

115TH CONGRESS
1ST SESSION

S. 942

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.

IN THE SENATE OF THE UNITED STATES

APRIL 26, 2017

Mr. RUBIO (for himself and Mr. COONS) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

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 2017”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

6 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
7 **TEES.**—The term “appropriate congressional com-
8 mittees” means—

9 (A) the Committee on Commerce, Science,
10 and Transportation of the Senate;

11 (B) the Committee on Foreign Relations of
12 the Senate;

13 (C) the Committee on Homeland Security
14 and Governmental Affairs of the Senate;

15 (D) the Committee on the Judiciary of the
16 Senate;

17 (E) the Committee on Foreign Affairs of
18 the House of Representatives;

19 (F) the Committee on Homeland Security
20 of the House of Representatives; and

21 (G) the Committee on the Judiciary of the
22 House of Representatives.

23 (2) **FOREIGN TERRORIST ORGANIZATION.**—The
24 term “foreign terrorist organization” means an or-
25 ganization that is designated by the Secretary of
26 State as a foreign terrorist organization pursuant to

1 section 219(a) of the Immigration and Nationality
2 Act (8 U.S.C. 1189(a)).

3 (3) NONHUMANITARIAN, NONTRADE-RELATED
4 FOREIGN ASSISTANCE.—The term “nonhumanitarian,
5 nontrade-related foreign assistance” has the
6 meaning given the term in section 103 of the Traf-
7 ficking Victims Protection Act of 2000 (22 U.S.C.
8 7102).

9 **SEC. 3. FOREIGN PARTNER ENGAGEMENT PLAN.**

10 (a) FINDINGS.—Consistent with the final report of
11 the Committee on Homeland Security of the House of
12 Representatives’s bipartisan Task Force on Combating
13 Terrorist and Foreign Fighter Travel, Congress makes the
14 following findings:

15 (1) It is important for the national security of
16 the United States to assist foreign partners in closing
17 security gaps that may allow terrorists and foreign
18 fighters to avoid detection while traveling inter-
19 nationally.

20 (2) Building foreign partner capacity to combat
21 terrorist travel helps extend the United States security
22 beyond its border to mitigate threats before they
23 reach the United States.

24 (3) Since the attacks on September 11, 2001,
25 United States Government departments and agen-

1 cies have spent billions of dollars helping foreign
2 partners improve their security against terrorist
3 travel, including by providing such partners with
4 technical assistance, equipment, training, and other
5 tools.

6 (4) The lack of a United States Government-
7 wide, risk-based approach increases the likelihood
8 that—

9 (A) systematic security gaps abroad will
10 persist; and

11 (B) the United States Government will not
12 maximize its response efforts to close such
13 gaps.

14 (5) Failure to effectively coordinate capacity-
15 building activities also increases the likelihood of
16 overlap, waste, and unnecessary duplication between
17 the United States and international programs.

18 (b) SENSE OF CONGRESS.—It is the sense of Con-
19 gress that—

20 (1) the United States Government must ensure
21 capacity-building assistance is coordinated—

22 (A) among United States Government de-
23 partments and agencies; and

24 (B) with foreign implementing partners;
25 and

1 (2) such assistance should be prioritized for the
2 highest-risk countries for travel by terrorists and
3 foreign fighters.

4 (c) PLAN.—

5 (1) IN GENERAL.—Not later than 180 days
6 after the date of the enactment of this Act, and
7 every two years thereafter in conjunction with the
8 President’s budget submission to Congress under
9 section 1105 of title 31, United States Code, until
10 2023, the Secretary of State, in accordance with the
11 protection of intelligence sources and methods, shall
12 develop and submit to the appropriate congressional
13 committees unclassified and classified versions of a
14 foreign partner engagement plan, which—

15 (A) catalogs existing capacity-building ini-
16 tiatives abroad to combat travel by terrorists
17 and foreign fighters; and

18 (B) identifies areas for adjustment to align
19 ongoing efforts with risk-based priorities.

