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Adding Countries to the Visa Waiver Program: Effects on National Security and Tourism

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SUMMARY

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Adding Countries to the Visa Waiver Program: Effects on National Security and Tourism

The Visa Waiver Program (VWP), which allows citizens of certain countries to visit the United States for up to three months without a visa, has two explicit missions: to enhance national security and to boost the U.S. travel and tourism sectors. On November 8, 2019, the United States designated Poland into the VWP, bringing the number of participating countries to 39. A concern for Congress is whether the VWP exposes the United States to security threats, despite implementation of strict security requirements over recent years. At the same time, because of longstanding congressional interest in promoting the U.S. travel and tourism sectors, many lawmakers support adding more countries to the VWP.

A key goal of the VWP is to improve standards for aviation security, travel documents, and law enforcement in countries around the world. To qualify for the VWP, countries must issue electronic passports, report information on all lost and stolen passports to the United States through the International Criminal Police Organization (INTERPOL), and share information on travelers who may pose a terrorist or criminal threat. Every VWP traveler must obtain preclearance to board a flight to the United States through the Electronic System for Travel Authorization (ESTA). Supporters of the VWP see admission into the program as an incentive for foreign countries to increase their security infrastructure and information sharing with the United States. A competing view is that despite security improvements following the 2015 terrorist attacks in Europe, such as screening of passengers entering under the VWP based on past travel to a country known as a terrorist sanctuary, the program remains a national security vulnerability.

Another objective of the VWP is to facilitate and encourage foreign business and leisure travel from high-volume and low-risk countries to the United States. In FY2018, 22.8 million nonimmigrant visitors—constituting nearly one-third of all visitor admissions to the United States—arrived through the VWP. Figures from U.S. Travel, the industry group representing travel and tourism organizations, show that nationals from VWP countries generated an estimated $190 billion in economic activity and supported close to 1 million jobs in the United States in 2017. In addition, the U.S. government's National Travel and Tourism Office (NTTO) reports that a record 80 million international travelers visited the United States in 2018, with the number falling slightly in 2019. The number of foreign visitor arrivals in 2019 indicated that the United States would likely fall short of the goal set by the federal government's travel and tourism strategy of attracting 100 million visitors annually by the end of 2021. The COVID-19 pandemic has sharply reduced foreign tourism in 2020 as countries have discouraged international travel and required arriving passengers to quarantine themselves for extended periods, probably putting the 2021 goal out of reach. Nonetheless, advocates for the U.S. travel and tourism industries argue that adding more countries to the VWP would further promote tourism, trade, and commerce by increasing the number of overseas visitors traveling to the United States.

Activity in the 116th Congress related to the VWP seeks to expand the number of countries by changing the qualification criteria or designating specific countries. Other bills would rename the VWP to "Secure Travel Partnership" to reflect one of its main goals of securing U.S. borders. Legislation in the 116th Congress also addresses the ESTA fee paid by VWP applicants. In December 2019, Congress authorized the continued use of the ESTA fee to partially fund Brand USA, a national tourism promotion program, through September 30, 2027. Congress also raised the ESTA fee from $14 to $21 (Division I, Title 8 of P.L. 116-94). The effective date of the new ESTA fee has not yet been announced.

Contents

Introduction 1
Visa Waiver Program Designation 1
Nonimmigrant Visitor Visa Refusal Rate Versus Overstay Rate 3
Adding Countries to VWP 5
Aspiring VWP Countries 6
Countries Removed from the VWP 8
National Security 8
Electronic System for Travel Authorization (ESTA) 8
Security Debate 9
Country-to-Country Security Agreements 10
Individual VWP Traveler Screening 11
U.S. Travel and Tourism Economy 12
Global Competitiveness of the U.S. Travel and Tourism Sectors 14
Economic Impact of Visitors from VWP Countries 14
Economic Impact of Adding New Countries to the VWP 15
The VWP and U.S. Travel Promotion Efforts 17
Legislation in the 116th Congress 18

Figures

Figure 1. Current and Selected Aspiring VWP Countries 3
Figure 2. Nonimmigrant Visitor Visa Refusal Rate Versus Overstay Rate for Selected Aspiring VWP Countries 5
Figure 3. VWP Participants 6

Tables

Table 1. Travel Spending and Volume of Visitors in the United States by Selected Countries 13
Table 2. Top 20 VWP Participants by Number of Visitors 15

