

INTRO 5-1

COLLEGE KAROL 12/12 11/12

A RESOLUTION TO BE SUBMITTED BY LEGISLATORS MILLS, MAZUR and MARINELLI

Re: Supporting the Secure Travel and Counterterrorism Partnership Program Act of 2011

WHEREAS, the Immigration and Nationality Act legislates a visa waiver program; and

WHEREAS, Poland, Romania and Bulgaria are currently the only European Union countries excluded from the Visa Waiver Program; and

WHEREAS, Poland has been a longtime ally and friend of the United States dating back to the Revolutionary War; and

WHEREAS, there is no reason for the citizens of Poland to be required to apply for a visa to enter the US; and

WHEREAS, the need for a visa discourages citizens of Poland from traveling to the US to visit family here; and

WHEREAS, Senate bill 497, and its companion, H.R. bill number 959, could finally change visa requirements for Poland to be equal with other European countries.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby supports passage of Senate bill 497 and H.R. 959 and signing into law by The President of the United States; and be it further

RESOLVED, that copies of this resolution be forwarded to Senate Majority Leader Harry Reid, Speaker of the House John Boehner and President Barack Obama.

Fiscal Impact: None.

S 497 IS

112th CONGRESS

1st Session

S. 497

To amend the Immigration and Nationality Act to modify the requirements of the visa waiver program and for other purposes.

IN THE SENATE OF THE UNITED STATES**March 7, 2011**

Ms. MIKULSKI (for herself and Mr. KIRK) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to modify the requirements of the visa waiver program 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 'Secure Travel and Counterterrorism Partnership Program Act of 2011'.

SEC. 2. DEFINITIONS.

(a) Definitions- Section 217(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1187(c)(1)) is amended to read as follows:

`(1) AUTHORITY TO DESIGNATE; DEFINITIONS-

`(A) AUTHORITY TO DESIGNATE- The Secretary of Homeland Security, in consultation with the Secretary of State, may designate any country as a program country if that country meets the requirements under paragraph (2).

`(B) DEFINITIONS- In this subsection:

` (i) APPROPRIATE CONGRESSIONAL COMMITTEES- The term `appropriate congressional committees' means--

` (I) the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, and the Committee on the Judiciary of the Senate; and

` (II) the Committee on Foreign Affairs, the Committee on Homeland Security, and the Committee on the Judiciary of the House of Representatives.

` (ii) PROGRAM COUNTRY- The term `program country' means a country designated as a program country under subparagraph (A).

` (iii) VISA OVERSTAY RATE-

` (I) IN GENERAL- The term `visa overstay rate' means, with respect to a country, the ratio of--

` (aa) the total number of nationals of that country who were admitted to the United States on the basis of a nonimmigrant visa whose periods of authorized stay ended during a fiscal year but who remained unlawfully in the United States beyond such periods; to

` (bb) the total number of nationals of that country who were admitted to the United States on the basis of a nonimmigrant visa during that fiscal year.

` (iv) COMPUTATION OF VISA OVERSTAY RATE- In determining the visa overstay rate for a country the Secretary of Homeland Security--

` (I) shall utilize information from all available databases to ensure the accuracy of such rate; and

` (II) shall not include any visa overstay which incorporates any procedures based on, or are otherwise based on, race, sex, or disability, unless otherwise specifically authorized by law or regulation.'.

(b) Technical and Conforming Amendments- Section 217(c) of the Immigration and Nationality Act (8 U.S.C. 1187(c)) is amended as follows:

(1) In paragraph (2)(C)--

(A) in the matter preceding clause (i), by striking `Attorney General,' and inserting `Secretary of Homeland Security,'; and

(B) in clause (iii), by striking 'Committee on the Judiciary and the Committee on International Relations of the House of Representatives and the Committee on the Judiciary and the Committee on Foreign Relations of the Senate' and inserting 'appropriate congressional committees'.

