

ISSUE BRIEF

No. 4273 | SEPTEMBER 16, 2014

The Visa Waiver Program: Enhancing Security, Promoting Prosperity

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The Visa Waiver Program (VWP) is a valuable tool supporting U.S. tourism and trade, public diplomacy, and national security. The VWP allows residents of member countries to visit the U.S. without a visa for up to 90 days in exchange for security-cooperation and information-sharing arrangements and reciprocal travel privileges for U.S. residents. The VWP is extended only to U.S. allies and friends that meet certain security and immigration requirements.

News of European passport holders joining the Islamic State in Iraq and Syria (ISIS), however, have created concerns about radicalized Western fighters abusing the VWP to engage in terrorism here in the U.S. While radicalized Britons or Germans are certainly of great concern to all nations threatened by Islamist terrorism, it is not a good reason to end the VWP. The VWP promotes security and the ISIS threat only emphasizes the importance of the VWP's intelligence-sharing requirements and adding appropriate nations to the program.

VWP Basics

In order to become a VWP member, a country must:

- **Demonstrate** a non-immigrant-visa refusal rate (the percentage of visa applicants denied by the

State Department for a particular nation) of no more than 3 percent;

- **Issue** all its residents secure, machine-readable biometric passports; and
- **Present** no discernable threat to U.S. law enforcement or U.S. national security.

Currently, 38 nations are participating in the VWP.¹ As required by the VWP and certain laws, these nations have also agreed to various stipulations and obligations, thus they:

- **Share** intelligence about known or suspected terrorists with the U.S. (per Homeland Security Presidential Directive 6 (HSPD-6));
- **Exchange** biographic, biometric, and criminal data with the U.S. (automated, via Preventing and Combating Serious Crime (PCSC) agreements);
- **Share** information on lost and stolen passports (LASP agreements);
- **Increase** their own airport security requirements; and
- **Provide** U.S. citizens with a reciprocal ability to travel to that country without a visa.²

These features greatly enhance security by providing U.S. law enforcement and security agencies with more information and intelligence on potential terrorists and other bad actors. The VWP makes

This paper, in its entirety, can be found at <http://report.heritage.org/ib4273>

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it easier for U.S. officials to know whether an individual presents a security threat. The VWP also allows the State Department to focus its consular and visa resources on those countries and individuals about which less is known and are higher risks to U.S. security.

Furthermore, the VWP includes screening and security procedures. Every traveler to the U.S. from a VWP country must be pre-screened through the Electronic System for Travel Authorization (ESTA), which checks various databases for information about the person's eligibility for travel to the U.S. and whether he or she is a known security risk. Additionally, at every step, from buying a ticket to checking in to boarding a flight, individuals are checked against databases and updated information.³ Upon landing in the U.S., individual biographic and biometric information is checked against additional sets of biometric databases controlled by the Department of Homeland Security (DHS) and the FBI. At any point in this process, U.S. officials can prevent individuals from entering the U.S. if they are deemed a security risk or ineligible for travel to the U.S.

Since the VWP was created in 1986, tourism and related expenditures in the U.S. have dramatically increased. From 2000 to 2013, the number of visitors to the U.S. increased by 18.6 million, a 36 percent increase, to a record number of 69.8 million, with approximately 40 percent of all visitors entering the U.S. through the VWP.⁴ As a result, the VWP has helped the U.S. maintain a trade surplus in tourism since 1989, with visitors spending \$180.7 billion in 2013, supporting the travel and tourism indus-

tries that constitute 2.8 percent of U.S. gross domestic product, including 8 million jobs, as well as many other sectors of the U.S. economy, such as restaurant and consumer-good businesses.⁵

Areas for Improvement

While the VWP boosts security, diplomacy, trade, and tourism, there are areas for improvement, including information-sharing arrangements and metrics for visa overstays.

As mentioned, VWP participants must enter into various information-sharing arrangements with the U.S., as mandated by the 9/11 Commission Act of 2007. In 2012, the U.S. Government Accountability Office's (GAO's) Acting Director of Homeland Security and Justice Rebecca Gambler testified that many nations had not finalized these agreements or begun sharing information. According to GAO data as of January 2011, only 19 of the 36 VWP nations had agreed to share terrorist-watch-list information and only 13 were actually sharing information. Worse yet, only 18 of 36 nations had agreed to share PCSC crime information, and no information-sharing arrangements were fully automated as required.⁶

Since then, however, action on information sharing has dramatically improved: The Congressional Research Service reported that nearly all VWP members had agreed to share information as of February 2014,⁷ and, according to a DHS official, as of this month, all nations are now sharing information on terrorists, serious criminals, and lost or stolen passports. DHS is, however, still working to automate PCSC data sharing for all VWP participants.⁸

