

**FOR IMMEDIATE RELEASE****Full Committee Hearing Statement of Ranking Member Bennie G. Thompson**

February 10, 2016 (Washington) – Today, Committee on Homeland Security Ranking Member Bennie G. Thompson (D-MS) delivered the following prepared remarks for the full Committee hearing entitled “National Security and Law Enforcement: Breaking the New Visa Waiver Law to Appease Iran”:

“This Committee has a longstanding, bipartisan interest in strengthening the Visa Waiver Program. In 2007, with the enactment of legislation I authored, the Implementing Recommendations of the 9/11 Commission Act, Congress required individualized security checks of travelers participating in the Visa Waiver Program.

The program that was established is known today as the Electronic System for Travel Authorization or ESTA program. Under ESTA, citizens or eligible nationals of Visa Waiver Program countries must obtain an electronic travel authorization prior to boarding a plane to the United States. I have been pleased to see DHS, over the years, take timely action to adjust aspects of the ESTA program in response to the demands of the ever-changing threat landscape.

Yet, I came into this Congress, like many of my Republican colleagues, seeing the need for more reforms to the VWP program to bolster its security. That is why I cosponsored H.R. 158, the Visa Waiver Improvement and Terrorist Travel Prevention Act, authored by Representative Candice Miller, the Chairman of our Border Security Subcommittee.

The fiscal year 2016 Consolidated Appropriations Act, better known as the Omnibus, included the language from H.R. 158 requiring changes to the Visa Waiver Program. This comprehensive legislation, which was signed into law by the President on December 18, seeks to strengthen passport security requirements, enhance information sharing, and improve fraud detection. Importantly, it also requires any visa waiver country that fails to screen passports against INTERPOL’s criminal and terrorism databases to be terminated from the program.

The provision that has garnered the most attention and is the focus of today’s hearing involves changes in the eligibility for visa-free for some travelers from VWP countries. Under this new law, most individuals who have visited Iraq, Iran, Syria, and Sudan in the last five years or who hold dual citizenship with one of these four countries would be ineligible for visa-free travel to the U.S. This provision was central to the bipartisan agreement reached between Congress and the White House.

During the negotiations, the restrictions on dual citizens of Iran, Iraq, Syria, and Sudan and travel history provisions that the Republicans were advancing were sticking points. I was pleased when we were able to reach common ground on a carve-out for certain individuals who traveled to the four countries for diplomatic or military service. Reaching agreement for other categories of travelers, including humanitarian aid workers and journalists, proved to be elusive. I appreciated that all involved came together, in the interest of homeland security, to strike a compromise that the White House, House Republican Leadership, and House Democratic Leadership could accept.

In the end, those of us involved in the negotiations understood that enactment would mean that, in most cases, travelers who triggered the citizenship or travel history limitation would have to go through the standard visa application process at a U.S. embassy or consulate. I was pleased that the law did allow the DHS Secretary to exercise discretion with respect to these limitations when doing so was “in the law enforcement or national security interests of the United States.”

It is important that the Secretary be allowed to exercise discretion with respect to certain individuals, on a case-by-case basis. Within days of enactment of this new law, questions emerged about the implications of the visa waiver program security reforms on the deal that President Obama was able to reach to prevent Iran from becoming a nuclear state.

At the time, I was taken aback since it was hard to see how this homeland security bill had any bearing on the terms of the Iran deal. The issuance of a joint press release by the Departments of Homeland Security and State, on January 21, the day the visa waiver program changes were to begin, did little to squelch those questions about a linkage. The press release, which laid out the Administration's plans to exercise its waiver authority, identified five categories of travelers who could receive waivers from eligibility limitations set forth in the new law.

One category specifically identified was individuals who traveled to Iran for "legitimate business purposes" after July 14, 2015-- the same date the Iran deal was concluded. It will fall to the witnesses today to explain why we should not think that there is a linkage to the Iran deal when it announces this category in a press release distributed across the globe.

As someone who supported the granting of waiver authority to Secretary of Homeland Security, I have questions about the approach that the Administration is taking here. While Secretary Johnson may plan to consider, on a case-by-case basis, whether to allow visa-free travel for national security purposes, the decision to list categories of travelers that can bypass visa screening at our embassies and consulates was a questionable one.

The Administration needs to be prepared to answer questions about its decision to create categories for waivers, including the degree to which intelligence informed the parameters. Additionally, the Administration needs to explain why it decided to publish the categories— thereby creating an expectation for people who fall into these categories that they will be able to continue to travel visa-free to the U.S.

We need to understand, particularly at a time when we know that there are some crafty would-be terrorists eager to find new ways to work around security enhancements in the Visa Waiver Program, why the Administration has chosen to be so public about how the DHS Secretary may exercise his discretion. In reviewing the categories, I have some questions about how the DHS Secretary would go about determining the legitimacy of the business-related purposes for travel to Iran.

I look forward to hearing testimony from the witnesses about how many travelers might be eligible for the waivers identified in the joint press release and what kind of resources CBP will need to put processes into place to fully adjudicate the anticipated flurry of waiver requests from travelers in these categories."

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