(2) In paragraph (5)(A)(i)(III), by striking 'the Committee on the Judiciary, the Committee on Foreign Affairs, and the Committee on Homeland Security, of the House of Representatives and the Committee on the Judiciary, the Committee on Foreign Relations, and the Committee on Homeland Security and Governmental Affairs of the Senate' and inserting 'appropriate congressional committees'.

(3) In paragraph (7)--

(A) in subparagraph (D), by striking 'Attorney General' both places that term appears and inserting 'Secretary of Homeland Security'; and

(B) by striking subparagraph (E).

SEC. 3. DESIGNATION OF PROGRAM COUNTRIES BASED ON VISA OVERSTAY RATES.

(a) In General- Section 217(c)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1187(c)(2)(A)) is amended to read as follows:

'(A) LOW NONIMMIGRANT VISA OVERSTAY RATE- The visa overstay rate for that country was not more than 3 percent during the previous fiscal year.'

(b) Qualification Criteria- Section 217(c)(3) of the Immigration and Nationality Act (8 U.S.C. 1187(c)(3)) is amended to read as follows:

'(3) QUALIFICATION CRITERIA- For each fiscal year after the initial period, a country may not be designated as a program country unless requirements of paragraph (2)(A) are met.'

(c) Judicial Review- Section 217(c)(6) of the Immigration and Nationality Act (8 U.S.C. 1187(c)(6)) is amended to read as follows:

'(6) INAPPLICABILITY OF JUDICIAL REVIEW- No court shall have jurisdiction to review the denial of admission to the United States of any alien by the Secretary of Homeland Security, the Secretary's computation of a visa overstay rate, or the designation or nondesignation of a country as a program country.'

(d) Reporting Requirements- Section 217(c)(7) of the Immigration and Nationality Act (8 U.S.C. 1187(c)(7)), as amended by section 2(b)(3), is further amended--

(1) in the heading, by striking `VISA WAIVER INFORMATION- ' and inserting `REPORTING REQUIREMENT- ';

(2) by striking subparagraph (A);

(3) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively;

(4) in subparagraph (A), as so redesignated--

(A) in the heading, by striking `REPORTING REQUIREMENT- ' and inserting `IN GENERAL- ';

(B) in clause (iii), by striking `were refused' and inserting `overstayed';

(C) in clause (iv)--

(i) by striking `who were refused' and inserting `who overstayed'; and

(ii) by striking `refused; and' and inserting `issued.'; and

(D) by striking clause (v);

(5) in subparagraph (B), as so redesignated, by striking `subparagraph (B)' and inserting `subparagraph (A)'; and

(6) in subparagraph (C), as so redesignated, by striking `subparagraph (B)' and inserting `subparagraph (A)'.

(e) Waiver Authority- Section 217(c)(8) of the Immigration and Nationality Act (8 U.S.C. 1187(c)(8)) is amended to read as follows:

`(8) WAIVER AUTHORITY- The Secretary of Homeland Security, in consultation with the Secretary of State, may waive the application of paragraph (2)(A) for a country if--

`(A) the country meets all security requirements of this section;

`(B) the Secretary of Homeland Security determines that the totality of the country's security risk mitigation measures provide assurance that the country's participation in the program would not

compromise the law enforcement, security interests, or enforcement of the immigration laws of the United States; and

` (C) the country cooperated with the Government of the United States on counterterrorism initiatives, information sharing, and preventing terrorist travel before the date of its designation as a program country, and the Secretary of Homeland Security and the Secretary of State determine that such cooperation will continue.'.

SEC. 4. TERMINATION OF DESIGNATION; PROBATION.

Section 217(f) of the Immigration and Nationality Act (8 U.S.C. 1187(f)) is amended to read as follows:

` (f) Termination of Designation; Probation-

` (1) DEFINITIONS- In this subsection:

` (A) PROBATIONARY COUNTRY- The term `probationary country' means a program country placed in probationary status under paragraph (2)(B).