Table A-1. Temporary Visitors from Aspiring VWP Countries, FY2008 and FY2018 19

Appendixes

Appendix A. Temporary Visitors to the United States for Business or Pleasure from Selected Aspiring VWP Countries 19
Appendix B. Selected Immigration Inspections Databases and Systems 20

Contacts

Author Information..... 21

Introduction

The U.S. government's Visa Waiver Program (VWP) allows eligible nationals[1] from 39 countries to enter the United States for stays of fewer than 90 days for tourism or business purposes without applying for a visa from a U.S. embassy or consulate (see **Figure 1**). Originally established in 1986 as a pilot program, the VWP was made permanent in 2000.[2] VWP countries now account for the largest group of visitors to the United States other than travelers from neighboring Canada and Mexico. In FY2018, 22.8 million VWP visitors were admitted to the United States, the largest number of people ever to enter under the program in a single year, up almost 30% from 17.6 million in FY2008.[3]

Countries that want to join the VWP must meet strict criteria, including signing on to information-sharing agreements, issuing tamper-proof travel documents, and upholding security standards at their borders. Travelers from VWP countries are not automatically guaranteed admission into the United States. Every VWP traveler must obtain preclearance to board a flight or ship to the United States through the Electronic System for Travel Authorization (ESTA). This web-based application checks the traveler's information against relevant law enforcement and security databases and determines eligibility for travel under the VWP. In addition, as with all international travelers, Customs and Border Protection (CBP) officers may deny entry to a VWP traveler upon arrival.

This report offers an overview of the VWP. It discusses the potential effects on national security and considers the likely economic effects on the U.S. travel and tourism industries if more countries were to be added to the program. The report also reviews legislative proposals in the 116th Congress related to the expansion and implementation of the VWP, and legislation targeting U.S. travel promotion——namely the Brand USA program, which is partially funded by ESTA.

Visa Waiver Program Designation

The Department of Homeland Security (DHS), in consultation with the Department of State (DOS), has the authority to designate participants into the VWP. The Secretary of State must formally make the nomination; DHS then conducts a final review and certifies that the aspiring participant meets all the requirements. To be eligible, a country[4] must comply with an extensive list of conditions specified in several different laws. It must

- offer reciprocal privileges to U.S. citizens;[5]
- have had a nonimmigrant visitor visa refusal rate of less than 3% for the previous year or a lower average percentage over the previous two fiscal years;[6]

[1] In this report, the term *nationals* refers to a person who is a citizen or a person owing permanent allegiance to a state.

[2] P.L. 106-396.

[3] U.S. Department of Homeland Security (DHS), Yearbook of Immigration Statistics 2018, Table 25, Nonimmigrant Admissions by Class of Admission: Fiscal Years 2008 to 2018, https://www.dhs.gov/immigration-statistics/nonimmigrant.

[4] Throughout this report, the term *country* is used. However, the VWP can and does include areas the United States does not formally consider countries, such as Taiwan.

[5] P.L. 99-603.

[6] Originally, to qualify for the Visa Waiver Pilot Program countries needed to have had an average nonimmigrant refusal rate of no more than 2% over the past two fiscal years with neither year going above 2.5% (P.L. 99-603).

- issue electronic, machine-readable passports[7] that contain a biometric identifier (known as *e-passports*);[8]
- certify that it issues tamper-resistant, machine-readable visa documents that incorporate biometric identifiers, which are verifiable at the country's port of entry;[9]
- certify that it has in place mechanisms to validate machine-readable passports and e-passports at each port of entry;[10]
- enter into an agreement with the United States to report or make available through INTERPOL information about the theft or loss of passports no later than 24 hours after a theft or loss is reported to the VWP country;[11]
- certify, to the maximum extent allowed under its laws, that it is screening each foreign national who is admitted or departs, using relevant INTERPOL databases and notices, or other means designated by the Secretary of Homeland Security (this requirement only applies to countries that have an international airport);[12]
- accept the repatriation of any citizen, former citizen, or national against whom a final order of removal from the United States is issued no later than three weeks after the order is issued;[13]
- enter into and fully implement an agreement with the United States to share information regarding whether a national traveling to the United States represents a threat to U.S. security or welfare;[14] and
- be determined, by the Secretary of Homeland Security, in consultation with the Secretary of State, not to compromise the law enforcement or security interests of the United States by its inclusion in the program.[15]

As of March 2020, 31 European countries, 7 Asia-Pacific countries, and 1 country in South America are in the program (see **Figure 1**).

