

## Annex 7

### Recent Relevant Legislation

#### Part I – The Child Soldier Prevention Act of 2008

##### TITLE IV—CHILD SOLDIERS PREVENTION

###### SEC. 401. SHORT TITLE.

This title may be cited as the “Child Soldiers Prevention Act of 2008”.

###### SEC. 402. DEFINITIONS.

In this title:

- (1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—
- (A) the Committee on Foreign Relations of the Senate;
  - (B) the Committee on Appropriations of the Senate;
  - (C) the Committee on Foreign Affairs of the House of Representatives; and
  - (D) the Committee on Appropriations of the House of Representatives.
- (2) CHILD SOLDIER.—Consistent with the provisions of the Optional Protocol to the Convention of the Rights of the Child, the term “child soldier”—
- (A) means—
    - (i) any person under 18 years of age who takes a direct part in hostilities as a member of governmental armed forces;
    - (ii) any person under 18 years of age who has been compulsorily recruited into governmental armed forces;
    - (iii) any person under 15 years of age who has been voluntarily recruited into governmental armed forces; or
    - (iv) any person under 18 years of age who has been recruited or used in hostilities by armed forces distinct from the armed forces of a state; and
  - (B) includes any person described in clauses (ii), (iii), or (iv) of subparagraph (A) who is serving in any capacity, including in a support role such as a cook, porter, messenger, medic, guard, or sex slave.

###### SEC. 403. SENSE OF CONGRESS.

It is the sense of Congress that—

- (1) the United States Government should condemn the conscription, forced recruitment, or use of children by governments, paramilitaries, or other organizations;
- (2) the United States Government should support and, to the extent practicable, lead efforts to establish and uphold international standards designed to end the abuse of human rights described in paragraph (1);
- (3) the United States Government should expand ongoing services to rehabilitate recovered child soldiers and to reintegrate such children back into their respective communities by—
  - (A) offering ongoing psychological services to help such children—
    - (i) to recover from the trauma suffered during their forced military involvement;
    - (ii) to relearn how to interact with others in nonviolent ways so that such children are no longer a danger to their respective communities; and
    - (iii) by taking into consideration the needs of girl soldiers, who may be at risk of exclusion from disarmament, demobilization, and reintegration programs;
  - (B) facilitating reconciliation with such communities through negotiations with traditional leaders and elders to enable recovered abductees to resume normal lives in such communities; and
  - (C) providing educational and vocational assistance;
- (4) the United States should work with the international community, including, as appropriate, third country

governments, nongovernmental organizations, faith-based organizations, United Nations agencies, local governments, labor unions, and private enterprises—

(A) to bring to justice rebel and paramilitary forces that kidnap children for use as child soldiers;

(B) to recover those children who have been abducted; and

(C) to assist such children to be rehabilitated and reintegrated into their respective communities;

(5) the Secretary of State, the Secretary of Labor, and the Secretary of Defense should coordinate programs to achieve the goals described in paragraph (3);

(6) United States diplomatic missions in countries in which the use of child soldiers is an issue, whether or not such use is supported or sanctioned by the governments of such countries, should include in their mission program plans a strategy to achieve the goals described in paragraph (3);

(7) United States diplomatic missions in countries in which governments use or tolerate child soldiers should develop strategies, as part of annual program planning—

(A) to promote efforts to end such abuse of human rights; and

(B) to identify and integrate global best practices, as available, into such strategies to avoid duplication of effort; and

(8) in allocating or recommending the allocation of funds or recommending candidates for programs and grants funded by the United States Government, United States diplomatic missions should give serious consideration to those programs and candidates that are expected to promote the end to the abuse of human rights described in this section.

#### SEC. 404. PROHIBITION.

(a) IN GENERAL.—Subject to subsections (b), (c), and (d), the authorities contained in section 516 or 541 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j or 2347) or section 23 of the Arms Export Control Act (22 U.S.C. 2763) may not be used to provide assistance to, and no licenses for direct commercial sales of military equipment may be issued to, the government of a country that is clearly identified, pursuant to subsection (b), for the most recent year preceding the fiscal year in which the authorities or license would have been used or issued in the absence of a violation of this title, as having governmental armed forces or government-supported armed groups, including paramilitaries, militias, or civil defense forces, that recruit and use child soldiers.

(b) IDENTIFICATION AND NOTIFICATION TO COUNTRIES IN VIOLATION OF STANDARDS.—

(1) PUBLICATION OF LIST OF FOREIGN GOVERNMENTS.—The Secretary of State shall include a list of the foreign governments that have violated the standards under this title and are subject to the prohibition in subsection (a) in the report required under section 110(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b)).