` (B) PROBATIONARY PERIOD- The term `probationary period' means the fiscal year in which a probationary country is placed in probationary status under paragraph (2)(B).

` (C) PROGRAM COUNTRY- The term `program country' has the meaning given that term in subsection (c)(1)(B).

` (D) VISA OVERSTAY RATE- The term `visa overstay rate' has the meaning given that term in subsection (c)(1)(B).

` (2) DETERMINATION AND NOTICE OF DISQUALIFICATION-

` (A) DETERMINATION- Upon a determination by the Secretary of Homeland Security that a program country's visa overstay rate was more than 3 percent for the preceding fiscal year or that the program country is not in compliance with all other program requirements under subsection (c)(2), the Secretary shall notify the Secretary of State.

` (B) PROBATIONARY STATUS- If the Secretary of Homeland Security makes a determination under subparagraph (A) for a program country, the Secretary of Homeland Security shall place the program country in probationary status for the fiscal year following the fiscal year for which such determination was made.

` (3) ACTIONS AT TERMINATION OF THE PROBATIONARY PERIOD- At the end of the probationary period of a probationary country, the Secretary of Homeland Security shall take one of the following actions:

` (A) COMPLIANCE DURING PROBATIONARY PERIOD- The Secretary shall redesignate the probationary country as a program country if the Secretary determines that during the probationary period the probationary country--

` (i) had a visa overstay rate not more than 3 percent; and

` (ii) was in compliance with all other program requirements under subsection (c)(2).

` (B) COMPLIANCE WITH VISA OVERSTAY RATE- The Secretary may redesignate the probationary country as a program country if the Secretary determines that during the probationary period the probationary country had a visa overstay rate of not more than 3 percent.

` (C) NONCOMPLIANCE WITH VISA OVERSTAY RATE-

` (i) IN GENERAL- Subject to clause (ii), the Secretary shall terminate the probationary country's participation in the program if the Secretary determines that during the probationary period the probationary country had a visa overstay rate of more than 3 percent.

` (ii) ADDITIONAL PROBATIONARY PERIOD- The Secretary may waive the application of clause (i) for the probationary country if the Secretary, in consultation with the Director of National Intelligence, certifies that the probationary country's continued participation in the program does not pose a threat to law enforcement, security, or enforcement of immigration laws, and place the country in probationary status for one additional fiscal year.

` (4) ACTIONS AT THE END OF ADDITIONAL PROBATIONARY PERIOD- At the end of the additional 1-year period of probation granted to a probationary country pursuant to subparagraph (C)(ii), the Secretary shall take one of the following actions:

` (A) COMPLIANCE DURING ADDITIONAL PERIOD- The Secretary shall redesignate the probationary country as a program country if the Secretary determines that during such additional period the probationary country had a visa overstay rate not more than 3 percent.

` (B) NONCOMPLIANCE DURING ADDITIONAL PERIOD- The Secretary shall terminate the probationary country's participation in the program if the Secretary determines that during such additional period the probationary country had a visa overstay rate of more than 3 percent.

` (5) EFFECTIVE DATE- The termination of a country's participation in the program under paragraph (3) or (4) shall take effect on the first day of the first fiscal year following the fiscal year in which the Secretary determines that such participation shall be terminated. Until such date, nationals of the country shall remain eligible for a waiver under subsection (a).

` (6) NONAPPLICABILITY OF CERTAIN PROVISIONS- Paragraphs (3) and (4) shall not apply to a program country unless the total number of nationals of the program country that entered the United States during the prior fiscal year exceeds 100.

` (7) EMERGENCY TERMINATION-

` (A) IN GENERAL- In the case of a program country in which an emergency occurs that the Secretary of Homeland Security, in consultation with the Secretary of State, determines threatens the law enforcement or security interests of the United States (including the interest in enforcement of the immigration laws of the United States), the Secretary of Homeland Security shall immediately terminate the designation of the country as a program country.

