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Time to Decouple Visa Waiver Program from Biometric Exit

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Currently, the Visa Waiver Program (VWP), which affords foreign travelers from member nations the ability to travel to the United States without a visa, remains at a relative standstill in terms of adding new countries to its membership roster. In fact, besides the admission of Greece last month, no new countries have been permitted entrance into the program since 2008. This lack of momentum is largely the result of the current biometric air exit mandate, which prevents the Department of Homeland Security (DHS) from adding new countries into the program until the U.S. is biometrically tracking (through fingerprinting) the departure of foreign visitors from U.S. airports.

While Congress and DHS may see deployment of biometric exit as a necessary step toward understanding the number of visa overstays inside the U.S., the expansion of VWP should not be inhibited by the failure to produce a biometric system. Congress should remove this hurdle by decoupling VWP from the exit requirement and paving the way for the admission of new member countries.

The Visa Waiver Program. The VWP was first created by Congress in 1986 as a pilot program to reduce the workload of U.S. consulate offices and encourage travel and tourism to the U.S. The idea was that by reducing the amount of attention spent on screening of legitimate travelers, consulate officers could focus on stopping bad people from traveling to the U.S.

Now a permanent program, the VWP allows for citizens of member countries to the travel to the

U.S. for up to 90 days without obtaining a visa. By submitting information into the Electronic System for Travel Authorization (ESTA), the program's online portal, a traveler will be pre-approved for two years, thereby easing travel for foreign citizens.

Currently, for nations seeking membership in the program, there are a number of specific security- and travel-related steps that must take place for admittance into the VWP, such as meeting specific non-immigrant refusal rates (the percentage of visa applicants denied by the State Department from a particular nation), issuing all residents machine-readable biometric passports, and meeting a determination that membership presents no threats to U.S. law enforcement or security interests.

Membership, however, is not permanent once achieved, with reviews set to occur periodically. If a nation is no longer deemed to meet membership standards, they may be removed from the program—an option that has been exercised in the past.

The Benefits of VWP. With the recent admission of Greece, there are now 36 member nations in the VWP. For both the U.S. and these nations, there are a number of benefits that make the program extremely important, and its survival imperative.

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Public Diplomacy. In 2008, nearly 17 million travelers visited the U.S. through the VWP. These visitors not only invested in the U.S. economy—having spent more than \$100 billion in U.S. restaurants, hotels, and shops—but they were able to take back with them ideas about American culture, an experience that often helps to improve America's image in the world.

Relationship Building. In the eyes of many member nations, acceptance into the VWP is a sign of trust and close ties with the U.S. In fact, at a basic level the VWP grants the U.S. the ability to further engage in diplomacy with member nations with which they might not otherwise do so.

Recognizing this fact, the Bush Administration in 2005 announced 13 “roadmap” countries and increased efforts at building relationships with interested nations early on in the process. However, only eight of these nations have been admitted, while key allies such as Poland and Romania have become increasingly frustrated at the lack of progress towards their admission.

National Security. Recognizing potential security gaps in the VWP following September 11, 2001, the Implementing Recommendations of the 9/11 Commission Act of 2007 served to enhance the security measures of the program, making it a vital counterterrorism tool. Specifically, the mandate called for greater information sharing with regards to lost or stolen passports, increased security at the airports of member nations, and other efforts to enhance security cooperation between the U.S. and member countries.

These measures, coupled with the deployment of ESTA, allow the U.S. to gain more information on travelers who pose a potential risk to the U.S. before they would have a chance to enter the country.

The Biometric Exit Problem. One of the other important portions of the 9/11 implementation bill was that the Secretary of Homeland Security was given the ability to waive the previous 3 percent visa refusal rate and allow nations with a refusal rate of as much as 10 percent, on two conditions. First, that all other security provisions within the 2007 legislation were met, and second, that DHS

implement a biometric air exit program to screen 97 percent of foreign travelers leaving the U.S. through air travel by July 1, 2009.

While this waiver authority ushered some countries into membership, the failure of DHS to meet the biometric exit deadline has halted the authority to expand to nations whose visa refusal rate is between 3 and 10 percent.

Linking air exit to the VWP was billed as a means of decreasing the number of VWP entrants who overstay their terms of entrance. However, while the current total visa overstay rate is 40 percent, only a small number of VWP entrants eventually become overstays. Biometric air exit, therefore, means very little in terms of security for the VWP.

In fact, the collection of biometric air exit data does little for security in general because the program does not operate in real time. Knowing when a dangerous or suspicious individual has already left the country is not highly beneficial, making biometric exit more of a data collection exercise than a real security tool. At a bare minimum, exit should not inhibit the progress of the VWP.

Time to Decouple. It is time to decouple the biometric exit mandate from the VWP. If Congress chooses to move forward with an exit requirement, it should do so irrespective of the VWP. Instead, the Administration and Congress should focus on actively seeking to allow new nations to enter the program and ensuring that key allies such as Poland are no longer made to wait in frustration for membership.

Finally, DHS should work to ensure that legacy countries are brought up to post-9/11 security standards. These actions will help to ensure that the VWP program can continue its long standard of increasing relationships with other nations and building trust, confidence, and economic vitality while at the same time keeping Americans safe and secure.

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