

114TH CONGRESS
2D SESSION

H. R. 4314

AN ACT

To require a plan to combat international travel by terrorists and foreign fighters, accelerate the transfer of certain border security systems to foreign partner governments, establish minimum international border security standards, authorize the suspension of foreign assistance to countries not making significant efforts to comply with such minimum standards, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Counterterrorism
3 Screening and Assistance Act of 2016”.

4 **SEC. 2. FOREIGN PARTNER ENGAGEMENT PLAN.**

5 (a) FINDINGS.—Consistent with the final report of
6 the Committee on Homeland Security of the House of
7 Representatives bipartisan “Task Force on Combating
8 Terrorist and Foreign Fighter Travel”, Congress makes
9 the following findings:

10 (1) It is important for the national security of
11 the United States to assist foreign partners in clos-
12 ing security gaps which may allow terrorists and for-
13 eign fighters to travel internationally, avoiding de-
14 tection.

15 (2) Building foreign partner capacity to combat
16 terrorist travel helps extend the United States secu-
17 rity beyond its border to mitigate threats before they
18 reach the United States.

19 (3) United States Government departments and
20 agencies have spent billions of dollars to help foreign
21 partners improve their security against terrorist
22 travel since the attacks of September 11, 2001, in-
23 cluding through the provision of technical assistance,
24 equipment, training, and other tools.

25 (4) The lack of a United States Government-
26 wide, risk-based approach increases the odds that

1 systematic security gaps abroad may persist and
2 that United States response efforts will not be maxi-
3 mized in order to close these gaps.

4 (5) Failure to effectively coordinate capacity-
5 building activities also results in greater risk of over-
6 lap, waste, and unnecessary duplication between the
7 United States and international programs.

8 (b) SENSE OF CONGRESS.—It is the sense of Con-
9 gress that the United States Government must ensure ca-
10 pacity-building assistance is coordinated both among
11 United States Government departments and agencies as
12 well as with foreign implementing partners, and assistance
13 should be prioritized for the highest-risk countries for
14 travel by terrorists and foreign fighters.

15 (c) PLAN.—

16 (1) IN GENERAL.—Not later than 180 days
17 after the date of the enactment of this Act and every
18 2 years thereafter at the time of the President’s
19 budget submission to Congress under section 1105
20 of title 31, United States Code, until 2022, the Sec-
21 retary of State shall, in accordance with the protec-
22 tion of intelligence sources and methods, develop and
23 submit to the appropriate congressional committees
24 unclassified and classified versions of a foreign part-
25 ner engagement plan which catalogues existing ca-

1 capacity-building initiatives abroad to combat travel by
2 terrorists and foreign fighters and identifies areas
3 for adjustment to align ongoing efforts with risk-
4 based priorities.

5 (2) COORDINATION.—The plan required under
6 paragraph (1) shall be developed in coordination
7 with all relevant United States Government depart-
8 ments and agencies and in consultation with the
9 Secretary of Homeland Security, the Secretary of
10 the Treasury, the Secretary of Defense, the Attorney
11 General, the Director of National Intelligence, and
12 the Director of the Federal Bureau of Investigation.

13 (3) CONTENTS.—The plan required under para-
14 graph (1) shall—

15 (A) include an assessment of all countries
16 and whether each country is high-risk, medium-
17 risk, or low-risk for travel by terrorists and for-
18 eign fighters based on the minimum standards
19 described in section 4(b), as well as—

20 (i) an identification of the number of
21 flights that originate from last points of
22 departure in each country to the United
23 States;

1 (ii) visa waiver program status or visa
2 application and denial rates for each coun-
3 try;

4 (iii) recent threats, terrorist and for-
5 eign fighter travel trends, and the overall
6 terror threat environment in each country;
7 and

8 (iv) other criteria as determined by
9 the Secretary of State and the Secretary of
10 Homeland Security;

11 (B) detail existing United States Govern-
12 ment programs, projects, and activities which
13 are intended to or have the substantial effect of
14 building the capacity of such countries to com-
15 bat travel by terrorists and foreign fighters, in-
16 cluding estimated spending levels by country
17 where practicable; and

18 (C) outline a plan for prioritizing United
19 States Government resources toward high-risk
20 and medium-risk countries, including—

21 (i) identifying efforts which should be
22 reformed, consolidated, or eliminated; and

23 (ii) detailing new programs, projects,
24 or activities that are requested, being

1 planned, or are undergoing implementation
2 and associated costs.

