

March 8, 2016

President Barack Obama
The White House
Washington, DC 20502

Dear Mr. President:

At the most recent meeting of the President’s Interagency Task Force to Monitor and Combat Trafficking (“PITF”) in early January, we were pleased to see the progress reported by those departments and agencies across the federal government with responsibility for coordinating efforts to combat trafficking in persons. In particular, we applaud that the PITF marked the first convening of the U.S. Advisory Council on Human Trafficking.

At the close of the meeting, Ms. Tina Tchen, Executive Director of the White House’s Council on Women and Girls, challenged those in attendance to feel the “fierce urgency of the remaining 12 months” to cement the President’s legacy by making “as broad and as deep a commitment” as necessary to combat trafficking in persons. Like Ms. Tchen, ATEST and the Freedom Network believe the Administration is poised to realize important gains against human trafficking in the U.S. and overseas. We request that you consider the following key priorities during the final year of the Administration, which are further described in the attached document.

1. Implement Nationwide In-Person Registration Program for Domestic Workers: In October of 2015 the Department of State launched a pilot program to conduct in-person registration of A-3 domestic workers in Washington, DC. We are pleased that the pilot program, also outlined in the Federal Strategic Action Plan on Services for Victims of Human Trafficking in the United States, is now underway and ask that full nationwide implementation of the program be completed within the year. The in-person registration program is an important tool to monitor the conditions of employment of A-3 and G-5 domestic workers, who are often employed in isolated settings with little access to information about their rights or appropriate working conditions.
2. Adopt Comprehensive Approach to Child Trafficking When Implementing the Preventing Sex Trafficking and Strengthening Families Act of 2014: The trafficking of children – whether for sex or labor – is a critical child welfare issue. The Preventing Sex Trafficking and Strengthening Families Act of 2014 requires state child welfare agencies to develop policies and procedures for identifying and serving children and youth who have experienced or are at risk of sex trafficking, reporting these cases to law enforcement, and reporting the number of these cases to Congress.

The Administration can and should encourage states to incorporate labor trafficking, alongside sex trafficking, as they develop these new processes.

3. USG Procurement & the Fair Food Program: The Fair Food Program (FFP) of the Coalition of Immokalee Workers (CIW) brings together workers, consumers, growers and retail food companies in support of better wages and humane labor standards in the agricultural industry. The FFP is a unique, and uniquely successful, collaboration premised on risk prevention, supply chain transparency, and the verifiable, market-enforced protection of workers' basic human rights, monitored by the independent Fair Food Standards Council. As President Obama considers further measures that his administration can take to combat forced labor and human trafficking during his final year in office, we urge him to require federal Departments to procure fresh tomatoes (and now strawberries and bell peppers), to the extent available, through the Fair Food Program.
4. Enforce the Ban on the Importation of Goods Made with Forced, Prison and Forced Child Labor from Entering the United States: The enactment of the Trade Facilitation and Trade Enforcement Act effectively closed the "consumptive demand" loophole to the prohibition on the importation of forced labor contained in the Tariff Act of 1930. Building an effective approach to implementation of this newly robust prohibition could have a tremendous impact around the world. We urge the White House to convene immediately a task force charged with meeting and creating a road map for effective enforcement by the Department of Homeland Security (DHS), and other relevant agencies, of the ban on importation of goods made with forced labor, forced child labor and prison labor. A system for enforcement should be in place before the end of the year.

A comprehensive and coordinated approach is necessary to effectively eliminate human trafficking, requiring programming across several U.S. government agencies. The Obama Administration has made important strides in enhancing inter-agency efforts and we encourage those departments and agencies mentioned here, and the others on the the PITF, to embrace the momentum of this final year by ensuring Administration's legacy is sound and strong.

We appreciate your thoughtful consideration of our requests. Should you have any questions, please contact Melysa Sperber, ATEST Director, at 631-374-0749, and Jean Bruggeman, Freedom Network USA Executive Director, at 202-321-5002. Thank you again for your strong efforts to combat human trafficking and modern slavery.

Sincerely,

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CC:

Valerie Jarrett
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Key Priorities for the Final Year of the Obama Administration: ATEST & Freedom Network

1. Implement Nationwide In-Person Registration Program for Domestic Workers

At a 2013 meeting of the PITF Secretary Kerry announced a commitment to implement an in-person registration program of domestic workers in the United States on A-3 or G-5 visas. This commitment was reiterated most recently at the PITF meeting in January of 2016. As part of this commitment, in October of 2015 the Department of State launched a pilot program to conduct in-person registration of A-3 domestic workers in Washington, DC. **We are pleased that the pilot program, also outlined in the Federal Strategic Action Plan on Services for Victims of Human Trafficking in the United States, is now underway and ask that full nationwide implementation of the program be completed within the year.**

The in-person registration program is an important tool to monitor the conditions of employment of A-3 and G-5 domestic workers, who are often employed in isolated settings with little access to information about their rights or appropriate working conditions. Member countries of the Organization for Security and Co-operation in Europe (OSCE) have had success with similar programs where one-on-one interviews are conducted with domestic workers outside the presence of their employers and governments partner with NGOs to conduct interviews and follow up on allegations. We hope that the current pilot program will begin similar partnerships with NGOs and domestic workers to create a best practice standard as the program is implemented nationwide.

