACCEPTABLE CONDITIONS OF WORK

ALTHOUGH A FORMAL MINIMUM WAGE EXISTS, IT HAS NOT BEEN RELEVANT IN WAGE AGREEMENTS SINCE THE 1960'S. INSTEAD, 80 PERCENT OF WORKERS ARE COVERED BY DIFFERING MINIMUM WAGE RATES FOR INDIVIDUAL TRADES AND PROFESSIONS, ALL OF WHICH ARE SUFFICIENT TO PROVIDE A DECENT STANDARD OF LIVING FOR A WORKER AND FAMILY.

MOST WORKERS ARE EMPLOYEES OF INCORPORATED ORGANIZATIONS. FOR THEM, A COMPLEX BODY OF GOVERNMENT REGULATIONS, AS WELL AS DECISIONS OF APPLICABLE FEDERAL OR STATE INDUSTRIAL RELATIONS COMMISSIONS, PRESCRIBE A 40-HOUR OR SHORTER WORKWEEK, PAID VACATIONS, SICK LEAVE, AND OTHER BENEFITS. THE MINIMUM STANDARDS FOR WAGES, WORKING HOURS, AND CONDITIONS ARE SET BY A SERIES OF "AWARDS" (BASIC CONTRACTS FOR INDIVIDUAL INDUSTRIES). SOME AWARDS SPECIFY THAT WORKERS

MUST HAVE A 24 OR 48 HOUR REST BREAK EACH WEEK WHILE OTHERS SPECIFY ONLY THE NUMBER OF DAYS OFF PER NUMBER OF DAYS WORKED.

FEDERAL OR STATE SAFETY LAWS APPLY TO EVERY WORKPLACE.

THE OCCUPATIONAL HEALTH AND SAFETY (COMMONWEALTH EMPLOYMENT) ACT OF 1991 PROVIDES FEDERAL EMPLOYEES WITH THE LEGAL RIGHT TO CEASE WORK IF THEY BELIEVE THAT PARTICULAR WORK ACTIVITIES UNCLAS SECTION 10 OF 10 CANBERRA 003075

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POSE AN IMMEDIATE THREAT TO INDIVIDUAL HEALTH OR SAFETY. MOST STATES AND TERRITORIES HAVE LAWS THAT GRANT SIMILAR RIGHTS TO THEIR EMPLOYEES. AT A MINIMUM, PRIVATE SECTOR EMPLOYEES HAVE RECOURSE TO STATE HEALTH AND SAFETY COMMISSIONS, WHICH WILL INVESTIGATE COMPLAINTS AND DEMAND REMEDIAL ACTION.

F. TRAFFICKING IN PERSONS

THERE IS LIMITED INFORMATION, MOSTLY ANECDOTAL, ON TRAFFICKING INTO AUSTRALIA OF WORKERS FOR THE SEX INDUSTRY OR BONDED LABOR IN OTHER INDUSTRIES. IT SUGGESTS THAT, WHILE TRAFFICKING DOES EXIST, IT IS NOT A WIDESPREAD PHENOMENON. HOWEVER, AUSTRALIA IS AN ATTRACTIVE DESTINATION FOR POTENTIAL MIGRANTS WHO MAY SEEK TO ENTER AUSTRALIA OUTSIDE THE NORMAL MIGRATION CHANNELS WITH THE HELP OF TRANSNATIONAL ORGANIZED CRIME GROUPS INVOLVED IN PEOPLE SMUGGLING. DUE TO THE CONDITIONS TO WHICH THESE MIGRANTS ARE SUBJECTED, AT TIMES THE LINE BETWEEN SMUGGLING AND TRAFFICKING MAY BECOME BLURRED.

