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House of Representatives

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Ranking Member Gerald E. Connolly (VA-11)
Subcommittee on Government Operations
Hearing on “The President’s Waiver of Restrictions on the Visa Waiver Program”
February 10, 2016

Thank you, Mr. Chairman, for holding this hearing to examine recent changes to the Visa Waiver Program and the Administration’s plans for implementing those changes.

Twenty million tourists each year travel to the United States under this program, which promotes commerce, tourism, and positive international relations. If implemented effectively, the VWP may actually enhance security beyond the normal visa process through strengthened international information-sharing and consistent security standards for travel documentation, while bolstering our country’s tourism, hospitality and travel industries.

Last December, in light of the of the horrific attacks in San Bernardino, California, and Paris, France, Members of the Congress came together in a bipartisan fashion to pass the Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015. The American public remains, understandably, shaken by those events and demands reassurance that we are doing all that we can to prevent potential terrorists from entering the United States.

This Act, which passed as part of the omnibus spending bill, will enhance the VWP’s information-sharing requirements to better assess traveler risk. It also requires covered travelers to use an E-passport containing technology that stores travel information, a digital photograph, biographic information, and a biometric identifier. Such passports also included security layers that make it more difficult to alter or duplicate them compared to other forms of travel identification.

The bill also tightens eligibility restrictions for VWP participation, but does not block international travel using the normal visa process. It would prohibit participation in the VWP by anyone who has traveled to Syria, Iraq, Iran, Sudan, and other designated areas of concern within the past 5 years and dual nationals of these countries.

It also empowers the Department of Homeland Security with the authority to waive these restrictions to support, and I quote, “the law enforcement and national security interests of the United States.”

The Department of Homeland Security recently announced that it would implement the waivers on a limited case-by-case basis for certain categories of individuals, including those who traveled to Iran or Iraq for legitimate business, professional, and humanitarian purposes.

Of course, individuals who may fall into one of those excepted categories are not automatically allowed entry into the VWP. They must undergo the same rigorous screening process as any other traveler prior to receiving approval to travel under a visa waiver.

Some of my colleagues on the other side of the aisle may claim that the Department's implementation plan is contrary to Congressional intent and represents an overreach of executive authority as the legislative language did not expressly provide for such exceptions.

However, I believe that the Department is taking a common-sense approach to implementing this waiver authority that is not inconsistent with the requirements of the law. In fact, some argue that permitting individuals from VWP countries to travel to Iran or Iraq for legitimate business, professional, and humanitarian purposes serves to promote rather than undermine the law enforcement and national security interests of our country.

There is concern that this waiver was provided in the interest of preserving the Joint Comprehensive Plan of Action in a manner inconsistent with the commitments the U.S. made in the deal. For one, the waiver specifies travel after the date the agreement was signed. Additionally, the only reason Iran is subjected to the VWP reforms is its designation as a state sponsor of terror. We were assured that Iran's support for terrorism was firewalled from the JCPOA negotiations – and for good reason, as we do not want to relitigate the nuclear issue every time we take up one of the myriad challenges Iran poses to regional and U.S. security.

In providing this waiver, the Administration must answer these challenges and make crystal clear to Congress that it was in no way provided to appease the Iranian government. The grounds for this waiver is a determination made by the Secretary of the Department of Homeland that “such a waiver is in the law enforcement or national security interests of the United States.”

I'd like to hear from our witnesses as to whether they believe that allowing, in limited circumstances, Europeans who travel to Iran for legitimate business to participate in the Visa Waiver Program creates a security risk or furthers our national security interest.

I, for one, favor further tweaks to the reforms passed by Congress, and I am a cosponsor of the bipartisan Equal Protection in Travel Act, which would remove restrictions on dual nationals, except for those who have travelled to countries of concern since 2011. Due to the lack of international consensus on what constitutes dual nationality many travelers may be excluded from VWP travel because of their ethnicity, not because of their travel history.

For example, citizenship is automatically extended to children of fathers from Iran, Sudan, and Syrian, by those countries. Even if the child is born and raised outside of those countries, and has never travelled to those countries their visa-free travel would be rescinded under the new restriction.

I believe that reforms included in the package passed by Congress do not effectively advance or bolster our efforts to maintain national security and runs counter to the purpose of the

VWP through discriminatory restrictions that have the potential to damage international relations, which is why I am supporting further modifications.

Let me conclude by recommending that the Committee evaluate the Administration's implementation plan from a practical rather than a political and ideological point of view.

Thank you, Mr. Chairman, and I look forward to the testimony of the witnesses.

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