3 **SEC. 3. SHARING SYSTEMS AND EQUIPMENT TO OBSTRUCT**
4 **TRAVEL BY TERRORISTS AND FOREIGN**
5 **FIGHTERS.**

6 (a) **BORDER SECURITY AND COUNTERTERRORISM**
7 **SCREENING TOOLS.—**

8 (1) **IN GENERAL.**—Subject to subsection (d),
9 the Secretary of Homeland Security and the Sec-
10 retary of State shall accelerate the provision of ap-
11 propriate versions of the following systems to foreign
12 governments:

13 (A) U.S. Customs and Border Protection’s
14 Automated Targeting System—Global.

15 (B) The Department of State’s Personal
16 Identification Secure Comparison and Evalua-
17 tion System.

18 (2) **PRIORITIZATION.**—The Secretary of Home-
19 land Security and the Secretary of State shall co-
20 ordinate to prioritize the provision of the systems
21 specified in paragraph (1) to countries determined to
22 be high-risk and medium-risk in the foreign partner
23 engagement plan required under section 2.

24 (b) **EQUIPMENT TRANSFER.**—

1 (1) IN GENERAL.—Subject to paragraphs (2)
2 and (3), the Secretary of Homeland Security, in con-
3 sultation with the Secretary of State, is authorized
4 to provide, with or without reimbursement, excess
5 nonlethal equipment and supplies owned by the De-
6 partment of Homeland Security to a foreign govern-
7 ment.

8 (2) DETERMINATION.—The Secretary of Home-
9 land Security is authorized to provide equipment and
10 supplies pursuant to paragraph (1) if the Secretary
11 determines that the provision of such equipment and
12 supplies would—

13 (A) further the homeland security interests
14 of the United States; and

15 (B) enhance the recipient government’s ca-
16 pacity to—

17 (i) mitigate the risk or threat of ter-
18 rorism, infectious disease, or natural dis-
19 aster;

20 (ii) protect and expedite lawful trade
21 and travel; or

22 (iii) enforce intellectual property
23 rights.

24 (3) LIMITATION ON TRANSFER.—The Secretary
25 of Homeland Security may not—

1 (A) provide any equipment or supplies that
2 are designated as items on the United States
3 Munitions List pursuant to section 38 of the
4 Arms Export Control Act (22 U.S.C. 2778); or

5 (B) provide any vessel or aircraft pursuant
6 to this subsection.

7 (4) RELATED TRAINING.—In conjunction with a
8 provision of equipment or supplies pursuant to para-
9 graph (1), the Secretary of Homeland Security may
10 provide such equipment-related or supplies-related
11 training and assistance as the Secretary determines
12 to be necessary.

13 (5) MAINTENANCE OF TRANSFERRED EQUIP-
14 MENT.—The Secretary of Homeland Security may
15 provide for the maintenance of transferred equip-
16 ment or supplies through service contracts or other
17 means, with or without reimbursement, as the Sec-
18 retary determines appropriate.

19 (6) REIMBURSEMENT OF EXPENSES.—The Sec-
20 retary of Homeland Security is authorized to collect
21 payment from the recipient government for the pro-
22 vision of training, shipping costs, supporting mate-
23 rials, maintenance, supplies, or other assistance in
24 support of provided equipment or supplies under this
25 subsection.

1 (7) RECEIPTS CREDITED AS OFFSETTING COL-
2 LECTIONS.—Notwithstanding section 3302 of title
3 31, United States Code, any amount collected under
4 this subsection—

5 (A) shall be credited as offsetting collec-
6 tions, subject to appropriations, to the account
7 that finances the activities and services for
8 which the payment is received; and

9 (B) shall remain available until expended
10 for the purpose of providing for the security in-
11 terests of the homeland.

12 (8) RULE OF CONSTRUCTION.—Nothing in this
13 subsection may be construed as affecting, aug-
14 menting, or diminishing the authority of the Sec-
15 retary of State.

16 (9) DEFINITION.—For the purposes of this sec-
17 tion, the term “excess nonlethal equipment and sup-
18 plies” means equipment and supplies the Secretary
19 of Homeland Security has determined is either not
20 required for United States domestic operations, or
21 would be more effective to homeland security if de-
22 ployed for use outside of the United States.