However, P.L. 105-173 added the criterion that a country could have a nonimmigrant refusal rate of less than 3% for the previous year to qualify for the program.

[7] P.L. 106-396, P.L. 107-56.

[8] P.L. 107-173, P.L. 114-113.

[9] P.L. 108-458.

[10] P.L. 114-113.

[11] P.L. 110-53, P.L. 114-113. The International Criminal Police Organization (INTERPOL) is an inter-governmental organization that enables its 194 member countries to share information on crime and criminals.

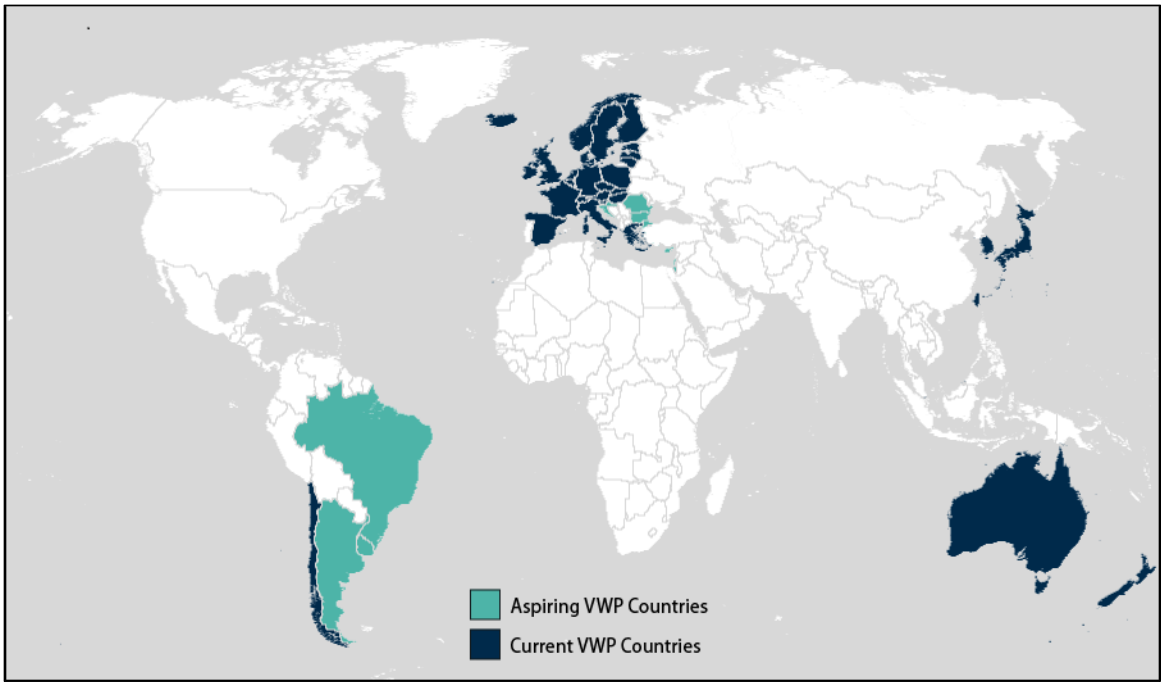
[12] P.L. 114-113.

[13] P.L. 110-53.

[14] P.L. 110-53.

[15] P.L. 114-113.

Figure 1. Current and Selected Aspiring VWP Countries



Source: Congressional Research Service (CRS), compiled from information from U.S. Travel and from CRS Report RL32221, *Visa Waiver Program*.

Nonimmigrant Visitor Visa Refusal Rate Versus Overstay Rate

One of the VWP criteria—the nonimmigrant, or temporary, visitor visa refusal rate—has been the subject of scrutiny by Congress. This rate represents the proportion of individuals whose applications for tourist or business visas have been rejected by U.S. consular officials in their home countries. When the VWP was conceived, some legislators argued that the number of nonimmigrants who overstay the terms of their entry under the VWP would be a better standard for future program participation, as the nonimmigrant visitor visa refusal rate is not based on the actual behavior of nonimmigrants.[16] However, DHS is not able to calculate overstay rates accurately; because it relies on information from passenger manifests, persons entering by air or sea but exiting at a land port of entry may be mischaracterized as overstays.[17]

[16] U.S. Congress, House Committee on the Judiciary, *Visa Waiver Permanent Program Act*, report together with additional views to accompany H.R. 3767, 106th Cong., 2nd sess., H.Rept. 106-564 (Washington, DC: GPO, 2000), p. 32. Importantly, although the refusal rate was seen as a proxy for the overstay rate when the program was conceived, people are denied visas for reasons other than being unable to prove that they will not remain illegally in the United States (i.e., they are *intending immigrants*). During the visa application process, consular officers must confirm that an alien is not ineligible for a visa under any of the so-called *grounds for inadmissibility* of the Immigration and Nationality Act (INA), such as having a criminal history, engaging in terrorist activity, or having previously violated U.S. immigration law. Although most visitor visa denials are because the alien cannot prove that they are not an intending immigrant, there are other reasons a person could be denied a visa that are captured as part of a country's visa refusal rate.