` (B) EMERGENCY DEFINED- In this paragraph, the term 'emergency' means--

` (i) the overthrow of a democratically elected government in the program country;

` (ii) war (including undeclared war, civil war, or other military activity) on the territory of the program country;

` (iii) a severe breakdown in law and order affecting a significant portion of the program country's territory;

` (iv) a severe economic collapse in the program country; or

` (v) any other extraordinary event in the program country that threatens the law enforcement or security interests of the United States (including the interest in enforcement of the immigration laws of the United States) and where the country's participation in the program could contribute to that threat.

` (C) REDESIGNATION- The Secretary of Homeland Security may redesignate the country as a program country, without regard to paragraph (3) or (4) or subsection (c)(2), if the Secretary, in consultation with the Secretary of State, determines that--

` (i) at least 6 months have elapsed since the effective date of the emergency termination under subparagraph (A);

` (ii) the emergency that caused the termination has ended; and

` (iii) the average visa overstay rate for that country during the period of termination under this subparagraph was not more than 3 percent.

` (D) PROGRAM SUSPENSION AUTHORITY- The Director of National Intelligence shall immediately inform the Secretary of Homeland Security of any current and credible threat which poses an imminent danger to the United States or its citizens and originates from a country participating in the visa waiver program. Upon receiving such notification, the Secretary, in consultation with the Secretary of State--

` (i) may suspend a program country from the visa waiver program without prior notice;

` (ii) shall notify any country suspended under clause (i) and, to the extent practicable without disclosing sensitive intelligence sources and methods, provide justification for the suspension; and

` (iii) shall restore the suspended country's participation in the visa waiver program upon a determination that the threat no longer poses an imminent danger to the United States or its citizens.

` (8) TREATMENT OF NATIONALS AFTER TERMINATION- For purposes of this subsection and subsection (d)--

` (A) nationals of a country whose designation is terminated under paragraph (3), (4), or (7) shall remain eligible for a waiver under subsection (a) until the effective date of such termination; and

` (B) a waiver under this section that is provided to such a national for a period described in subsection (a)(1) shall not, by such termination, be deemed to have been rescinded or otherwise rendered invalid, if the waiver is granted prior to such termination.'

SEC. 5. REVIEW OF OVERSTAY TRACKING METHODOLOGY.

Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a review of the methods used by the Secretary of Homeland Security--

- (1) to track aliens entering and exiting the United States; and
- (2) to detect any such alien who stays longer than such alien's period of authorized admission.

END

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HR 959 IH

112th CONGRESS

1st Session

H. R. 959

To amend the Immigration and Nationality Act to modify the requirements of the visa waiver program and for other purposes.

IN THE HOUSE OF REPRESENTATIVES**March 8, 2011**

Mr. QUIGLEY introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Select Committee on Intelligence (Permanent Select), 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 amend the Immigration and Nationality Act to modify the requirements of the visa waiver program 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 'Secure Travel and Counterterrorism Partnership Program Act of 2011'.

SEC. 2. DEFINITIONS.

(a) Definitions- Section 217(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1187(c)(1)) is amended to read as follows:

'(1) AUTHORITY TO DESIGNATE; DEFINITIONS-

'(A) AUTHORITY TO DESIGNATE- The Secretary of Homeland Security, in consultation with the Secretary of State, may designate any country as a program country if that country meets the requirements under paragraph (2).

` (B) DEFINITIONS- In this subsection:

` (i) APPROPRIATE CONGRESSIONAL COMMITTEES- The term
` appropriate congressional committees' means--

` (I) the Committee on Foreign Relations, the Committee
on Homeland Security and Governmental Affairs, and the
Committee on the Judiciary of the Senate; and

` (II) the Committee on Foreign Affairs, the Committee on
Homeland Security, and the Committee on the Judiciary of
the House of Representatives.

` (ii) PROGRAM COUNTRY- The term ` program country' means
a country designated as a program country under subparagraph
(A).

