

DOS Cable on EO 13780 Improving Information Sharing with Foreign Governments

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The Department of State sent this cable to consular offices worldwide, to implement the processes called for by sections 2(a), (b), (d), and (e) of Executive Order 13780. Section 2(e) of Executive Order 13780 establishes a possible "indefinite" entry bar that could apply to any country that is unwilling or unable to provide the United States with the information that it decides is needed "in order to determine that the individual seeking the benefit is who the individual claims to be and is not a security or public-safety threat." See [NAFSA's resource page on the Section 2\(e\) bar](#) for additional information.

MRN: 17 STATE 72000

Date/DTG: Jul 12, 2017 / 121619Z JUL 17

From: SECSTATE WASHDC

Action: SOMALIA, USMISSION ROUTINE ;

ALL DIPLOMATIC AND CONSULAR POSTS COLLECTIVE ROUTINE

E.O.: 13526

TAGS: CVIS, PGOV, PINS, PTER, PREL, CMGT, KCSY, KHLS

Captions: SENSITIVE

Reference: A) COUNTRY LISTS AND ADDITIONAL POINTS TRANSMITTED TO CERTAIN POSTS BY REGIONAL BUREAUS B) E-MAIL DATA CALL FOR E.O. 13769 TO ALL POSTS DATED FEBRUARY 3, 2017

Pass Line: CA, POL, ECON, CT WORKING GROUP, AND LAW ENFORCEMENT WORKING GROUP

Subject: **Demarche Request: E.O 13780 - Improving Information Sharing with Foreign Governments**

1. (U) This is an action request. Please see paragraphs 7, 9, 10, 11, and 12.

2. (SBU) SUMMARY: In response to Executive Order (EO) 13780, the Secretary of Homeland Security, in consultation with the Secretary of State and the Director of National Intelligence, has produced a report outlining what information is needed from every country in order to sufficiently vet the nationals of that country in order to obtain a visa, admission at a port of entry, or other immigration benefit. The report, which prioritizes country engagement based on certain risk factors, establishes standards related to (1) identity management and (2) information sharing on security and public safety threats. The report includes a classified list of countries preliminarily assessed as not meeting the standards set out in the report and a list of those at risk of not meeting these standards. The classified country lists and country-specific talking points have been sent septel to impacted posts (ref A).

3. (SBU) SUMMARY, CONT: This cable initiates a 50-day engagement period, as called for in Section 2(d) of the EO, in which posts must inform host governments of the new information sharing standards and request that host governments provide the requested information or develop a plan to do so.

Additionally, posts should ask host governments to respond to a series of questions to ensure the accuracy of the report's assessment. Posts should engage more intensively with countries the report preliminarily deems inadequate in their information sharing or at risk of being deemed inadequate. Where appropriate, discussions should also include the need to repatriate nationals who are subject to a final order of removal from the United States. The Department also requests posts' assessment of mitigating factors or specific interests that should be considered in the deliberations regarding any travel sanctions. Posts should note that the list of countries deemed inadequate or at-risk is classified and should not be discussed outside of official channels. Talking points will be available on CAWeb.

END SUMMARY.

CLASSIFICATION: UNCLASSIFIED

(U) Background

4. (SBU) On March 6, the President issued EO 13780 (Protecting the Nation from Foreign Terrorist Entry into the United States). Soon thereafter, Section 2 of the EO was enjoined by the courts. Recently, the injunction on the provisions of Section 2 requiring a review of immigration-related information sharing by foreign governments was lifted. This has allowed work to resume on Sections 2(a) and (b) of the EO, which direct the Secretary of Homeland Security, in consultation with the Secretary of State and Director of National Intelligence, to "conduct a worldwide review to identify whether, and if so what, additional information will be needed from each foreign country to adjudicate an application by a national of that country for a visa, admission, or other benefit under the INA (adjudication) in order to determine that the individual is not a security or public safety threat." The Secretary of Homeland Security, in consultation with the Secretary of State and Director of National Intelligence, is directed to submit a report to the President identifying "the information needed from each country for adjudications and a list of countries that do not provide adequate information." This cable outlines the results of the

report submitted to the President on July 10 and provides posts with guidance to help foreign governments understand and meet the standards developed in the report, as called for in Section 2(d) of the EO. For more details on the executive order, please consult the complete text at the White House website.

(U) New Standards

5. (SBU) The report outlines the new standards that all 191 countries are required to meet for (1) information sharing on identity management and (2) information sharing on security and public safety threats. The standards reflect a mix of long-standing U.S. government goals and standards established by international bodies such as the United Nations (UN), the International Civil Aviation Organization (ICAO), and INTERPOL. The report concluded that three types of information sharing/cooperation are needed to establish a traveler's identity, and four types of information sharing/cooperation are needed to ensure that a traveler is not a terrorist or public safety threat (see para 9). The report also discusses "national security risk indicators" that helped prioritize countries for engagement. Finally, as required under the EO, the report provides a classified list of countries that DHS has preliminarily assessed as not providing adequate information, as well as countries at risk of not providing adequate information.