[17] For example, a 2019 Government Accountability Office (GAO) report says there are "existing limitations in collecting departure data in the land environment." See GAO, *Department of Homeland Security: Review of the Fiscal Year 2017 Entry/Exit Overstay Report*, GAO-19-298R, February 22, 2019, p. 3, at https://www.gao.gov/products/GAO-19-298R.

Advocates of expanding the VWP contend that the 3% nonimmigrant visitor visa refusal rate criterion, which has been a significant barrier to entry into the VWP, should be replaced with the overstay rate, or the refusal rate threshold should be raised and used in conjunction with the overstay rate.[18]

Some advocates have called for the return of the nonimmigrant visitor visa refusal rate waiver, which was available from October 2008 to July 2009.[19] The waiver allowed DHS to admit into the VWP countries that had met all of the security requirements if they had a low overstay rate and a declining nonimmigrant visitor visa refusal rate that was below 10% in the previous fiscal year.[20] Due to this waiver, eight countries that otherwise would not have qualified for the VWP were added in 2008.[21] For current aspiring VWP countries, a complicating factor is that the Secretary of Homeland Security's authority to waive the nonimmigrant visitor visa refusal rate is suspended[22] until the airline passenger exit system is able to match an alien's biometric information with relevant watchlists and manifest information.[23]

In FY2018, all the VWP countries had DHS-estimated overstay rates of less than 0.5% (Poland, which had not yet been admitted to the VWP, had a DHS-estimated overstay rate of less than 1%).[24] The worldwide DHS-estimated overstay rate for non-VWP countries in FY2018 was 2%. **Figure 2** shows the most recently available nonimmigrant visitor visa refusal rates and the DHS-estimated overstay rates for selected aspiring VWP countries. All of these countries (except Brazil) had a nonimmigrant visitor visa refusal rate of less than 10% in FY2019, and all of them had a DHS-estimated overstay rate of less than 2% in FY2018.

[18] Testimony of Steven Bucci, Director of the Douglas and Sarah Allison Center for Foreign and National Security Policy at the Heritage Foundation, in U.S. Congress, House Committee on Homeland Security, Subcommittee on Border and Maritime Security, *Combatting Terrorist Travel: Does the Visa Waiver Program Keep Our Nation Safe?*, hearings, 114th Cong., 1st sess., March 17, 2015, H.Hrg, 114-8 (Washington, DC: GPO, 2015).

[19] The waiver is authorized in P.L. 110-53 but is suspended until the United States fully implements a biometric air exit system. For more information, see CRS Report RL32221, *Visa Waiver Program*.

[20] A low overstay rate is defined in statute (P.L. 110-53, §711) as an overstay rate that does not meet the maximum overstay rate established by the Secretary of Homeland Security and the Secretary of State for countries receiving waivers of the nonimmigrant visitor visa refusal rate to participate in the VWP. A declining nonimmigrant visitor visa refusal rate is defined as a sustained reduction in visa refusal rates and an expectation of continued decline.