20 (2) COORDINATION AND CONSULTATION.—The
21 plan required under paragraph (1) shall be devel-
22 oped in coordination with all relevant United States
23 Government departments and agencies and in con-
24 sultation with the Secretary of Homeland Security,
25 the Secretary of the Treasury, the Secretary of De-

1 fense, the Attorney General, the Director of Na-
2 tional Intelligence, and the Director of the Federal
3 Bureau of Investigation.

4 (3) CONTENTS.—The plan required under para-
5 graph (1) shall—

6 (A) include an assessment of the countries
7 of greatest concern and risk for travel to the
8 United States by members of foreign terrorist
9 organizations and foreign fighters, which may
10 be based on the minimum standards described
11 in section 5(b) and other factors, as appro-
12 priate, including—

13 (i) the number of flights to the United
14 States that originate from last points of
15 departure in each country;

16 (ii) visa waiver program status or visa
17 application and denial rates for each coun-
18 try;

19 (iii) recent threats, terrorist and for-
20 eign fighter travel trends, and the overall
21 terror threat environment in each country;
22 and

23 (iv) other criteria identified by the
24 Secretary of State and the Secretary of
25 Homeland Security;

1 (B) detail existing United States Govern-
2 ment programs, projects, and activities intended
3 to build the capacity of such countries to com-
4 bat travel by terrorists and foreign fighters, in-
5 cluding estimated spending levels by country, to
6 the extent practicable; and

7 (C) outline a plan for prioritizing United
8 States Government resources toward countries
9 referred to in subparagraph (A), including—

10 (i) efforts that should be reformed,
11 consolidated, or eliminated; and

12 (ii) new programs, projects, or activi-
13 ties that are requested, being planned, or
14 are undergoing implementation and the
15 costs associated with such programs,
16 projects, or activities.

17 **SEC. 4. SHARING SYSTEMS AND EQUIPMENT TO OBSTRUCT**
18 **TRAVEL BY TERRORISTS AND FOREIGN**
19 **FIGHTERS.**

20 (a) **BORDER SECURITY AND COUNTERTERRORISM**
21 **SCREENING TOOLS.—**

22 (1) **IN GENERAL.—**Subject to paragraph (2)
23 and subsection (d), the Secretary of Homeland Secu-
24 rity and the Secretary of State shall provide foreign

1 governments, to the extent practicable, appropriate
2 versions of—

3 (A) U.S. Customs and Border Protection’s
4 global travel targeting and analysis systems;
5 and

6 (B) the Department of State’s watchlist-
7 ing, identification, and screening systems.

8 (2) PRIORITIZATION.—The Secretary of Home-
9 land Security and the Secretary of State shall pro-
10 vide the systems specified in paragraph (1) to coun-
11 tries referred to in section 3(e)(3)(A) before such
12 systems are provided to other countries.

13 (b) EQUIPMENT TRANSFER.—

14 (1) DEFINED TERM.—In this subsection, the
15 term “excess nonlethal equipment and supplies”
16 means equipment and supplies that the Secretary of
17 Homeland Security determines—

18 (A) are not required for United States do-
19 mestic operations; or

20 (B) would be more effective to homeland
21 security if deployed for use outside of the
22 United States.

23 (2) AUTHORIZATION.—Subject to paragraphs
24 (3) and (8), the Secretary of Homeland Security
25 may provide excess nonlethal equipment and supplies

1 to a foreign government, with or without reimburse-
2 ment, if the Secretary determines such action
3 would—

4 (A) further the homeland security interests
5 of the United States; and

6 (B) enhance the recipient government's ca-
7 pacity—

8 (i) to mitigate the risk or threat of
9 terrorism, infectious disease, or natural
10 disaster;

11 (ii) to protect and expedite lawful
12 trade and travel; or

13 (iii) to enforce intellectual property
14 rights.

15 (3) LIMITATION ON TRANSFER.—In carrying
16 out paragraph (2), the Secretary of Homeland Secu-
17 rity may not provide any foreign country with—

18 (A) any equipment or supplies that are
19 designated as items on the United States Muni-
20 tions List pursuant to section 38 of the Arms
21 Export Control Act (22 U.S.C. 2778); or

22 (B) any vessel or aircraft.