(U) Non-Compliance Could Lead to Sanction

6. (SBU) Section 2(d) of the Executive Order directs the Secretary of State to request that all foreign governments assessed as not supplying adequate information begin to do so within 50 days of notification or develop a credible plan for increased information sharing. Section 2(e) of the Executive Order instructs the Secretary of Homeland Security, in consultation with the Secretary of State and the Attorney General, following the end of the 50-day period, to submit to the President a list of countries recommended for inclusion in a presidential proclamation that would prohibit the entry of designated categories of foreign nationals of those countries that have not provided the information requested or produced an adequate plan to do so. While the Executive Order provides for flexibility in assessing countries' responsiveness, the intent of the order is to press countries to improve their performance. The information that posts collect during this demarche process will feed into deliberations regarding which states, if any, the Secretary of Homeland Security will recommend for inclusion in a presidential proclamation.

(U) Demarche Objectives

7. (SBU) Engagement with foreign governments should draw on the resources and expertise of the entire country team. Posts are instructed to demarche both the Ministry of Foreign Affairs and Ministry of Interior (or equivalents) at the highest appropriate level with the points provided below, as well as other ministries as appropriate. Posts should request a response from host government counterparts in time to submit a front channel cable to the Department by July 21. Posts should also use this demarche to update and/or clarify any information provided during the February 3, 2017, data call (ref B). Responses should be slugged for CAVO, CT/TSI, and

L/CA and e-mailed to Matthew Paschke, William McCulla, Abbas Ravjani, and Joel Nantais, in addition to the country desk representative.

8. (SBU) The objectives of this demarche are as follows:

- › Announce the new standards to all foreign governments and call for compliance with Executive Order 13780.
- › Clarify that the standards require information sharing in support of vetting visa, border, and immigration applications. Information sharing in support of other objectives that may not be used for adjudicating immigration-related applications will not count toward compliance.
- › Inform those governments assessed as not supplying adequate information, or at risk of being so assessed, that we will work with them as they determine how they can meet the new baseline standards.
- › Underscore that while it is not our goal to impose a ban on immigration benefits, including visas, for citizens of any country, these standards are designed to mitigate risk and failure to make progress could lead to security measures by the USG, including a presidential proclamation that would prohibit the entry of certain categories of foreign nationals of non-compliant countries.

9. (U) Posts may leave these talking points behind, if desired. If-asked press guidance will be posted on CAWeb.

(U) **BEGIN TALKING POINTS**

[The points below are to be delivered to ALL countries]

- › In accordance with Executive Order 13780, the Department of Homeland Security, in consultation with the Department of State and the Director of National Intelligence, has established a new set of standards regarding the information all foreign governments should share with the U.S. Government in order to allow the U.S. Government to verify the identity of all foreign travelers and immigration applicants and ascertain that they do not pose a threat to U.S. security or public safety. This is the first time that the U.S. Government is setting standards for the information that is required from all countries specifically in support of immigration and traveler vetting. We are asking all countries to look at areas to better enhance our collective security.
 - › The Secretary of Homeland Security, in consultation with the Secretary of State and the Director of National Intelligence, has established the following standards for identity-related information-sharing by foreign governments whose nationals seek to travel to the United States:
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- › Countries should issue, or have active plans to issue, electronic passports that conform to ICAO specifications and include a facial biometric image to enable verification of travel documents;
 - › Countries should regularly report lost and stolen passports, whether issued or blank, to the INTERPOL Stolen and Lost Travel Document Database to maintain the integrity of travel documents; and
 - › Countries should make available any other identity information at the request of the U.S. including, as appropriate, additional biographic and biometric data and relevant immigration status.
 - › The Secretary of Homeland Security, in consultation with the Secretary of State and the Director of National Intelligence, has also established the following standards for measuring information-sharing related to terrorism or public safety threats by foreign governments whose nationals seek to travel to the United States:
 - › Countries should make available information, including biographic and biometric data, on individuals it knows or has reasonable grounds to believe are terrorists, including foreign terrorist fighters, through appropriate bilateral or multilateral channels;
 - › Countries should make available through appropriate bilateral or multilateral channels criminal history record information, including biographic and biometric data, on its nationals, as well as permanent and temporary residents, who are seeking U.S. visas or border or immigration benefits;
 - › Countries should provide exemplars of all passports and national identity documents they issue to the U.S. Department of Homeland Security's Immigration and Customs Enforcement Forensic Laboratory, including applicable date ranges and numbering sequences, as required, in order to improve U.S. Government fraud detection capabilities;
 - › Countries should not impede the transfer to the U.S. Government of information about passengers and crew traveling to the United States, such as Advance Passenger Information and Passenger Name Records; and
 - › Countries should not designate individuals for international watchlisting as national security threats or criminals solely based on their political or religious beliefs.
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- › The Secretary of Homeland Security, in consultation with the Secretary of State and the Director of National Intelligence, also identified three security risk indicators relevant to the USG's ability to vet a country's nationals for admissibility to the United States:

 - › Countries should take measures to ensure that they are not and do not have the potential to become a terrorist safe haven;

 - › Countries should accept the repatriation of their nationals who are subject to a final order of removal in the United States and provide travel documents to facilitate their removal;

 - › Visa Waiver Program countries should meet the statutory and policy requirements of the Visa Waiver Program.

 - › After 50 days, the Secretary of Homeland Security, in consultation with the Secretary of State and the Attorney General, must submit to the President a list of countries recommended for inclusion on a presidential proclamation prohibiting the entry of designated categories of their nationals because those countries do not meet the new standards or have an inadequate plans to do so.

 - › These standards build upon our existing partnerships with other countries and multilateral organizations such as ICAO and INTERPOL to increase the reliability of travel documents and the sharing of information about known or suspected terrorists and known criminals. They also reinforce UN Security Council Resolutions 1373, 1624, 2178, and 2322, which call on all member states to cooperate in sharing information on the movements of terrorists and require all states to prevent the movement of terrorists or terrorists groups through effective border controls and controls on the issuance of identity papers and travel documents.

[Deliver the following point to non-Visa Waiver Program countries]

- › We will work with you to assess whether your country currently meets these standards and, if it does not, design a plan to allow it to do so.

 - › In order allow us to evaluate fully and accurately whether your country meets these standards, we are requesting your help in answering a series of questions. It is critical that you provide us this information by [a date determined by Post to submit cable by July 21]. Failure to provide this information in a timely manner will require us to assume your country does not meet the standards.
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[Deliver the following points to Visa Waiver Program countries]

- › We recognize that many of these new worldwide standards overlap with those already required by the Visa Waiver Program (VWP), and wish to highlight that they apply to all forms of travel and immigration benefits sought by foreign nationals, and not only to visas for travel.
- › The United States seeks to continue and deepen the security partnerships fostered by the VWP, including by ensuring that our cooperation supports immigration and traveler vetting, enhances global security, and impedes the travel of terrorists and criminals. The Department of Homeland Security would be pleased to discuss further how our existing cooperation can better achieve this goal.
- › The Department of Homeland Security will continue to engage VWP countries on the requirements set forth in the “Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015.”

[Deliver the following point only to countries identified septel A as failing to meet the information standards set out in the report (Category A countries).]

- › Based on preliminary data, DHS has concerns your country is not fully meeting the new information sharing standards. We urge you to work with us to provide detailed answers to our questions as soon as possible to clarify your practices and policies. While we recognize these standards may be exacting, they are necessary to ensure effective U.S. border and immigration controls. We are committed to working with you to achieve them and to taking into account your government’s commitment and effort toward these shared goals.

[Deliver the following point only to countries identified septel A as at risk of failing to meet the standards set out in the report (Category B countries).]

- › Based on preliminary data, DHS believes your country may be at risk of not fully meeting the new information-sharing standards. While your country is appropriately sharing information in certain areas, there are other areas the United States seeks additional cooperation. We urge you to work with us to provide detailed answers to our questions as soon as possible to clarify your practices and policies. While we recognize these standards may be exacting, they are necessary to ensure effective U.S. border and immigration controls. We are committed to working with you to achieve them and to taking into account your government’s commitment and effort toward these shared goals.

[If raised by a non-VWP country that is in neither Category A nor B]

- › Our initial review indicated that your country appears to meet the new information-sharing standards. However, we would appreciate your assistance in responding to a series of questions that will help us definitively ascertain that you meet or exceed these new standards.

(U) END TALKING POINTS

(U) **Leave-Behind Questions for non-VWP Foreign Governments**

10. (SBU) In order to enhance an assessment of whether foreign governments meet the new baseline standards, posts are requested to work with their host country to submit answers to the following questions. While the burden of fully answering these questions is intended to be on the host country, we urge posts to devote whatever country team resources are needed to ensure the Department receives a timely and accurate response. Please ensure that responses accurately reflect the full extent of the host government's compliance with these standards.

Posts may leave these questions with the host government after delivering the demarche. Please note the "Leave- Behind" questions are NOT/NOT to be provided to VWP countries, as DHS regularly assesses their information sharing, border screening capacity, and document security as part of their participation in the VWP.