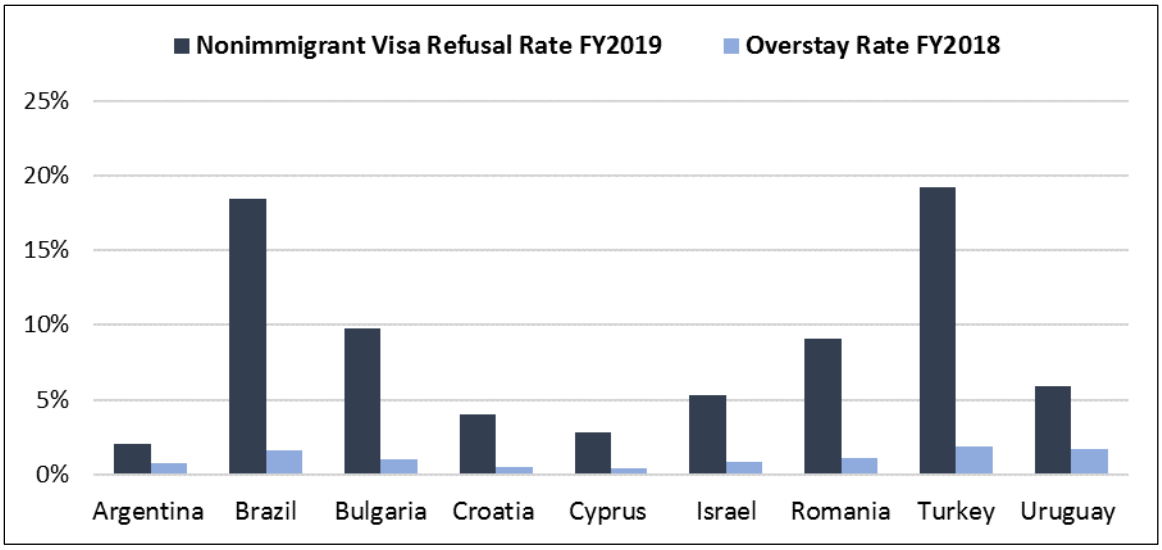
[21] These were the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Slovakia, and South Korea.

[22] The suspension of the waiver is required by P.L. 110-53, Section 711.

[23] As mandated by various statutes (e.g., P.L. 108-458 and P.L. 110-53) and Executive Order 13780, Customs and Border Protection (CBP) has been developing a biometric exit system for years, aiming to implement it in 20 international airports by 2022, which would cover 97% of commercial air travelers departing the United States; see DHS, *Transportation Security Administration and U.S. Customs and Border Protection: Deployment of Biometric Technologies*, Report to Congress, August 30, 2019, p. 5.

[24] For a discussion of the methodology used to calculate overstay rates, see DHS, *FY2018 Entry/Exit Overstay Report*, at https://www.dhs.gov/sites/default/files/publications/19_0417_fy18-entry-and-exit-overstay-report.pdf.

Figure 2. Nonimmigrant Visitor Visa Refusal Rate Versus Overstay Rate for Selected Aspiring VWP Countries



Source: Congressional Research Service (CRS), with data compiled from DOS, *Adjusted Refusal Rate – B-Visas Only by Nationality Fiscal Year 2019*; and DHS, *FY2018 Entry/Exit Overstay Report.*

Notes: Data are from the most recent year for which statistics are available.

