Suspend the Rules and Pass the Bill, H. R. 4314, With an Amendment

(The amendment strikes all after the enacting clause and inserts a new text)

114TH CONGRESS
2D SESSION

H. R. 4314

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 HOUSE OF REPRESENTATIVES

JANUARY 5, 2016

Mr. ZE LDIN (for himself, Mr. K A TKO, Ms. M CSALLY, Mr. L OUDERMILK, Mr. HURD of Texas, and Mr. R ATCLIFFE) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on Homeland Security and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

SEC. 2. FOREIGN PARTNER ENGAGEMENT PLAN.

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

(1) It is important for the national security of the United States to assist foreign partners in closing security gaps which may allow terrorists and foreign fighters to travel internationally, avoiding detection.

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

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

(4) The lack of a United States Government-wide, risk-based approach increases the odds that systematic security gaps abroad may persist and that United States response efforts will not be maximized in order to close these gaps.

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

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States Government must ensure capacity-building assistance is coordinated both among United States Government departments and agencies as well as with foreign implementing partners, and assistance should be prioritized for the highest-risk countries for travel by terrorists and foreign fighters.

(c) PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act and every two years thereafter at the time of the President’s budget submission to Congress under section 1105 of title 31, United States Code, until 2022, the Secretary of State shall, in accordance with the protec-
tion of intelligence sources and methods, develop and
submit to the appropriate congressional committees
unclassified and classified versions of a foreign part-
ner engagement plan which catalogues existing ca-
pacity-building initiatives abroad to combat travel by
terrorists and foreign fighters and identifies areas
for adjustment to align ongoing efforts with risk-
based priorities.

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

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

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

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

(ii) visa waiver program status or visa application and denial rates for each country;

(iii) recent threats, terrorist and foreign fighter travel trends, and the overall terror threat environment in each country; and

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

(B) detail existing United States Government programs, projects, and activities which are intended to or have the substantial effect of building the capacity of such countries to combat travel by terrorists and foreign fighters, including estimated spending levels by country where practicable; and

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

(i) identifying efforts which should be reformed, consolidated, or eliminated; and
(ii) detailing new programs, projects, or activities that are requested, being planned, or are undergoing implementation and associated costs.

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

(a) Border Security and Counterterrorism Screening Tools.—

(1) In general.—Subject to subsection (d), the Secretary of Homeland Security and the Secretary of State shall accelerate the provision of appropriate versions of the following systems to foreign governments:

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

(B) The Department of State’s Personal Identification Secure Comparison and Evaluation System.

(2) Prioritization.—The Secretary of Homeland Security and the Secretary of State shall coordinate to prioritize the provision of the systems specified in paragraph (1) to countries determined to be high-risk and medium-risk in the foreign partner engagement plan required under section 2.
(b) **Equipment Transfer.—**

(1) **In General.—** Subject to paragraphs (2) and (3), the Secretary of Homeland Security, in consultation with the Secretary of State, is authorized to provide, with or without reimbursement, excess nonlethal equipment and supplies owned by the Department of Homeland Security to a foreign government.

(2) **Determination.—** The Secretary of Homeland Security is authorized to provide equipment and supplies pursuant to paragraph (1) if the Secretary determines that the provision of such equipment and supplies would—

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

(B) enhance the recipient government’s capacity to—

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

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

(iii) enforce intellectual property rights.
(3) LIMITATION ON TRANSFER.—The Secretary of Homeland Security may not—

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

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

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

(5) MAINTENANCE OF TRANSFERRED EQUIPMENT.—The Secretary of Homeland Security may provide for the maintenance of transferred equipment or supplies through service contracts or other means, with or without reimbursement, as the Secretary determines appropriate.

(6) REIMBURSEMENT OF EXPENSES.—The Secretary of Homeland Security is authorized to collect payment from the recipient government for the provision of training, shipping costs, supporting materials, maintenance, supplies, or other assistance in
support of provided equipment or supplies under this subsection.

(7) Receipts credited as offsetting collections.—Notwithstanding section 3302 of title 31, United States Code, any amount collected under this subsection—

(A) shall be credited as offsetting collections, subject to appropriations, to the account that finances the activities and services for which the payment is received; and

(B) shall remain available until expended for the purpose of providing for the security interests of the homeland.

(8) Rule of construction.—Nothing in this subsection may be construed as affecting, augmenting, or diminishing the authority of the Secretary of State.

(9) Definition.—For the purposes of this section, the term “excess nonlethal equipment and supplies” means equipment and supplies the Secretary of Homeland Security has determined is either not required for United States domestic operations, or would be more effective to homeland security if deployed for use outside of the United States.

