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U.S. Department of State
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**House Judiciary Committee Subcommittee on Immigration and Citizenship and Foreign
Affairs Committee Subcommittee on Oversight and Investigations**

Chairwoman Lofgren, Chairman Bera, Ranking Member Zeldin and Ranking Member Buck, thank you for the opportunity to testify today about the Department of State's role in implementing Presidential Proclamation 9645 (P.P. 9645 or the Proclamation). Today I am honored to represent the many career consular officers dedicated to adjudicating visas according to the law and regulations set forth by the President and Congress. In my over 33 years of service with the State Department, I have observed first-hand how committed these career staff are to providing the best customer service possible, and to ensuring that each and every consular adjudication is made in adherence with the established requirements. As laws and regulations change, these career staff work hard to quickly adapt and implement new procedures in a professional manner.

President Trump issued Presidential Proclamation 9645, titled "Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry into the United States by Terrorists or other Public-Safety Threats," on September 24, 2017. The issuance of the Proclamation was prompted by a global review conducted by the Department of Homeland Security (DHS), in consultation with the Department of State (the Department) and the Director of National Intelligence (DNI).

The 2017 review evaluated whether additional information would be needed from each foreign country to assess adequately if their nationals seeking to enter the United States pose a security or safety threat. That review focused on the integrity of documents required to travel to the United States, whether the country makes available certain types of information on terrorists, criminals, fraudsters and the traveling population; and a national security and public-safety risk assessment of the country.

The President deemed it necessary to impose certain restrictions on the entry of certain nonimmigrants and immigrants from nationals of eight countries, including Chad, Iran, Libya, North Korea, Somalia, Syria, Venezuela, and Yemen. P.P. 9645's travel restrictions were intended to address the information-sharing and other security risks to the United States and to encourage host governments to remedy these deficiencies. On April 10, 2018, a new Presidential Proclamation amended P.P. 9645 of September 24, 2017, removing the visa restrictions imposed on nationals of Chad based on the notable improvements of the government of Chad in identity management practices, handling of lost and stolen passports, and information sharing.

Although certain federal courts enjoined the government from enforcing P.P. 9645, on December 4, 2017, the Supreme Court allowed P.P. 9645 to be fully implemented. In accordance with that decision, on December 8, 2017, the Department undertook to fully implement the Proclamation. On June 26, 2018, the Supreme Court issued a decision that the Proclamation was a lawful

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exercise of the President's authority under the Immigration and Nationality Act. Consistent with the Court's decision, the Department continued processing visa applications in accordance with the Proclamation for subject nationals of the seven affected countries.

The Department of State's main role in the implementation of P.P. 9645 is to adjudicate visa applications from nationals of the seven designated countries and, where legally appropriate, to apply exceptions and waivers. This is a multi-step process.

First, a consular officer must determine whether an applicant is otherwise eligible for a visa under the immigration laws of the United States. Many applicants will be found ineligible at this stage, especially those seeking a temporary visitor visa who are unable to demonstrate that they have a residence abroad that they have no intention of abandoning.

Second, if otherwise eligible for the visa, the consular officer determines whether the applicant qualifies for an exception to the Proclamation's travel restrictions or, if not, whether the applicant is eligible for a waiver under the Proclamation, which allows for issuance of a visa. The restrictions imposed by the Proclamation vary by country, so that some nationals experience only limited impact. For example, only certain government officials from Venezuela are subject to the Proclamation's restrictions, while for Yemeni and Libyan nationals, the Proclamation only restricts short-term tourist and business nonimmigrant visas. Somali nationals face no restrictions on any nonimmigrant visa category.

The Department of State has devoted substantial efforts to ensure that the Proclamation's entry restrictions, exceptions and waivers are applied correctly and consistently by consular officers at embassies and consulates overseas. The Department has updated guidance as necessary for consular officers in the field to accomplish this task.