In 2013 the Department of State issued 1135 new A-3 visas and 736 new G-5 visas.¹ In 2012, the State Department issued 1141 new A-3 visas and 730 new G-5 visas.² The top job locations for A-3 workers are Washington, DC, New York, Virginia, California and Maryland.³ For G-5 workers, the top job locations are New York, Virginia, Maryland, Washington, DC and New Jersey.⁴ We urge the State Department to begin full nationwide implementation of this program to capture all A-3 and G-5 workers across job locations. To ensure the success of the program, the Department should consult with NGOs and domestic workers on implementation and development of interview protocols; publicly share training and interview protocols; release data on the program; hold abusive employers accountable by establishing robust enforcement mechanisms; and provide analysis on how the program will be evaluated and improved.

¹ See *Beyond Survival: Organizing to End Human Trafficking of Domestic Workers*, Jan. 2015, National Domestic Workers Alliance at p. 95 available at <http://www.domesticworkers.org/beyond-survival-report>.

² See “Visa Pages” – U.S Temporary Foreign Worker Visas, Global Workers Justice Alliance, *available at* <http://globalworkers.org/visas/a-3%20and%20g-5>.

³ See *id.*

⁴ See *id.*

2. Adopt Comprehensive Approach to Child Trafficking When Implementing the Preventing Sex Trafficking and Strengthening Families Act of 2014

The trafficking of children – whether for sex or labor – is a critical child welfare issue.⁵ While multiple reports document the link between the child welfare system and sex trafficking⁶, multiple cases demonstrate the ongoing trafficking of children, both foreign national and US citizen, for labor or services in the US⁷. Like child sex trafficking victims, child labor trafficking victims are often abused, neglected and sexually assaulted children. Many are recruited from the child welfare system, or are referred to the child welfare system upon escape or rescue from a labor trafficking scheme. Better data collection is needed to better understand all forms of child trafficking.

The Preventing Sex Trafficking and Strengthening Families Act of 2014 requires state child welfare agencies to develop policies and procedures for identifying and serving children and youth who have experienced or are at risk of sex trafficking, reporting these cases to law enforcement, and reporting the number of these cases to Congress. The Act also requires HHS to report to Congress on the link between children running away from foster care and their risk of becoming sex trafficking victims. The implementation of these mandates provides a perfect opportunity to further our understanding of, and support for, child labor trafficking victims. **The Administration can and should encourage states to incorporate labor trafficking, alongside sex trafficking, as they develop these new processes.** It is far more cost effective to include all child trafficking victims, both sex and labor, in these reforms currently being made to the child welfare system, rather than to enact piecemeal reforms.

3. USG Procurement & the Fair Food Program

The Fair Food Program (FFP) of the Coalition of Immokalee Workers (CIW) brings together workers, consumers, growers and retail food companies in support of better wages and humane labor standards in the agricultural industry. The FFP is a unique, and uniquely successful, collaboration premised on risk prevention, supply chain

⁵ See U.S. Health and Human Services, Administration on Children, Youth and Families, Children's Bureau, *Guidance to States and Services on Addressing Human Trafficking of Children and Youth in the United States* (Sept. 13, 2013), available at http://www.acf.hhs.gov/sites/default/files/cb/acyf_human_trafficking_guidance.pdf; see also U.S. Health and Human Services, Administration on Children, Youth and Families, Children's Bureau, Issue Brief: Child Welfare and Human Trafficking (July 2015), available at <https://www.childwelfare.gov/pubPDFs/trafficking.pdf>.

⁶ See Kristen Finklea, Adrienne L. Fernandes-Alcantara and Alison Siskin, *Sex Trafficking of Children in the United States: Overview and Issues for Congress*, Cong. Research Serv. (January 2015), available at <https://www.fas.org/sgp/crs/misc/R41878.pdf>; see also Marisa Gerber, *State official links troubled foster care system to human trafficking*, L.A. Times, Jan. 30, 2015, <http://www.latimes.com/local/lanow/la-me-ln-foster-care-human-trafficking-20150130-story.html>.

⁷ See Stephanie Richard, Daniel J. Stephenson and Kristi Nickodem, *Child Trafficking is a Child Welfare Issue* in NACC Law Manual, Nat'l Assoc. of Counsel for Children (2015).

transparency, and the verifiable, market-enforced protection of workers' basic human rights, monitored by the independent Fair Food Standards Council. The FFP is the leading example of a new form of human rights protection known as Worker-driven Social Responsibility (WSR). In the WSR approach, the workers whose rights are at issue play a leading role in the definition, monitoring, and protection of those rights. Enforcement is the *sine qua non* of this approach, and there are significant market consequences for non-compliance. Since its launch in 2011, the FFP has brought about many far-reaching reforms within the Florida tomato industry, including the elimination of forced labor, child labor, sexual assault and physical violence by supervisory employees against workers in the Program. Florida produces effectively all of the fresh-market, field-grown tomatoes in the US from October through June, and accounts for 50% of all fresh tomatoes produced domestically year round. As such, the FFP is the *only* industry-wide social responsibility program in US agriculture. In recognition of the extraordinary changes that the FFP has brought about in just five short years to previously intractable issues, the Program has been called "the best workplace-monitoring program" in the US in the *New York Times*, and "one of the great human rights success stories of our day" in the *Washington Post*.