1. U.S. Department of State, Bureau of Consular Affairs, "U.S. Visas: Visa Waiver Program," <http://travel.state.gov/content/visas/english/visit/visa-waiver-program.html> (accessed September 12, 2014).
2. Alison Siskin, "Visa Waiver Program," Congressional Research Service *Report for Congress*, February 12, 2014, <http://fas.org/sgp/crs/homesecc/RL32221.pdf> (accessed September 12, 2014).
3. Ibid.
4. Ibid., and U.S. Department of Commerce, Office of Travel and Tourism Industries, "International Arrivals to U.S. by Region and Country of Residency: Historical Visitation 2000-2006," http://travel.trade.gov/outreachpages/download_data_table/Historical_arrivals_2000_2006.pdf (accessed September 12, 2014).
5. International Trade Administration, National Travel and Tourism Office, "Fast Facts: United States Travel and Tourism Industry 2013," http://travel.trade.gov/outreachpages/download_data_table/Fast_Facts_2013.pdf (accessed September 12, 2014).
6. Rebecca Gambler, "Visa Waiver Program: Additional Actions Needed to Mitigate Risks and Strengthen Overstay Enforcement," Government Accountability Office, GAO-12-599T, March 27, 2012, <http://www.gao.gov/assets/590/589621.pdf> (accessed September 12, 2014), and Jessica Zuckerman, "The Visa Waiver Program: Time for Nations to Bear the Consequences of Non-Compliance," *Heritage Foundation Issue Brief* No. 3565, April 12, 2012, <http://www.heritage.org/research/reports/2012/04/visa-waiver-program-consequences-of-non-compliance>.
7. Siskin, "Visa Waiver Program."
8. Gambler, "Visa Waiver Program," and phone conversation between David Inserra and DHS official, DHS Office of Legislative Affairs, September 10, 2014.

Given the many benefits of the VWP, the U.S. should also examine how to increase VWP membership judiciously. The requirement for a biometric visa-exit system, which is not a cost-effective tool for stopping terrorism or illegal immigration, currently stands in the way of most nations joining the VWP.⁹ DHS should be allowed to waive the 3 percent limit on non-immigrant visa-refusal rates, and Congress should add a requirement for low visa-overstay rates instead. The visa-refusal metric is susceptible to subjective decisions by different visa consular officers in different countries that can affect the number of visas refused and granted. Additionally, the refusal metric can be adversely affected by individuals making multiple visa applications. For example, if an individual applies for 10 different visas and get rejected for all, the visa refusal rate takes into consideration all 10 rejections. A better metric would be to use countries' visa-overstay rate as a measure of how a country's citizens respect the terms of their entry into, and time in, the U.S.

Moving Forward

The Visa Waiver Program provides many economic, security, and diplomatic benefits, which are not negated by the threat that ISIS poses. As a result, Congress should:

- **Ensure that information sharing continues.** Given the past sluggishness in implementing information-sharing agreements, Congress should continue to monitor these agreements to ensure that information sharing is rapid, effective, and automated.

- **Reform the Visa Refusal Requirement.** Currently, a requirement for a biometric visa-exit system effectively blocks most nations from joining the VWP. This requirement should be removed, and DHS should be given the discretion to waive the 3 percent visa refusal rate—as long as a country has a low visa-overstay rate.
- **Maintain other essential counterterrorism tools,** such as the Terrorist Identities Datamart Environment (TIDE) and the Terrorist Screening Database (TSDB). Just as the VWP provides intelligence that keeps the U.S. safe, the U.S. should make the most of its other intelligence tools. These tools should be properly managed with executive, judicial, and congressional oversight, and be respectful of individual liberties.

Security and Prosperity

While the radicalization of Westerners and their draw to waging terror in Syria and Iraq presents the U.S. and other allies with extreme security challenges, intelligence remains the most effective weapon for preventing terror attacks. The Visa Waiver Program's information-sharing requirements harness intelligence to make the U.S. safer, while making it easier for upstanding visitors to experience this great nation.

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9. Steven P. Bucci and David Inserra, "Biometric Exit Improvement Act: Wrong Solution to Broken Visa and Immigration System," Heritage Foundation *Issue Brief* No. 4064, October 8, 2013, <http://www.heritage.org/research/reports/2013/10/biometric-exit-improvement-act-and-the-broken-visa-and-immigration-system>, and Jessica Zuckerman, "Taiwan Admitted to the Visa Waiver Program," Heritage Foundation *Issue Brief* No. 3747, October 3, 2012, <http://www.heritage.org/research/reports/2012/10/taiwan-admitted-to-the-visa-waiver-program>.