` (iii) VISA OVERSTAY RATE-

` (I) IN GENERAL- The term ` visa overstay rate' means,
with respect to a country, the ratio of--

` (aa) the total number of nationals of that country who were admitted to the
United States on the basis of a nonimmigrant visa whose periods of authorized stay
ended during a fiscal year but who remained unlawfully in the United States beyond
such periods; to

` (bb) the total number of nationals of that country who were admitted to the
United States on the basis of a nonimmigrant visa during that fiscal year.

` (iv) COMPUTATION OF VISA OVERSTAY RATE- In determining
the visa overstay rate for a country the Secretary of Homeland
Security--

` (I) shall utilize information from all available databases to
ensure the accuracy of such rate; and

` (II) shall not include any visa overstay which incorporates
any procedures based on, or are otherwise based on, race,
sex, or disability, unless otherwise specifically authorized
by law or regulation.'.

(b) Technical and Conforming Amendments- Section 217(c) of the
Immigration and Nationality Act (8 U.S.C. 1187(c)) is amended as follows:

(1) In paragraph (2)(C)--

(A) in the matter preceding clause (i), by striking `Attorney General,' and inserting `Secretary of Homeland Security,'; and

(B) in clause (iii), by striking `Committee on the Judiciary and the Committee on International Relations of the House of Representatives and the Committee on the Judiciary and the Committee on Foreign Relations of the Senate' and inserting `appropriate congressional committees'.

(2) In paragraph (5)(A)(i)(III), by striking `the Committee on the Judiciary, the Committee on Foreign Affairs, and the Committee on Homeland Security, of the House of Representatives and the Committee on the Judiciary, the Committee on Foreign Relations, and the Committee on Homeland Security and Governmental Affairs of the Senate' and inserting `appropriate congressional committees'.

(3) In paragraph (7)--

(A) in subparagraph (D), by striking `Attorney General' both places that term appears and inserting `Secretary of Homeland Security'; and

(B) by striking subparagraph (E).

SEC. 3. DESIGNATION OF PROGRAM COUNTRIES BASED ON VISA OVERSTAY RATES.

(a) In General- Section 217(c)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1187(c)(2)(A)) is amended to read as follows:

`(A) LOW NONIMMIGRANT VISA OVERSTAY RATE- The visa overstay rate for that country was not more than 3 percent during the previous fiscal year.'.

(b) Qualification Criteria- Section 217(c)(3) of the Immigration and Nationality Act (8 U.S.C. 1187(c)(3)) is amended to read as follows:

`(3) QUALIFICATION CRITERIA- For each fiscal year after the initial period, a country may not be designated as a program country unless requirements of paragraph (2)(A) are met.'.

(c) Judicial Review- Section 217(c)(6) of the Immigration and Nationality Act (8 U.S.C. 1187(c)(6)) is amended to read as follows:

`(6) INAPPLICABILITY OF JUDICIAL REVIEW- No court shall have jurisdiction to review the denial of admission to the United States of any alien by the Secretary of Homeland Security, the Secretary's computation

of a visa overstay rate, or the designation or nondesignation of a country as a program country.'.

(d) Reporting Requirements- Section 217(c)(7) of the Immigration and Nationality Act (8 U.S.C. 1187(c)(7)), as amended by section 2(b)(3), is further amended--

(1) in the heading, by striking `VISA WAIVER INFORMATION- ' and inserting `REPORTING REQUIREMENT- ';

(2) by striking subparagraph (A);

(3) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively;

(4) in subparagraph (A), as so redesignated--

(A) in the heading, by striking `REPORTING REQUIREMENT- ' and inserting `IN GENERAL- ';

(B) in clause (iii), by striking `were refused' and inserting `overstayed';

(C) in clause (iv)--

(i) by striking `who were refused' and inserting `who overstayed'; and

(ii) by striking `refused; and' and inserting `issued.'; and

(D) by striking clause (v);

(5) in subparagraph (B), as so redesignated, by striking `subparagraph (B)' and inserting `subparagraph (A)'; and

(6) in subparagraph (C), as so redesignated, by striking `subparagraph (B)' and inserting `subparagraph (A)'.