23 (c) NOTIFICATION TO CONGRESS.—

24 (1) IN GENERAL.—Not later than 15 days be-
25 fore providing any systems or equipment or supplies

1 under this section, the Secretary of Homeland Security and Secretary of State shall provide notification
2 to the appropriate congressional committees of such
3 provision.
4

5 (2) CONTENTS.—A notification required under
6 paragraph (1) shall include the following:

7 (A) The specific vulnerability that will be
8 mitigated by the provision of any systems or
9 equipment or supplies under this section.

10 (B) An explanation as to why the recipient
11 is unable or unwilling to independently acquire
12 such systems or equipment or supplies.

13 (C) An evacuation plan for any sensitive
14 technologies in case of emergency or instability
15 in the country to which such systems or equip-
16 ment or supplies is being provided.

17 (D) How the United States Government
18 will ensure that such systems or equipment or
19 supplies are being maintained appropriately and
20 used as intended.

21 (E) The total dollar value of such systems,
22 equipment, and supplies.

23 (d) RULE OF CONSTRUCTION.—

24 (1) IN GENERAL.—The authority provided
25 under this section shall be exercised in accordance

1 with applicable provisions of the Arms Export Con-
2 trol Act (22 U.S.C. 2751 et seq.), the Export Ad-
3 ministration Regulations, or any other similar provi-
4 sion of law.

5 (2) DEFINITION.—In this subsection, the term
6 “Export Administration Regulations” means—

7 (A) the Export Administration Regulations
8 as maintained and amended under the authority
9 of the International Emergency Economic Pow-
10 ers Act (50 U.S.C. 1701 et seq.) and codified
11 in subchapter C of chapter VII of title 15, Code
12 of Federal Regulations; or

13 (B) any successor regulations.

14 **SEC. 4. ACTIONS WITH RESPECT TO FOREIGN COUNTRIES**
15 **THAT FAIL TO MEET MINIMUM STANDARDS**
16 **FOR SERIOUS AND SUSTAINED EFFORTS TO**
17 **COMBAT TERRORIST AND FOREIGN FIGHTER**
18 **TRAVEL.**

19 (a) REPORTS TO CONGRESS.—

20 (1) IN GENERAL.—Not later than April 30 of
21 each year through 2021, the Secretary of State, in
22 coordination with the Secretary of Homeland Secu-
23 rity, shall submit to the appropriate congressional
24 committees a report with respect to the status of ef-
25 forts of foreign governments to combat terrorist and

1 foreign fighter travel. The report shall include the
2 following:

3 (A) A list of those foreign countries, if
4 any, to which the minimum standards for seri-
5 ous and sustained efforts to combat terrorist
6 and foreign fighter travel as described in sub-
7 section (b) are applicable and whose govern-
8 ments comply with such standards.

9 (B) A list of those foreign countries, if
10 any, to which the minimum standards for seri-
11 ous and sustained efforts to combat terrorist
12 and fighter travel as described in subsection (b)
13 are applicable and whose governments do not
14 yet fully comply with such standards but are
15 making significant efforts to bring themselves
16 into compliance.

17 (C) A list of those foreign countries, if any,
18 to which the minimum standards for serious
19 and sustained efforts to combat terrorist and
20 foreign fighter travel as described in subsection
21 (b) are applicable and whose governments do
22 not fully comply with such standards and are
23 not making significant efforts to bring them-
24 selves into compliance.

1 (D) A description for each foreign country
2 identified in subparagraphs (B) and (C) of the
3 areas in which the government of the foreign
4 country does not meet the minimum standards
5 for serious and sustained efforts to combat ter-
6 rorist and foreign fighter travel as described in
7 subsection (b).

8 (2) FORM.—The report required by paragraph
9 (1) shall be submitted in unclassified form, but may
10 contain a classified annex, if necessary.

11 (3) INCLUSION IN COUNTRY REPORTS ON TER-
12 RORISM.—To the maximum extent practicable, the
13 Secretary of State, in coordination with the Sec-
14 retary of Homeland Security, should incorporate the
15 report required by paragraph (1) into the annual
16 country reports on terrorism submitted pursuant to
17 section 140 of the Foreign Relations Authorization
18 Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f).

19 (b) MINIMUM STANDARDS DESCRIBED.—The min-
20 imum standards for serious and sustained efforts to com-
21 bat terrorist and foreign fighter travel applicable to the
22 government of a foreign country are the following:

23 (1) The government of the country makes
24 meaningful efforts to identify and monitor terrorists

1 and foreign fighters operating within the territory of
2 the country.