(e) Notification to Congress.—
(1) IN GENERAL.—Not later than 15 days before providing any systems or equipment or supplies under this section, the Secretary of Homeland Security and Secretary of State shall provide notification to the appropriate congressional committees of such provision.

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

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

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

(C) An evacuation plan for any sensitive technologies in case of emergency or instability in the country to which such systems or equipment or supplies is being provided.

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

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

(d) RULE OF CONSTRUCTION.—
(1) IN GENERAL.—The authority provided under this section shall be exercised in accordance with applicable provisions of the Arms Export Control Act (22 U.S.C. 2751 et seq.), the Export Administration Regulations, or any other similar provision of law.

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

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

(B) any successor regulations.

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

(a) REPORTS TO CONGRESS.—

(1) IN GENERAL.—Not later than April 30 of each year through 2021, the Secretary of State, in coordination with the Secretary of Homeland Security, shall submit to the appropriate congressional
committees a report with respect to the status of efforts of foreign governments to combat terrorist and foreign fighter travel. The report shall include the following:

(A) A list of those foreign countries, if any, to which the minimum standards for serious and sustained efforts to combat terrorist and foreign fighter travel as described in subsection (b) are applicable and whose governments comply with such standards.

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

(C) A list of those foreign countries, if any, to which the minimum standards for serious and sustained efforts to combat terrorist and foreign fighter travel as described in subsection (b) are applicable and whose governments do not fully comply with such standards and are
not making significant efforts to bring themselves into compliance.

(D) A description for each foreign country identified in subparagraphs (B) and (C) of the areas in which the government of the foreign country does not meet the minimum standards for serious and sustained efforts to combat terrorist and foreign fighter travel as described in subsection (b).

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

(3) Inclusion in country reports on terrorism.—To the maximum extent practicable, the Secretary of State, in coordination with the Secretary of Homeland Security, should incorporate the report required by paragraph (1) into the annual country reports on terrorism submitted pursuant to section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f).

(b) Minimum Standards Described.—The minimum standards for serious and sustained efforts to combat terrorist and foreign fighter travel applicable to the government of a foreign country are the following:
(1) The government of the country makes meaningful efforts to identify and monitor terrorists and foreign fighters operating within the territory of the country.

(2) The government of the country regularly exchanges substantive counterterrorism information with other foreign governments, including the United States Government, through bilateral or multilateral channels and international organizations such as INTERPOL, and cooperates with other foreign governments in the investigation and prosecution of terrorists and foreign fighters.

(3) The government of the country implements effective border controls or participates in an existing border-crossing control regime that has been determined by the United States Government to employ effective border-crossing oversight.

(4) The government of the country has controls and systems in place to prevent and report upon counterfeiting, forgery, and, fraudulent use or possession of false, stolen or lost identity papers and travel documents.

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

(6) The government of the country appropriately screens travelers, including vetting of travelers at air, sea, and land ports of entry, against counterterrorism and other criminal databases, as appropriate.

(7) The government of the country submits information to INTERPOL databases and screens travelers against INTERPOL databases at ports of entry and exit.

(8) The government of the country has established and implemented domestic laws criminalizing material support to foreign terrorist organizations and has the ability and willingness to prosecute cases involving such material support to foreign terrorist organizations.

(9) The government of the country takes measures to prevent individuals in its territory from traveling abroad to enlist with or provide material support to foreign terrorist organizations.

(10) The government of the country takes measures to ensure a minimal level of corruption and likelihood that corruption could impact the veracity of security and intelligence reporting from the
country, a minimal likelihood that such corruption could adversely affect the legitimacy of national identity papers of the country, and the country does not shelter suspects from investigation and prosecution.

(11) The government of a country is not determined to be a high-risk program country under section 217(e)(12) of the Immigration and Nationality Act (8 U.S.C. 1187(e)(12)).

(c) SUSPENSION OF ASSISTANCE.—The Secretary of State, in consultation with the Secretary of Homeland Security and the heads of other Federal agencies, as appropriate, is authorized to suspend nonhumanitarian, nontrade-related foreign assistance to any government of a foreign country if the foreign country is identified in subparagraph (C) of subsection (a)(1) in the most recent report submitted to the appropriate congressional committees under such subsection.

SEC. 5. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means the Committee on Homeland Security and Governmental Affairs, the Committee on Foreign Relations, the Committee on the Judiciary,
and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security, the Committee on the Judiciary, and the Committee on Foreign Affairs of the House of Representatives.

(2) FOREIGN TERRORIST ORGANIZATION.—The term “foreign terrorist organization” means an organization that is designated as a foreign terrorist organization pursuant to section 219 of the Immigration and Nationality Act (8 U.S.C. 1189).

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

SEC. 6. PROHIBITION ON ADDITIONAL FUNDING.

No additional funds are authorized to be appropriated to carry out this Act.