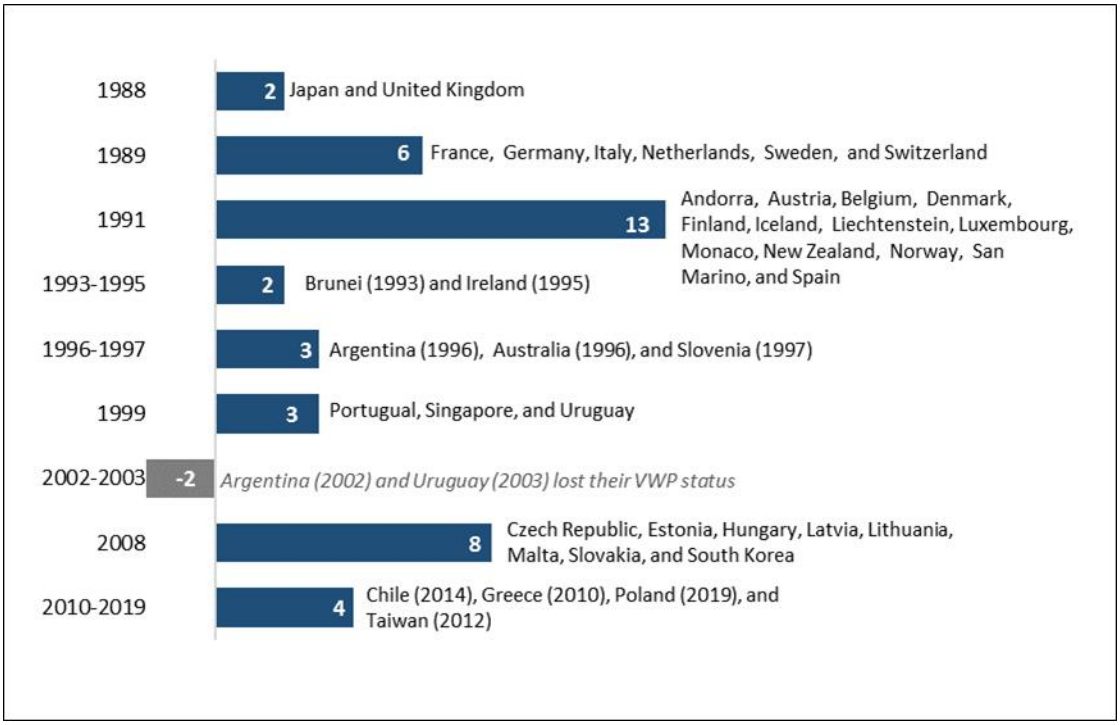
Adding Countries to VWP

Since the establishment of the VWP, the number of participating countries has been increased several times and two countries have been removed. The United Kingdom was the first country to be admitted, in July 1988, followed by Japan in December of the same year (see **Figure 3**). Six countries were added in 1989. An additional 13 countries were admitted in 1991, and another eight countries joined from 1993 to 1999. There was a gap until 2008, when another eight countries were admitted.[25] In the past 10 years, Chile, Greece, Taiwan, and, most recently, Poland have been added. Adding countries to the VWP is done through bilateral negotiations, and membership is often perceived as evidence of close ties with the United States. Argentina and Uruguay are the only two countries that have been removed from the program, in 2002 and 2003, respectively.

[25] These countries received a waiver for the nonimmigrant visa refusal rate; see the section on "Nonimmigrant Visitor Visa Refusal Rate Versus Overstay Rate."

Figure 3. VWP Participants

1988-2019



Source: U.S. Department of Homeland Security, *Visa Waiver Program Requirements,* http://www.dhs.gov/visa-waiver-program-requirements.

Poland: The Latest VWP Addition

On November 8, 2019, DHS designated Poland into the VWP. Poland had been working with DHS for more than a decade to meet the program's criteria.

The Polish government had been outspoken in expressing frustration over the failure to include the country in the VWP. Reportedly, President Barack Obama said in December 2010 that he was going to make it a priority to get Poland into the program. President Donald Trump, in public remarks before a September 2018 meeting with Poland's President Andrzej Duda, said in reference to Poland's designation into the VWP that his administration was "looking at that very strongly."

In FY2019, Poland met the requirement of having a nonimmigrant visitor visa refusal rate below 3%. On October 4, 2019, President Trump announced that the Department of State had formally nominated Poland for the VWP, and the following month DHS announced Poland's designation into the program. As of November 11, 2019, Polish nationals, like other visitors from VWP countries, are able to apply online for ESTA, which authorizes travel to the United States without a visa.

Aspiring VWP Countries

Since 2010, DHS has admitted four countries into the VWP (**Figure 3**). Many other countries would like to join the program to make it easier for their nationals to travel to the United States. In 2005, the George W. Bush Administration began providing countries interested in joining the VWP with *road maps* to aid them in meeting the program's criteria. The original 13 aspiring countries were Bulgaria, Cyprus, Czech Republic, Estonia, Greece, Hungary, South Korea, Latvia, Lithuania, Malta, Poland, Romania, and Slovakia. Of these, 10 have since been admitted.

This report examines a selected list of aspiring VWP countries: Argentina, Brazil, Bulgaria, Croatia, Cyprus, Israel, Romania, and Uruguay (see **Figure 1**).[26]

Four currently aspiring countries—Bulgaria, Croatia, Cyprus, and Romania—are in the European Union (EU). They are the only EU countries not in the VWP. U.S. citizens are permitted to travel to all the EU member states for short-term business or tourism purposes without a visa, whereas citizens of the four EU countries outside the VWP need a visa to travel to the United States.[27] The European Commission has pointed out that the United States is the only country on the EU's visa-free list that does not fully reciprocate, adding that "visa reciprocity is a fundamental principle of the European Union's common visa policy."[28] The European Union considered suspending its visa waiver for U.S. nationals in 2017, but decided not to do so.[29]

Israel has also been vocal about wanting to enter the VWP, but it has faced challenges meeting certain criteria. For instance, Israel's Biometric Database Law prohibits sharing fingerprint data with foreign authorities, though reportedly the United States and Israel came to an agreement to share data for those with a criminal background.[30] Another hurdle for Israel is that to become a VWP member, foreign countries must treat all American visa applicants equally; however, Israel has been accused of discriminating against Arab Americans.[31] Moreover, Israel has yet to meet the 3% nonimmigrant visitor visa refusal rate criterion; its rate was 5.33% in FY2019.[32]

Brazil is often included in reports about aspiring VWP countries.[33] It has recently made changes to its visa policy for U.S. citizens. In June 2019, Brazil introduced visa-free entry for U.S. citizens and citizens of three other countries, reportedly to stimulate tourism.[34]

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[26] While the Bush Administration specified these 13 "road map," or aspiring, VWP countries, no subsequent administration has publicly released a list of aspiring VWP countries. CRS updated this list by identifying additional aspiring VWP countries based on multiple sources, such as think tank publications, travel industry sources, and news reports.