23 (4) RELATED TRAINING.—In conjunction with
24 the provision of equipment or supplies pursuant to
25 paragraph (1), the Secretary of Homeland Security

1 may provide such training and assistance as the Sec-
2 retary determines to be necessary to use or operate
3 such equipment or supplies.

4 (5) MAINTENANCE OF TRANSFERRED EQUIP-
5 MENT.—The Secretary of Homeland Security may
6 provide for the maintenance of transferred equip-
7 ment or supplies through service contracts or other
8 means, with or without reimbursement, as the Sec-
9 retary determines appropriate.

10 (6) REIMBURSEMENT OF EXPENSES.—The Sec-
11 retary of Homeland Security may collect payment
12 from a recipient government under this subsection
13 for the provision of training, shipping costs, sup-
14 porting materials, maintenance, supplies, or other
15 assistance in support of equipment or supplies pro-
16 vided under this subsection.

17 (7) RECEIPTS CREDITED AS OFFSETTING COL-
18 LECTIONS.—Notwithstanding section 3302 of title
19 31, United States Code, any amount collected under
20 this subsection—

21 (A) shall be credited as offsetting collec-
22 tions, subject to appropriations, to the account
23 that finances the activities and services for
24 which the payment is received; and

1 (B) shall remain available until expended
2 for homeland security.

3 (8) CONCURRENCE.—The Secretary of Home-
4 land Security may exercise the authority under this
5 subsection only with the concurrence of the Sec-
6 retary of State.

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

11 (c) NOTIFICATION TO CONGRESS.—

12 (1) IN GENERAL.—Not later than 15 days be-
13 fore providing any systems, equipment, or supplies
14 under this section, the Secretary of Homeland Secu-
15 rity and Secretary of State shall notify the appro-
16 priate congressional committees in accordance with
17 paragraph (2).

18 (2) CONTENTS.—Each notification under para-
19 graph (1) shall include—

20 (A) the specific vulnerability that will be
21 mitigated by the provision of the systems,
22 equipment, or supplies under this section;

23 (B) an explanation for the recipient's in-
24 ability or unwillingness to independently acquire
25 such systems, equipment, or supplies;

1 (C) an evacuation plan for any sensitive
2 technologies in case of emergency or instability
3 in the country to which such systems or equip-
4 ment or supplies is being provided;

5 (D) how the United States Government
6 will ensure that such systems or equipment or
7 supplies are being maintained appropriately and
8 used as intended; and

9 (E) the total monetary value of such sys-
10 tems, equipment, and supplies.

11 (d) RULE OF CONSTRUCTION.—

12 (1) DEFINED TERM.—In this subsection, the
13 term “Export Administration Regulations” means—

14 (A) the Export Administration Regulations
15 maintained and amended under the authority of
16 the International Emergency Economic Powers
17 Act (50 U.S.C. 1701 et seq.) and codified in
18 subchapter C of chapter VII of title 15, Code
19 of Federal Regulations; and

20 (B) any successor regulations.

21 (2) RESTRICTION.—The authority provided
22 under this section shall be exercised in accordance
23 with applicable provisions of the Arms Export Con-
24 trol Act (22 U.S.C. 2751 et seq.), the Export Ad-

1 ministration Regulations, and any other similar pro-
2 vision of law.

3 **SEC. 5. ACTIONS WITH RESPECT TO FOREIGN COUNTRIES**
4 **THAT FAIL TO MEET MINIMUM STANDARDS**
5 **FOR SERIOUS AND SUSTAINED EFFORTS TO**
6 **COMBAT TERRORIST AND FOREIGN FIGHTER**
7 **TRAVEL.**

8 (a) REPORTS TO CONGRESS.—

9 (1) IN GENERAL.—Not later than April 30 of
10 each year through 2022, the Secretary of State, in
11 coordination with the Secretary of Homeland Secu-
12 rity, shall submit to the appropriate congressional
13 committees a report, in unclassified or classified
14 form, that describes—

15 (A) the status of efforts of foreign govern-
16 ments to combat terrorist and foreign fighter
17 travel, including an update to the foreign part-
18 ner engagement plan required under section
19 3(c); and

20 (B) relevant United States Government ac-
21 tions taken to help countries comply with min-
22 imum standards for serious and sustained ef-
23 forts to combat terrorist and foreign fighter
24 travel, such as the minimum standards de-
25 scribed in subsection (b).

