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February 10, 2016

The Honorable Jeh Johnson
Secretary of Homeland Security
U.S. Department of Homeland Security
Washington, D.C. 20528

The Honorable John Kerry
Secretary
Department of State
2201 C Street, NW
Washington, D.C. 20451

Dear Secretaries Johnson and Kerry:

We write to thank you for the recently issued guidance on implementation of the Visa Waiver Improvement and Terrorist Travel Prevention Act of 2015, and urge you to publish as soon as practicable guidance on implementation of the dual national provisions. These new restrictions on visa free travel have caused much concern among our allies in the Visa Waiver Program (VWP), the Iranian-American community, and others. We have received assurances that forthcoming guidance will make clear that the United States will not discriminate against any travelers based solely on ancestry – or, in turn, have such limitations imposed on Americans traveling abroad. We eagerly await formal issuance of this guidance.

As you know, under the Act, nationals of VWP countries who have traveled to or been present in Iran, Iraq, Sudan, or Syria on or after March 1, 2011 (with limited exceptions for travel for diplomatic or military purposes in the service of a VWP country) and nationals of VWP countries who are also nationals of these countries are no longer eligible to be admitted to the United States under the VWP. These individuals will still be able to apply for a visa using the regular immigration process at U.S. embassies or consulates. The recent implementation guidance importantly notes that for those who need a U.S. visa for urgent business, medical, or humanitarian travel to the United States, U.S. embassies and consulates stand ready to process applications on an expedited basis.

The Secretary of Homeland Security may waive these restrictions on a case-by-case basis if he determines that such a waiver is in the law enforcement or national security interests of the United States. Pursuant to the January 21, 2016 guidance, categories of travelers who may be eligible for a waiver include:

- Individuals who traveled to Iran, Iraq, Sudan or Syria on behalf of international organizations, regional organizations, and sub-national governments on official duty;
- Individuals who traveled to Iran, Iraq, Sudan or Syria on behalf of a humanitarian NGO on official duty;
- Individuals who traveled to Iran, Iraq, Sudan or Syria as a journalist for reporting purposes;
- Individuals who traveled to Iran for legitimate business-related purposes following the conclusion of the Joint Comprehensive Plan of Action on July 14, 2015; and
- Individuals who have traveled to Iraq for legitimate business-related purposes.

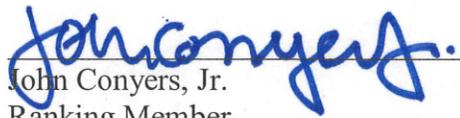
The legislation, as drafted by its Republican sponsors, explicitly permitted the Administration to implement the visa program in this manner. Accordingly, we are pleased that the Administration is taking a common sense approach to implementation through the exercise of the statutory waiver authority when it is in the law enforcement or national security interest of the United States.

With respect to the dual national provisions, the legislation never sanctioned discrimination against Americans based on heritage, but Iranian-Americans and others have expressed concern that the new law will result in disparate treatment because of ancestry. These concerns arise from the fact that under the strict rules of some countries, an individual may be considered a national of that country based solely on the citizenship of one parent. While we have received assurances from senior officials in both your Departments that the new law will not rely on the laws of other countries to dictate what constitutes dual citizenship or nationality, it is critical that formal guidance be published to address concerns from the potentially affected community.

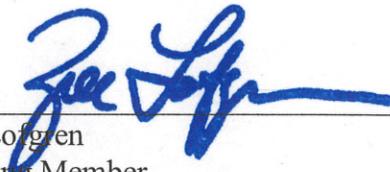
Additionally, we believe it would be in our national security interests to use the statutory waiver authority to allow, for example, those who fled Iran over 35 years ago after the fall of the Shah, and their families, to participate in the VWP even if non-business travel has occurred (either with a U.S. or Iranian passport). Individuals undertaking such travel are key to Iran's potential development into a more modern nation; these interactions are an opportunity and should not be discouraged. We recommend, as well, an additional category for VWP exemption for travel to Iran: academic-oriented travel. Fostering ties between international scholars and Iranian academics will support efforts to open Iran's closed society and ultimately help Iran rejoin the community of nations. These exemptions serve the national security interests of the United States.

I thank you for your efforts thus far to implement the new Visa Waiver Program law and look forward to continuing to work with you to implement this legislation in a manner that makes us safer, ensures that no one is discriminated against, and is consistent with the plain language of the statute.

Sincerely,



John Conyers, Jr.
Ranking Member



Zoe Lofgren
Ranking Member
Subcommittee on Immigration and Border
Security

cc: The Honorable Bob Goodlatte, Chairman, House Committee on the Judiciary