(2) NOTIFICATION OF FOREIGN COUNTRIES.—The Secretary of State shall formally notify any government identified pursuant to subsection (a).

(c) NATIONAL INTEREST WAIVER.—

(1) WAIVER.—The President may waive the application to a country of the prohibition in subsection (a) if the President determines that such waiver is in the national interest of the United States.

(2) PUBLICATION AND NOTIFICATION.—Not later than 45 days after each waiver is granted under paragraph (1), the President shall notify the appropriate congressional committees of the waiver and the justification for granting such waiver.

(d) REINSTATEMENT OF ASSISTANCE.—The President may provide to a country assistance otherwise prohibited under subsection (a) upon certifying to the appropriate congressional committees that the government of such country—

(1) has implemented measures that include an action plan and actual steps to come into compliance with the standards outlined in section 404(b); and

(2) has implemented policies and mechanisms to prohibit and prevent future government or government-supported use of child soldiers and to ensure that no children are recruited, conscripted, or otherwise compelled to serve as child soldiers.

(e) EXCEPTION FOR PROGRAMS DIRECTLY RELATED TO ADDRESSING THE PROBLEM OF CHILD SOLDIERS OR PROFESSIONALIZATION OF THE MILITARY.—

(1) IN GENERAL.—The President may provide assistance to a country for international military education, training, and nonlethal supplies (as defined in section 2557(d)(1)(B) of title 10, United States Code) otherwise prohibited under subsection (a) upon certifying to the appropriate congressional committees that—

(A) the government of such country is taking reasonable steps to implement effective measures to demobilize child soldiers in its forces or in government-supported paramilitaries and is taking reasonable steps within the context of its national resources to provide demobilization, rehabilitation, and reintegration assistance to those former child soldiers; and

(B) the assistance provided by the United States Government to the government of such country will

go to programs that will directly support professionalization of the military.

(2) LIMITATION.—The exception under paragraph (1) may remain in effect for a country for more than 5 years.

SEC. 405. REPORTS.

(a) INVESTIGATION OF ALLEGATIONS REGARDING CHILD SOLDIERS.—United States missions abroad shall thoroughly investigate reports of the use of child soldiers.

(b) INFORMATION FOR ANNUAL HUMAN RIGHTS REPORTS.—In preparing those portions of the annual Human Rights Report that relate to child soldiers under sections 116 and 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(f) and 2304(h)), the Secretary of State shall ensure that such reports include a description of the use of child soldiers in each foreign country, including—

(1) trends toward improvement in such country of the status of child soldiers or the continued or increased tolerance of such practices; and

(2) the role of the government of such country in engaging in or tolerating the use of child soldiers.

(c) ANNUAL REPORT TO CONGRESS.—If, during any of the 5 years following the date of the enactment of this Act, a country is notified pursuant to section 404(b)(2), or a waiver is granted pursuant to section 404(c)(1), the President shall submit a report to the appropriate congressional committees not later than June 15 of the following year. The report shall include—

(1) a list of the countries receiving notification that they are in violation of the standards under this title;

(2) a list of any waivers or exceptions exercised under this title;

(3) justification for any such waivers and exceptions; and

(4) a description of any assistance provided under this title pursuant to the issuance of such waiver.

SEC. 406. TRAINING FOR FOREIGN SERVICE OFFICERS.

Section 708 of the Foreign Service Act of 1980 (22 U.S.C. 4028) is amended by adding at the end the following:

“(c) The Secretary of State, with the assistance of other relevant officials, shall establish as part of the standard training provided for chiefs of mission, deputy chiefs of mission, and other officers of the Service who are or will be involved in the assessment of child soldier use or the drafting of the annual Human Rights Report instruction on matters related to child soldiers, and the substance of the Child Soldiers Prevention Act of 2008.”.

SEC. 407. EFFECTIVE DATE; APPLICABILITY.

This title, and the amendments made by this title, shall take effect 180 days after the date of the enactment of this Act.

Approved December 23, 2008.

## **Part II – The Child Soldier Accountability Act**

### **PUBLIC LAW 110–340** **110<sup>th</sup> Congress**

#### **An Act**

To prohibit the recruitment or use of child soldiers, to designate persons who recruit or use child soldiers as inadmissible aliens, to allow the deportation of persons who recruit or use child soldiers, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Child Soldiers Accountability Act of 2008”.

SEC. 2. ACCOUNTABILITY FOR THE RECRUITMENT AND USE OF CHILD SOLDIERS.