The FFP has gained institutional recognition from the highest levels. In January, 2015, the CIW, received a Presidential Medal for Extraordinary Efforts to Combat Human Trafficking in Persons. At the White House ceremony, Secretary of State John Kerry noted, "The CIW has effectively eradicated human trafficking in the farms that participate in their Fair Food Program. That is an extraordinary accomplishment..." Furthermore, the White House Advisory Council on Faith-Based and Neighborhood Initiatives has lauded the FFP as, "...one of the most successful and innovative programs in the world today to uncover and prevent modern-day slavery."

As President Obama considers further measures that his administration can take to combat forced labor and human trafficking during his final year in office, we urge him to require federal Departments to procure fresh tomatoes (and now strawberries and bell peppers), to the extent available, through the Fair Food Program. The FFP is a tested, highly effective model for preventing unwanted behavior in business supply chains. President Obama has championed efforts to increase transparency and combat human trafficking and other egregious labor abuses in federal contracts and procurement supply chains. It thus seems fitting that the next step for the Administration would be to join the Fair Food Program by directing as much federal procurement of fresh produce as possible to farms participating in the Program. While in the private sector the FFP is well beyond the aspirational or pilot stage—it has yet to be tested in the context of a government supply chain. As such, joining the FFP would seem to be a perfect application of 41 U.S.C. §1124 (a), which grants the Administrator of the Office of Federal Procurement Policy authority to "develop innovative procurement methods and procedures to be tested by selected executive agencies." This policy provides the Administration with existing authority to demonstrate its commitment to ridding its

supply chain of human rights abuses by procuring fresh tomatoes and other produce through the Fair Food Program.

4. Enforce the Ban on the Importation of Goods Made with Forced, Prison and Forced Child Labor from Entering the United States

The enactment of the Trade Facilitation and Trade Enforcement Act effectively closed the “consumptive demand” loophole to the prohibition on the importation of forced labor contained in the Tariff Act of 1930. Building an effective approach to implementation of this newly robust prohibition could have a tremendous impact around the world.

This loophole has for decades prevented the US government from implementing a long standing policy to ban importation of goods made with forced, child, and/or prison labor. This milestone is a significant symbolic and practical step in the fight against forced labor in the supply chains of American companies and of the federal government and can be enforced in a way that highlights and complements other anti-trafficking innovations from the Obama Administration such as Executive Order 13627 “Strengthening Protections Against Trafficking In Persons In Federal Contracts.”

Because the “consumptive demand” exception was in effect for many decades, there is an atrophied and virtually useless system of enforcement for the underlying prohibition in the Tariff Act. For example, Customs and Border Patrol (CBP) has no capacity to investigate and document whether goods at the border were made with forced labor. CBP must rely on Immigration and Customs Enforcement (ICE) to conduct investigations through their agents abroad, requiring notoriously tricky coordination. CBP and ICE will need a clear path forward to create and implement a process by which they could ramp up investigations; determine appropriate methodologies for linking shipments of imported goods to specific perpetrators of forced labor, forced child labor, and prison labor; and engage with and leverage existing and emerging supply chain tracing and compliance processes. This very promising policy tool will not live up to its potential unless ICE is provided a jolt of ideas, energy, partnerships, funding, and other resources to design an enforcement strategy and procedures that are equal to the challenge.

We urge the White House to convene immediately a task force charged with meeting and creating a road map for effective enforcement by the Department of Homeland Security (DHS), and other relevant agencies, of the ban on importation of goods made with forced labor, forced child labor and prison labor. ATEST and the Freedom Network are interested in working with White House staff to determine experts from a range of organizations, companies, and agencies who could provide practical advice about how supply chains operate, characteristics of workplaces and employers who are involved in forced labor, how goods can be tracked, how the agency can better focus its resources on high risk areas and sectors, and other issues that would link with and complement the expertise and systems that

DHS currently operates. For instance, product tracing technologies are rapidly advancing across many sectors to better track quality, transport challenges, labor risks, environmental impacts, and other factors, so we see value in bringing together some experts from that field (from both the private sector and civil society) with staff from DHS and the White House Office of Science and Technology to determine a path for ensuring DHS is taking advantage of the technology advances in this field. Experts on identifying and evaluating traffickers and suspect employers would provide ideas for how ICE can better understand the best ways to gather verifiable information about risky companies and exporters/importers. A convening of these experts would also provide an opportunity for other agencies (State, USDOL, USTR) to better understand new approaches to supply chain tracing, integrity, and accountability issues and how they can participate in the roll-out of this important new enforcement mechanism.