(e) Waiver Authority- Section 217(c)(8) of the Immigration and Nationality Act (8 U.S.C. 1187(c)(8)) is amended to read as follows:

`(8) WAIVER AUTHORITY- The Secretary of Homeland Security, in consultation with the Secretary of State, may waive the application of paragraph (2)(A) for a country if--

(A) the country meets all security requirements of this section;

` (B) the Secretary of Homeland Security determines that the totality of the country's security risk mitigation measures provide assurance that the country's participation in the program would not compromise the law enforcement, security interests, or enforcement of the immigration laws of the United States; and

` (C) the country cooperated with the Government of the United States on counterterrorism initiatives, information sharing, and preventing terrorist travel before the date of its designation as a program country, and the Secretary of Homeland Security and the Secretary of State determine that such cooperation will continue.'.

SEC. 4. TERMINATION OF DESIGNATION; PROBATION.

Section 217(f) of the Immigration and Nationality Act (8 U.S.C. 1187(f)) is amended to read as follows:

` (f) Termination of Designation; Probation-

` (1) DEFINITIONS- In this subsection:

` (A) PROBATIONARY COUNTRY- The term `probationary country' means a program country placed in probationary status under paragraph (2)(B).

` (B) PROBATIONARY PERIOD- The term `probationary period' means the fiscal year in which a probationary country is placed in probationary status under paragraph (2)(B).

` (C) PROGRAM COUNTRY- The term `program country' has the meaning given that term in subsection (c)(1)(B).

` (D) VISA OVERSTAY RATE- The term `visa overstay rate' has the meaning given that term in subsection (c)(1)(B).

` (2) DETERMINATION AND NOTICE OF DISQUALIFICATION-

` (A) DETERMINATION- Upon a determination by the Secretary of Homeland Security that a program country's visa overstay rate was more than 3 percent for the preceding fiscal year or that the program country is not in compliance with all other program requirements under subsection (c)(2), the Secretary shall notify the Secretary of State.

` (B) PROBATIONARY STATUS- If the Secretary of Homeland Security makes a determination under subparagraph (A) for a program country, the Secretary of Homeland Security shall place the program

country in probationary status for the fiscal year following the fiscal year for which such determination was made.

` (3) ACTIONS AT TERMINATION OF THE PROBATIONARY PERIOD- At the end of the probationary period of a probationary country, the Secretary of Homeland Security shall take one of the following actions:

` (A) COMPLIANCE DURING PROBATIONARY PERIOD- The Secretary shall redesignate the probationary country as a program country if the Secretary determines that during the probationary period the probationary country--

` (i) had a visa overstay rate not more than 3 percent; and

` (ii) was in compliance with all other program requirements under subsection (c)(2).

` (B) COMPLIANCE WITH VISA OVERSTAY RATE- The Secretary may redesignate the probationary country as a program country if the Secretary determines that during the probationary period the probationary country had a visa overstay rate of not more than 3 percent.

` (C) NONCOMPLIANCE WITH VISA OVERSTAY RATE-

` (i) IN GENERAL- Subject to clause (ii), the Secretary shall terminate the probationary country's participation in the program if the Secretary determines that during the probationary period the probationary country had a visa overstay rate of more than 3 percent.

` (ii) ADDITIONAL PROBATIONARY PERIOD- The Secretary may waive the application of clause (i) for the probationary country if the Secretary, in consultation with the Director of National Intelligence, certifies that the probationary country's continued participation in the program does not pose a threat to law enforcement, security, or enforcement of immigration laws, and place the country in probationary status for one additional fiscal year.