[27] In 2018, the European Union (EU) announced that before travel, visitors from all visa-free countries will need to complete an online application similar to the U.S. ESTA system, and they will be required to pay a fee of €7 to use the European Travel Information and Authorization System (ETIAS). ETIAS will apply to people traveling to Europe's Schengen Zone, an area comprising 26 countries, the majority of which are EU member states, including France, Germany, and Spain. The United Kingdom will not be part of this new European visa system. ETIAS is expected to be operational in early 2021. An approved ETIAS will be valid for three years or the date of passport expiration (whichever happens first), and it can be used for stays for up to 90 days.

[28] European Commission, "Visa non-reciprocity: Commission takes stock of progress and developments," press release, December 18, 2018, at https://ec.europa.eu/commission/presscorner/detail/en/IP_18_6821.

[29] European Commission, "Visa Reciprocity: Commission responds to Parliament," press release, May 1, 2017, at https://ec.europa.eu/commission/presscorner/detail/en/IP_17_1148.

[30] Stuart Winer, "Israel nearing long-sought visa waiver deal with US—ministers," *Times of Israel*, November 13, 2017, at https://www.timesofisrael.com/israel-nearing-long-sought-visa-waiver-deal-with-us-ministers/.

[31] Ran Dagoni, "U.S. State Dep't: Israel Won't Get Visa Waiver So Fast," *Globes*, November 15, 2017, at https://en.globes.co.il/en/article-us-state-dept-israel-wont-get-visa-waiver-so-fast-1001211881.

[32] DOS, *Adjusted Refusal Rate – B-Visas Only by Nationality Fiscal Year 2019*, at https://travel.state.gov/content/dam/visas/Statistics/Non-Immigrant-Statistics/RefusalRates/FY19.pdf.

[33] For example, see Ruth Ellen Wasem, "The U.S. Visa Waiver Program: Facilitating Travel and Enhancing Security," *Chatham House*, October 25, 2017, at https://www.chathamhouse.org/sites/default/files/publications/research/2017-10-25-us-visa-waiver-wasem.pdf; U.S. Travel, *Brazil: International Inbound Travel Market Profile*, November 20, 2019, p. 3, at https://www.ustravel.org/research/brazil-international-inbound-travel-market-profile-2018.

[34] Michele Herrmann, "Brazil Waives Entry Visa Requirements for U.S. Citizens," *Forbes*, March 21, 2019, at https://www.forbes.com/sites/micheleherrmann/2019/03/21/brazil-waives-entry-visa-requirements/#5c7380833470.

Countries Removed from the VWP

A country can be terminated from the program if the Secretary of Homeland Security, in consultation with the Secretary of State, determines that a country's participation in the VWP undermines U.S. law enforcement, including immigration enforcement.

Argentina and Uruguay are former members of the VWP. Argentina joined in 1996, but the United States removed it in 2002 after poor economic conditions in the country led to an increase in the number of Argentine nationals entering the United States without visas and remaining illegally past the 90-day period of admission.[35] Uruguay joined in 1999, but it was removed in 2003 because a recession led to an increasing number of Uruguayan citizens entering the United States under the VWP to live and work illegally.[36]

National Security

National security is a key goal of the VWP. Over the years, Congress has continued to add security criteria for VWP participation.[37] One of the VWP's most significant security additions was ESTA, which was put in place in 2009 and is administered by DHS. In addition, several laws require VWP partner countries to share information with the United States and to set standards for travel documentation. Nevertheless, debate remains as to whether the VWP sufficiently vets individual travelers prior to arrival at a U.S. port of entry.

Electronic System for Travel Authorization (ESTA)

Before traveling to the United States, a VWP traveler must submit biographical information through DHS's ESTA. This web-based application checks the traveler's information against relevant law enforcement and security databases and determines eligibility for travel under the VWP. ESTA alerts the foreign national whether he or she has been approved to travel. If not approved, the individual must obtain a visa prior to coming to the United States.[38] This normally involves making an appointment for an interview with a U.S. consular official, a process that could delay the individual's departure for the United States.

