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Adding Visa Waiver Restrictions: The Wrong Course for Congress

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A new bill, S. 203, sponsored by Senators Dianne Feinstein (D–CA) and John Kyl (R–AZ) would impose severe restrictions on membership in the Visa Waiver Program (VWP). Adding more restrictions to the VWP would be a huge mistake, hindering efforts to enhance a program that provides significant security, economic, and public diplomacy benefits through cooperation with our closest allies around the world. Rather than adding new restrictions, Congress should work to further expand this program.

Changes to the VWP. VWP allows foreign travelers from member countries to enter the U.S. for up to 90 days without the need to personally visit U.S. embassies in their home countries to obtain a visa. After 9/11, Congress strengthened the VWP in a manner that allows the Department of Homeland Security (DHS) to continue to expand the program while protecting Americans from terrorist attacks and individuals that attempt to overstay their visas in order to work illegally in the United States. The act required DHS to:

- Ensure that the online portal that travelers must use to apply for entry, ESTA, was fully operational;
- Require a visa refusal rate of 10 percent or lower from countries seeking membership; and
- Biometrically track the exit of foreign travelers by July 31, 2009.

S. 203 would attempt to add more membership requirements, which could stall the VWP or end it

altogether. For example, DHS would be required to collect data about lost or stolen passports from member countries within 180 days of the act's passage. Countries that do not comply with the mandates are to be suspended from the program, and DHS would not be permitted to add countries that do not meet these requirements.

The goal of the bill is laudable: Countries participating in the program should share critical data such as lost and stolen passport information. The proposed legislation, however, fails to promote such cooperation. DHS has been working to obtain this data, but countries have been slow to release it, while others simply do not have the ability, whether for legal or political reasons, to share information with the United States. These considerations mean that DHS, under this new bill, would not meet these requirements in the time allotted.

Member countries would now also be required to maintain a maximum overstay rate of 2 percent. This requirement would be unfair to the seven countries that recently joined VWP and would now immediately risk losing membership if the new percentage is not met. And it is equally unfair to penalize older member countries who are already

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cooperating extensively on security and immigration enforcement matters.

In America's Interest. VWP does not just provide the benefit of easier travel to member countries. The benefits to the U.S. are immense, and halting VWP would have an impact on Americans as well:

- **Security.** The program increases security by allowing the U.S. to know more about inbound travelers prior to their entry on to U.S. soil. Information sharing agreements between the U.S. and member countries help our nation to catch serious criminals. For instance, our nation's relationship with Singapore helped the U.S. detain 13 terrorists engaged in a plot to bomb America in 2001. Killing VWP could hinder such cooperation.
- **Economics.** Foreign travelers spend as much as three times the amount of domestic travelers during their time in America, contributing to tourism and retail growth. In 2008, tourists spent over \$100 billion on travel in the United States. If VWP were to stall or die, travelers would be more inclined to vacation in a country whose travel restrictions were friendlier to foreign visitors. The government would also be forced to spend more tax dollars on agents and technologies to process visas. The Government Accounting Office has estimated that returning to the visa system would cost the State Department \$739 million to process the added workload with a further \$522 million—\$810 million in annual costs. Finally, eliminating the U.S. VWP program could cause partner countries with their own visa waiver program equivalents to retaliate by pulling U.S. membership. Should this happen, Americans wishing to travel abroad could incur costs of over \$100.00 or more per country in which they wish to travel.
- **Public Diplomacy.** The program is a tremendous public diplomacy tool. Membership conveys to countries that the U.S. trusts them—thereby expanding the roster of America's allies.

Promoting VWP. Actions by Congress relating to the VWP should focus not on adding more requirements but on strengthening the program while increasing security:

- **Recertify Legacy Member Countries.** Current law requires countries admitted prior to the 2007 restrictions to become recertified under the new requirements. DHS, with congressional oversight, needs to follow through with the recertification process. This would ensure uniform conformity within the VWP—equating to additional security. Such a solution would be more acceptable to our allies and likely to promote more effective information sharing.
- **Look for Opportunities to Bring In More Countries.** Congress should look for policies that would encourage more countries to be admitted into VWP. Bringing in more countries contributes to collective and national security by providing an incentive for nations to increase their own security protections. It also allows consular officers to focus on security and catching dangerous individuals—instead of spending time processing visas.
- **Provide an Alternative to the Current Biometric Exit Mandate.** One requirement from the post-9/11 VWP mandates could pose a real challenge to the program's future: DHS must biometrically track the exit of all foreign travelers by July 31, 2009. While DHS can track some of this data easily, it is near impossible to track the exit of all individuals from the multiple land border exists each year. Congress needs to alter the mandate to preserve VWP while instituting feasible exit tracking.

A Matter of National Security. Congress should not destroy the VWP by instituting unworkable requirements. Doing so would decrease security and alienate our allies while battering America's already-damaged economy.

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