` (4) ACTIONS AT THE END OF ADDITIONAL PROBATIONARY PERIOD- At the end of the additional 1-year period of probation granted to a probationary country pursuant to subparagraph (C)(ii), the Secretary shall take one of the following actions:

` (A) COMPLIANCE DURING ADDITIONAL PERIOD- The Secretary shall redesignate the probationary country as a program country if

the Secretary determines that during such additional period the probationary country had a visa overstay rate not more than 3 percent.

` (B) NONCOMPLIANCE DURING ADDITIONAL PERIOD- The Secretary shall terminate the probationary country's participation in the program if the Secretary determines that during such additional period the probationary country had a visa overstay rate of more than 3 percent.

` (5) EFFECTIVE DATE- The termination of a country's participation in the program under paragraph (3) or (4) shall take effect on the first day of the first fiscal year following the fiscal year in which the Secretary determines that such participation shall be terminated. Until such date, nationals of the country shall remain eligible for a waiver under subsection (a).

` (6) NONAPPLICABILITY OF CERTAIN PROVISIONS- Paragraphs (3) and (4) shall not apply to a program country unless the total number of nationals of the program country that entered the United States during the prior fiscal year exceeds 100.

` (7) EMERGENCY TERMINATION-

` (A) IN GENERAL- In the case of a program country in which an emergency occurs that the Secretary of Homeland Security, in consultation with the Secretary of State, determines threatens the law enforcement or security interests of the United States (including the interest in enforcement of the immigration laws of the United States), the Secretary of Homeland Security shall immediately terminate the designation of the country as a program country.

` (B) EMERGENCY DEFINED- In this paragraph, the term 'emergency' means--

` (i) the overthrow of a democratically elected government in the program country;

` (ii) war (including undeclared war, civil war, or other military activity) on the territory of the program country;

` (iii) a severe breakdown in law and order affecting a significant portion of the program country's territory;

` (iv) a severe economic collapse in the program country; or

` (v) any other extraordinary event in the program country that

threatens the law enforcement or security interests of the United States (including the interest in enforcement of the immigration laws of the United States) and where the country's participation in the program could contribute to that threat.

` (C) REDESIGNATION- The Secretary of Homeland Security may redesignate the country as a program country, without regard to paragraph (3) or (4) or subsection (c)(2), if the Secretary, in consultation with the Secretary of State, determines that--

` (i) at least 6 months have elapsed since the effective date of the emergency termination under subparagraph (A);

` (ii) the emergency that caused the termination has ended; and

` (iii) the average visa overstay rate for that country during the period of termination under this subparagraph was not more than 3 percent.

` (D) PROGRAM SUSPENSION AUTHORITY- The Director of National Intelligence shall immediately inform the Secretary of Homeland Security of any current and credible threat which poses an imminent danger to the United States or its citizens and originates from a country participating in the visa waiver program. Upon receiving such notification, the Secretary, in consultation with the Secretary of State--

` (i) may suspend a program country from the visa waiver program without prior notice;

` (ii) shall notify any country suspended under clause (i) and, to the extent practicable without disclosing sensitive intelligence sources and methods, provide justification for the suspension; and

` (iii) shall restore the suspended country's participation in the visa waiver program upon a determination that the threat no longer poses an imminent danger to the United States or its citizens.

` (8) TREATMENT OF NATIONALS AFTER TERMINATION- For purposes of this subsection and subsection (d)--

` (A) nationals of a country whose designation is terminated under paragraph (3), (4), or (7) shall remain eligible for a waiver under subsection (a) until the effective date of such termination; and

(B) a waiver under this section that is provided to such a national for a period described in subsection (a)(1) shall not, by such termination, be deemed to have been rescinded or otherwise rendered invalid, if the waiver is granted prior to such termination.'

SEC. 5. REVIEW OF OVERSTAY TRACKING METHODOLOGY.

Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a review of the methods used by the Secretary of Homeland Security--

- (1) to track aliens entering and exiting the United States; and
- (2) to detect any such alien who stays longer than such alien's period of authorized admission.

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