(a) CRIME FOR RECRUITING OR USING CHILD SOLDIERS.—

(1) IN GENERAL.—Chapter 118 of title 18, United States Code, is amended by adding at the end the following:

**“§ 2442. Recruitment or use of child soldiers**

“(a) OFFENSE.—Whoever knowingly—

“(1) recruits, enlists, or conscripts a person to serve while such person is under 15 years of age in an armed force or group; or

“(2) uses a person under 15 years of age to participate actively in hostilities; knowing such person is under 15 years of age, shall be punished as provided in subsection (b).

“(b) PENALTY.—Whoever violates, or attempts or conspires to violate, subsection (a) shall be fined under this title or imprisoned not more than 20 years, or both and, if death of any person results, shall be fined under this title and imprisoned for any term of years or for life.

“(c) JURISDICTION.—There is jurisdiction over an offense described in subsection (a), and any attempt or conspiracy to commit such offense, if—

“(1) the alleged offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act (8 U.S.C. 1101(a)(20));

“(2) the alleged offender is a stateless person whose habitual residence is in the United States;

“(3) the alleged offender is present in the United States, irrespective of the nationality of the alleged offender;

or

“(4) the offense occurs in whole or in part within the United States.

“(d) DEFINITIONS.—In this section:

“(1) PARTICIPATE ACTIVELY IN HOSTILITIES.—The term ‘participate actively in hostilities’ means taking part in—

“(A) combat or military activities related to combat, including sabotage and serving as a decoy, a courier, or at a military checkpoint; or

“(B) direct support functions related to combat, including transporting supplies or providing other services.

“(2) ARMED FORCE OR GROUP.—The term ‘armed force or group’ means any army, militia, or other military organization, whether or not it is state-sponsored, excluding any group assembled solely for nonviolent political association.”

(2) STATUTE OF LIMITATIONS.—Chapter 213 of title 18, United States Code is amended by adding at the end the following:

**“§ 3300. Recruitment or use of child soldiers**

“No person may be prosecuted, tried, or punished for a violation of section 2442 unless the indictment or the information is filed not later than 10 years after the commission of the offense.”

(3) CLERICAL AMENDMENT.—Title 18, United States Code, is amended—

(A) in the table of sections for chapter 118, by adding at the end the following:

“2442. Recruitment or use of child soldiers.”;

and

(B) in the table of sections for chapter 213, by adding at the end the following:

“3300. Recruitment or use of child soldiers.”.

(b) GROUND OF INADMISSIBILITY FOR RECRUITING OR USING CHILD SOLDIERS.—Section 212(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)) is amended by adding at the end the following:

“(G) RECRUITMENT OR USE OF CHILD SOLDIERS.—Any alien who has engaged in the recruitment or use of child soldiers in violation of section 2442 of title 18, United States Code, is inadmissible.”.

(c) GROUND OF REMOVABILITY FOR RECRUITING OR USING CHILD SOLDIERS.—Section 237(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)) is amended by adding at the end the following:

“(F) RECRUITMENT OR USE OF CHILD SOLDIERS.—Any alien who has engaged in the recruitment or use of child soldiers in violation of section 2442 of title 18, United States Code, is deportable.”.

(d) ASYLUM AND WITHHOLDING OF REMOVAL.—

(1) ISSUANCE OF REGULATIONS.—Not later than 60 days after the date of enactment of this Act, the Attorney General and the Secretary of Homeland Security shall promulgate final regulations establishing that, for purposes of sections 241(b)(3)(B)(iii) and 208(b)(2)(A)(iii) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)(B)(iii); 8 U.S.C. 1158(b)(2)(A)(iii)), an alien who is deportable under section 237(a)(4)(F) of such Act (8 U.S.C. 1227(a)(4)

(F)) or inadmissible under section 212(a)(3)(G) of such Act (8 U.S.C. 1182(a)(3)(G)) shall be considered an alien with respect to whom there are serious reasons to believe that the alien committed a serious nonpolitical crime.

(2) AUTHORITY TO WAIVE CERTAIN REGULATORY REQUIREMENTS.—The requirements of chapter 5 of title 5, United States Code (commonly referred to as the “Administrative Procedure Act”), chapter 35 of title 44, United States Code (commonly referred to as the “Paperwork Reduction Act”), or any other law relating to rulemaking, information collection, or publication in the Federal Register, shall not apply to any action to implement paragraph (1) to the extent the Attorney General or the Secretary Homeland of Security determines that compliance with any such requirement would impede the expeditious implementation of such paragraph.

Approved October 3, 2008.