11. (U) Please submit all responses as an attachment to the front-channel cable detailing the host government response to the demarche by July 21, using the attached spreadsheet template, on either the unclassified or classified system, as appropriate. Embassies that are responsible for maintaining relations with more than one country should complete a response for each country.

(U) **BEGIN QUESTIONNAIRE**

A. Identity Information Sharing:

- › Are all passports issued by your government machine-readable? If not, please describe which classes of passport are not machine-readable.

 - › Does your government issue electronic passports that conform to ICAO specifications and include a facial biometric image? (Such passports contain an electronic chip in the passport cover that contains data related to the passport and its holder.) If yes, does your government issue such passports as a rule or only to a subset of travelers? If not, does your government have concrete plans to introduce an electronic passport?

 - › Does your government participate in the ICAO electronic passport Public Key Directory? If your country issues electronic passports but does not participate, please explain why and describe whether you have plans to do so in the near future.

 - › Does your government report lost or stolen passports, both issued and blank, to the INTERPOL Stolen and Lost Travel Document Database? If so, please describe how frequently you report data. Does your government invalidate documents and the associated document numbers after they are reported lost or stolen or do they remain in circulation? Please describe any barriers to your government's active participation in this multilateral mechanism.
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B. Terrorism and public safety threat information sharing:

- › Does your government regularly provide the U.S. government biographic and/or biometric data on known or suspected terrorists (regardless of citizenship), including foreign fighters? If so, through which channels? Does your government place any restrictions on the use of this information?
- › Does your government contribute identities of foreign terrorist fighters and their facilitators who have departed from, arrived in, or transited your territory to the Interpol FTF Fusion Cell?
- › Does your government make records of arrests and convictions in your country available to the United States to support border, immigration, and visa vetting? If so, via which process? Does your government place restrictions on the use of such information, such as limiting its use to law enforcement investigations?
- › Does your government issue INTERPOL notifications for all wanted terrorists and felons? If so, please describe how frequently and extensively you report data. Does your government restrict the sharing of such notifications with the United States or any other country? If so, please describe.
- › Does your government prevent air carriers or vessel operators from releasing information about travelers to the U.S. government?

(U) Questions for Posts

12. (SBU) In order to fully assess foreign governments' performance, posts in countries that are not/not members of the VWP should provide responses to the following questions, soliciting full country team input and views.

Posts should not/not share these questions with foreign governments in order to obtain their input:

- › Provide post's assessments of the host government's willingness or capability to meet these new standards, including potential implications for reciprocity or collateral damage to bilateral relations.
 - › Assess the integrity of the process by which the host government establishes the identity of passport holders and issues travel documents. Please describe any barriers
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to improving any deficiencies in the process and actions that post takes to mitigate those deficiencies when relying on host country passports.

- › Does the host government respond to post's requests to confirm the identity of its nationals? If not, what are the barriers to such collaboration? If so, please provide examples.

- › Is the host government responsive to requests from the U.S. government for criminal information on its citizens and residents? If not, please describe the barriers to such information sharing. If so, please provide examples.

- › Does the host government designate individuals for watchlisting as national security threats or criminals because they exercise their political, religious, or other fundamental human rights? If so, how frequently?

- › What steps has your host government taken to deny terrorists space in which to operate? Are there ungoverned, under-governed, or ill-governed physical areas in the host country or bureaucratic practices that allow mala fide travelers to use host country passports to travel to the United States? What steps has your host government taken to work with the USG? And what further steps could we ask the host government to take?

- › Assess whether the host government will require capacity building assistance to meet these new standards and explain whether any such programs are planned or underway.

13. (U) The Department appreciates posts' efforts to provide the requested information on such short deadlines.

MINIMIZE CONSIDERED

Signature: Tillerson

RESOURCES

Section 2(c) 90-Day Travel Ban Advisory at www.nafsa.org/EOentry

Section 2(e) Possible Future Indefinite Entry Bar

Section 9(a) Suspension of Visa Interview Waiver Program

NAFSA Travel Advisory Portal

Executive Order Litigation Updates

What is an Executive Action?

EXECUTIVE ACTION RESOURCE

What is an Executive Action?

Current Immigration Executive Actions

EO 13780 Section 2(e) Indefinite Entry Bar Proclamation

Travel Ban Litigation Updates

NAFSA Portal Page on Proclamation

EO 13788 Buy American Hire American

March 6, 2017 Presidential Memorandum on Screening, Vetting, Enforcement

EO 13780 Section 9(a) Suspension of Visa Interview Waiver Program

EO 13802 Eliminating 3-Week Visa Interview Goal

EO 13780 Section 2(c) 90-Day Entry Bar Advisory