3 (2) The government of the country regularly ex-
4 changes substantive counterterrorism information
5 with other foreign governments, including the
6 United States Government, through bilateral or mul-
7 tilateral channels and international organizations
8 such as INTERPOL, and cooperates with other for-
9 eign governments in the investigation and prosecu-
10 tion of terrorists and foreign fighters.

11 (3) The government of the country implements
12 effective border controls or participates in an exist-
13 ing border-crossing control regime that has been de-
14 termined by the United States Government to em-
15 ploy effective border-crossing oversight.

16 (4) The government of the country has controls
17 and systems in place to prevent and report upon
18 counterfeiting, forgery, and fraudulent use or pos-
19 session of false, stolen, or lost identity papers and
20 travel documents.

21 (5) The government of the country collects air
22 passenger data and employs evidence-based traveler
23 risk assessment and screening procedures, including
24 collection and analysis of travel data.

1 (6) The government of the country appro-
2 priately screens travelers, including vetting of trav-
3 elers at air, sea, and land ports of entry, against
4 counterterrorism and other criminal databases, as
5 appropriate.

6 (7) The government of the country submits in-
7 formation to INTERPOL databases and screens
8 travelers against INTERPOL databases at ports of
9 entry and exit.

10 (8) The government of the country has estab-
11 lished and implemented domestic laws criminalizing
12 material support to foreign terrorist organizations
13 and has the ability and willingness to prosecute
14 cases involving such material support to foreign ter-
15 rorist organizations.

16 (9) The government of the country takes meas-
17 ures to prevent individuals in its territory from trav-
18 eling abroad to enlist with or provide material sup-
19 port to foreign terrorist organizations.

20 (10) The government of the country takes
21 measures to ensure a minimal level of corruption
22 and likelihood that corruption could impact the ve-
23 racity of security and intelligence reporting from the
24 country, a minimal likelihood that such corruption
25 could adversely affect the legitimacy of national

1 identity papers of the country, and the country does
2 not shelter suspects from investigation and prosecu-
3 tion.

4 (11) The government of a country is not deter-
5 mined to be a high-risk program country under sec-
6 tion 217(c)(12) of the Immigration and Nationality
7 Act (8. U.S.C. 1187(c)(12)).

8 (c) SUSPENSION OF ASSISTANCE.—The Secretary of
9 State, in consultation with the Secretary of Homeland Se-
10 curity and the heads of other Federal agencies, as appro-
11 priate, is authorized to suspend nonhumanitarian,
12 nontrade-related foreign assistance to any government of
13 a foreign country if the foreign country is identified in
14 subparagraph (C) of subsection (a)(1) in the most recent
15 report submitted to the appropriate congressional commit-
16 tees under such subsection.

17 **SEC. 5. DEFINITIONS.**

18 In this Act:

19 (1) APPROPRIATE CONGRESSIONAL COMMIT-
20 TEES.—The term “appropriate congressional com-
21 mittees” means the Committee on Homeland Secu-
22 rity and Governmental Affairs, the Committee on
23 Foreign Relations, the Committee on the Judiciary,
24 and the Committee on Commerce, Science, and
25 Transportation of the Senate and the Committee on

1 Homeland Security, the Committee on the Judiciary,
2 and the Committee on Foreign Affairs of the House
3 of Representatives.

4 (2) FOREIGN TERRORIST ORGANIZATION.—The
5 term “foreign terrorist organization” means an or-
6 ganization that is designated as a foreign terrorist
7 organization pursuant to section 219 of the Immi-
8 gration and Nationality Act (8 U.S.C. 1189).

9 (3) NONHUMANITARIAN, NONTRADE-RELATED
10 FOREIGN ASSISTANCE.—The term “nonhumani-
11 tarian, nontrade-related foreign assistance” has the
12 meaning given the term in section 103 of the Traf-
13 ficking Victims Protection Act of 2000 (22 U.S.C.
14 7102).

15 **SEC. 6. PROHIBITION ON ADDITIONAL FUNDING.**

16 No additional funds are authorized to be appro-
17 priated to carry out this Act.

Passed the House of Representatives March 21,
2016.

Attest:

Clerk.

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2^D SESSION

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To require a plan to combat international travel by terrorists and foreign fighters, accelerate the transfer of certain border security systems to foreign partner governments, establish minimum international border security standards, authorize the suspension of foreign assistance to countries not making significant efforts to comply with such minimum standards, and for other purposes.