Some applicants benefit from the exceptions provided by the Proclamation. An applicant whose situation fits into one of the exceptions set forth in the Proclamation, and who is otherwise eligible for a visa, may be issued a visa without going through the Proclamation's waiver process. As specified in the Proclamation, these exceptions include:

- Individuals who were present in the United States when the proclamation went into effect
- Individuals who had valid visas when the proclamation went into effect
- Anyone whose visa was revoked or canceled as a result of E.O. 13769 who still qualifies
- Any Lawful Permanent Resident
- Anyone who subsequently travels to the United States under a proclamation waiver, or any other lawful means.
- Any dual national traveling on the passport of a non-subject country
- Diplomats and officials traveling to the United Nations and NATO
- Individuals who have been granted asylum, admitted to the United States as refugees, or have been granted withholding of removal, advance parole, or projection under the Convention Against Torture

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With respect to Proclamation waivers, if a visa applicant subject to P.P. 9645's visa restrictions has established eligibility for a visa (for example, has overcome INA section 214(b) and is not ineligible for a visa on a ground under INA 212(a)), the consular officer will *automatically* consider the applicant for a waiver based upon the criteria set forth in the Proclamation. There is no separate waiver application and no additional fee. As specified in the Proclamation, consular officers determine on a case-by-case basis if an applicant is eligible for a waiver, based on the following criteria: issuance of the visa is in the national interest; denial of the visa would cause the applicant undue hardship; and, the applicant poses no national security or public safety threat to the United States.

Consular officers, in consultation with their supervisors, determine whether applicants meet the waiver criteria, especially the first two (national interest and undue hardship) based on general guidance provided by the Department. Consular officers are in the best position to assess the applicant's personal circumstances and purpose of travel as part of the visa application process, and they can ask for additional information directly from the applicant if needed. For the third waiver criterion (national security) consular officers, until recently, were required to send the case to Washington for review, in a process similar to the security advisory opinion (SAO) procedure for other visa cases. A clear response on the security review would allow the consular officer to approve the waiver and issue the visa.

Up until July 2019, to comply with the national security criterion of the waiver process, applicants subject to P.P. 9645 underwent an intensive post-interview interagency security review, to provide consular officers information on whether or not the applicant's entry into the United States would pose a threat to national security or public safety. Until very recently, this interagency review was a time-consuming manual process, which led to a large backlog of waiver cases. During this time, the Department worked closely with consular officers in the field to identify and expedite processing of the most urgent cases, while maintaining the rigorous nature of the security review.

The Department, after extensive work with interagency partners and consistent with the March 6, 2017 Presidential Memorandum, "*Implementing Immediate Heightened Screening and Vetting of Applications for Visas and Other Immigration Benefits...*," and Section 5 of P.P. 9645 started in early July 2019 to run a new enhanced automated screening and vetting process for all immigrant and nonimmigrant visa applicants subject to the Proclamation. The new enhanced review is automated, occurs prior to the interview, and provides consular officers with the information required to make most P.P. 9645 waiver determinations much more quickly. It is now possible that many cases may be issued within days of the application, should the security check done prior to the interview not show any concerns – once the consular officer has established all three criterion of the waiver, the visa may be issued.

While it is too early to ascertain the full impact on new P.P. 9645-subject applications, initial evidence indicates that consular officers are now able to make most waiver decisions within a few days of the visa interview. In the short time this system has been in place, the month-to-month change in visas issued pursuant to a waiver rose from a steady 10 to 12 percent from before the new system, to more than 50 percent each month. This is evidence that under the new system, applicants who qualify for a waiver will receive their visas much sooner. Meanwhile,

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the Department is working diligently to review and process to conclusion existing P.P. 9645-subject cases. Since September 14, 2019 the Department issued more than 7,600 visas pursuant to a waiver of P.P. 9645. We anticipate that a majority of pre-July 2019 waiver cases pending with the Department, most of which require some degree of manual review, should be completed by the end of 2019 or soon thereafter. The new automated system is intended to significantly increase the speed and efficiency of the vetting process for both currently pending and future P.P. 9645-subject applications while enhancing security standards.

Finally, it should be noted that the Department is working closely with a number of other countries around the world to address other security and information sharing deficiencies that were identified by the Department of Homeland Security's ongoing P.P. 9645 review process. This policy of constructive diplomatic engagement aims to mitigate or eliminate the security deficiencies in a cooperative manner, without resorting to sanctions. As such, it will improve not only U.S. national security, but the security of the international community as well.

Thank you Madam Chairwoman and Mr. Chairman. I look forward to answering your questions and those of other members of the Subcommittees.

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