1 (2) INCLUSION IN COUNTRY REPORTS ON TER-
2 RORISM.—To the extent practicable, the Secretary of
3 State, in coordination with the Secretary of Home-
4 land Security, should incorporate the reports re-
5 quired under paragraph (1) into the annual country
6 reports on terrorism submitted pursuant to section
7 140 of the Foreign Relations Authorization Act, Fis-
8 cal Years 1988 and 1989 (22 U.S.C. 2656f).

9 (b) MINIMUM STANDARDS DESCRIBED.—The min-
10 imum standards for serious and sustained efforts to com-
11 bat terrorist and foreign fighter travel applicable to the
12 government of a foreign country include—

13 (1) making meaningful efforts to identify and
14 monitor terrorists and foreign fighters operating
15 within the territory of the country;

16 (2) regularly exchanging substantive counterter-
17 rorism information with other foreign governments,
18 including the United States Government, through bi-
19 lateral or multilateral channels and international or-
20 ganizations such as INTERPOL;

21 (3) cooperating with other foreign governments
22 in the investigation and prosecution of terrorists and
23 foreign fighters;

24 (4) implementing effective border controls or
25 participating in an existing border-crossing control

1 regime that has been determined by the United
2 States Government to employ effective border-cross-
3 ing oversight;

4 (5) having controls and systems in place to pre-
5 vent and report upon counterfeiting, forgery, and
6 fraudulent use or possession of false, stolen, or lost
7 identity papers and travel documents;

8 (6) collecting air passenger data and employs
9 evidence-based traveler risk assessment and screen-
10 ing procedures, including the collection and analysis
11 of travel data;

12 (7) appropriately screening travelers, including
13 vetting travelers at air, sea, and land ports of entry,
14 against counterterrorism and other criminal data-
15 bases, as appropriate;

16 (8) submitting information to INTERPOL
17 databases and screening travelers against INTER-
18 POL databases at ports of entry and exit;

19 (9) establishing and implementing domestic
20 laws criminalizing material support to foreign ter-
21 rorist organizations and having the ability and will-
22 ingness to prosecute cases involving such material
23 support to foreign terrorist organizations;

24 (10) taking measures to prevent individuals in
25 its territory from traveling abroad to enlist with or

1 provide material support to foreign terrorist organi-
2 zations;

3 (11) taking measures to ensure a minimal level
4 of corruption and likelihood that corruption could
5 impact the veracity of security and intelligence re-
6 porting from the country, a minimal likelihood that
7 such corruption could adversely affect the legitimacy
8 of national identity papers of the country, and not
9 sheltering suspects from investigation and prosecu-
10 tion; and

11 (12) not being classified as a high-risk program
12 country under section 217(c)(12) of the Immigration
13 and Nationality Act (8 U.S.C. 1187(c)(12)).

14 (c) SUSPENSION OF ASSISTANCE.—The Secretary of
15 State, in consultation with the Secretary of Homeland Se-
16 curity and the heads of other Federal agencies, as appro-
17 priate, is authorized to suspend nonhumanitarian, non-
18 trade-related foreign assistance to the government of any
19 foreign country that is not making significant efforts to
20 comply with the minimum standards for serious and sus-
21 tained efforts to combat terrorist and foreign fighter travel
22 described in subsection (b).

1 **SEC. 6. NO ADDITIONAL FUNDS AUTHORIZED.**

2 No additional funds are authorized to carry out the
3 requirements of this Act. Such requirements shall be car-
4 ried out using amounts otherwise authorized.

○