ALTHOUGH THERE HAVE BEEN SOME INSTANCES OF WOMEN BEING FORCED TO WORK AS SEX WORKERS IN AUSTRALIA BY ORGANIZED CRIME GROUPS, THE AVAILABLE EVIDENCE INDICATES THAT IN GENERAL, WOMEN WHO COME TO AUSTRALIA TO WORK IN THE SEX INDUSTRY ARE AWARE THAT THIS IS THE TYPE OF WORK THAT THEY WILL BE DOING. A 1994 STUDY OF MIGRANT SEX WORKERS IN SYDNEY FOUND THAT 90 PERCENT OF MIGRANT WOMEN WORKING IN PROSTITUTION HAD CONTRACTS OUTLINING SPECIFIC CONDITIONS OF WORK AND PAYMENT. THERE ARE SOME INSTANCES OF WOMEN WORKING IN THE SEX INDUSTRY BECOMING ENTANGLED IN DEBT OR PHYSICALLY FORCED TO KEEP WORKING, AND IT IS TRUE THAT IN SOME INSTANCES THEY WILL BE UNDER PRESSURE TO ACCEPT POOR WORKING CONDITIONS, ESPECIALLY IF THEIR IMMIGRATION STATUS IN AUSTRALIA IS IRREGULAR.

HOWEVER, THE AVAILABLE EVIDENCE SUGGESTS THAT THESE CASES ARE NOT WIDESPREAD.

AUSTRALIA HAS A SOLID LEGAL FRAMEWORK WHICH PROVIDES THE BASIS FOR PROSECUTION OF TRAFFICKERS. ALTHOUGH THERE IS NO SPECIFIC OFFENSE OF TRAFFICKING IN PERSONS, NEW LEGISLATION WAS RECENTLY ENACTED WHICH TARGETS CRIMINAL PRACTICES ASSOCIATED WITH TRAFFICKING. ON SEPTEMBER 21, 1999, THE CRIMINAL CODE AMENDMENT (SLAVERY AND SEXUAL SERVITUDE) ACT CAME INTO FORCE. THE ACT MODERNIZES AUSTRALIA'S SLAVERY LAWS, CONTAINS NEW OFFENSES DIRECTED AT SLAVERY, SEXUAL SERVITUDE AND DECEPTIVE RECRUITING AND ADDRESSES THE GROWING AND LUCRATIVE TRADE IN PEOPLE FOR THE PURPOSES OF SEXUAL EXPLOITATION. THE ACT PROVIDES FOR PENALTIES OF UP TO 25 YEARS IMPRISONMENT AND IS PART OF A FEDERAL, STATE AND TERRITORY PACKAGE OF LEGISLATION. THERE HAVE NOT YET BEEN ANY PROSECUTIONS UNDER THIS LEGISLATION.

UNDER THE ACT, WHERE CONDUCT AMOUNTS TO 'SLAVERY', OR EXERCISING A POWER OF OWNERSHIP OVER ANOTHER PERSON, THE MAXIMUM PENALTY WILL BE 25 YEARS IMPRISONMENT. WHERE A PERSON IS ENGAGED TO PROVIDE SEXUAL SERVICES AND WHO, BECAUSE OF FORCE OR THREATS, IS NOT FREE TO CEASE OR TO LEAVE, THOSE RESPONSIBLE WILL FACE PENALTIES OF UP TO 15 YEARS IMPRISONMENT, OR 19 YEARS IF THE VICTIM IS AGED UNDER 18. A PERSON WHO DECEPTIVELY INDUCES ANOTHER PERSON TO PROVIDE SEXUAL SERVICES WILL FACE A PENALTY OF UP TO 7 YEARS IMPRISONMENT, OR 9 YEARS IF THE VICTIM IS AGED UNDER 18.

ANOTHER GOVERNMENT INITIATIVE WAS THE CHILD SEX TOURISM ACT OF 1994, WHICH PROVIDES FOR THE INVESTIGATION AND PROSECUTION OF CITIZENS WHO TRAVEL OVERSEAS AND ENGAGE IN ILLEGAL SEXUAL CONDUCT WITH CHILDREN.

TRAFFICKING IN EAST ASIAN WOMEN FOR THE SEX TRADE IS A GROWING PROBLEM. IMMIGRATION AND FEDERAL POLICE HAVE DEVELOPED PROFILES AND IDENTIFIED TRENDS IN THE INDUSTRY, BUT LAX LAWS--INCLUDING LEGALIZED PROSTITUTION IN PARTS OF THE COUNTRY--MAKE ENFORCEMENT DIFFICULT AT THE WORKING LEVEL.

GNEHM

TOR: 09/15/00 03:55:46

DIST: SIT: BABBITT BANBURY NSC CHRISTY JARRETT LIEBERTHAL MCLEAN NAPLAN OSIUS PATTEN PRITCHARD SCHWARTZ SHEA SMITHH SMITHP WILCOX