ESTA became fully operational for all VWP visitors traveling to the United States by airplane or cruise ship on January 12, 2009.[39] Prior to the implementation of ESTA, the first time a foreign

[35] In addition, many Argentine nationals were trying to use the VWP to obtain entry to the United States solely for the purpose of proceeding to the Canadian border and pursuing an asylum claim in Canada. According to Citizenship and Immigration Canada, between 1999 and 2001 more than 2,500 Argentines filed refugee claims in Canada after transiting the United States under the VWP. 67 *Federal Register* 7944, February 21, 2002.

[36] In 2002, Uruguayan nationals were two to three times more likely than all nonimmigrants, on average, to have been denied admission at the border. Uruguayan air arrivals had an apparent overstay rate more than twice that of the average apparent overstay rate for all air-arrival nonimmigrants. 68 *Federal Register* 10954, March 7, 2003.

[37] For the full legislative history of the VWP, see CRS Report RL32221, *Visa Waiver Program*.

[38] In most cases, the ESTA decision is almost instantaneous. Under statute, ESTA determinations are not reviewable by the courts.

[39] VWP countries that received a waiver of the nonimmigrant refusal rate (i.e., Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Slovakia, and South Korea) had to use ESTA starting on the date of their formal admission to the program. For all these countries (except Malta, which was admitted at the end of 2008) that date was November 17, 2008. DHS, "Electronic System for Travel Authorization (ESTA) Advisory Statement," November 6, 2008; and DHS, "Electronic System for Travel Authorization: Mandatory Compliance Required for Travel Under the Visa Waiver Program," 73 *Federal Register* 67354, November 13, 2008.

national traveling under the VWP to the United States was screened was after checking in for a flight to the United States at a foreign airport. Under the current system, at the time a foreign national submits an ESTA application (at least 72 hours before travel), he or she is screened against a number of security databases, including the Terrorist Screening Database; TECS (not an acronym), a system used by U.S. Customs and Border Protection officers to screen arriving travelers to the United States;[40] the Automated Targeting System; and INTERPOL's Lost and Stolen Passport database. **Appendix B** offers an explanation of these systems and databases.

An ESTA authorization is generally valid for multiple entries over a period of two years. Throughout this period, the ESTA system continually vets approved individuals' information against these databases. DHS can immediately revoke an ESTA approval if new derogatory information is discovered.[41] In addition, the validity period can be shortened at any time for any reason.[42] ESTA only screens against biographical security databases; VWP travelers do not submit biometric information (e.g., fingerprints and photographs) until they reach a U.S. port of entry, at which point their biometrics are run through multiple security databases.

Notably, a determination under ESTA that a foreign national is eligible to travel to the United States does not constitute a determination that the individual is admissible. The foreign national may still be deemed inadmissible and denied entry by CBP inspectors upon arrival at a U.S. port of entry.[43]

Travelers who use ESTA pay a $14 fee, which was instituted in September 2010.[44] The fee includes $4 to cover the costs of administering ESTA and $10 for the travel promotion fee established by Congress in the Travel Promotion Act of 2009.[45] In December 2019, the Further Consolidated Appropriations Act of 2020 directed that the ESTA fee be raised to $21 (see section on "The VWP and U.S. Travel Promotion Efforts").[46] This fee increase has not been put into effect.

Security Debate

Although there tends to be agreement that the VWP benefits the U.S. economy by facilitating tourism (see section on "U.S. Travel and Tourism Economy"), disagreement exists about VWP's effect on national security. The VWP contains provisions that affect national security at two levels: country-to-country security agreements and individual traveler security screening.

[40] TECS, managed by DHS, is an updated version of the Treasury Enforcement Communications System.

[41] Testimony of Hillary Batjer Johnson, Deputy Coordinator for Homeland Security, Screening, and Designations Bureau of Counterterrorism, U.S. Department of State, in U.S. Congress, House Committee on Oversight and Government Reform, Subcommittees on National Security and Government Operations, *The President's Waiver of Restrictions on the Visa Waiver Program*, hearings, 114th Cong., 2nd sess., February 10, 2016, H.Hrg. 114-104 (Washington, DC: GPO, 2017).

[42] P.L. 114-113, Title II, Section 207 gave the Secretary of Homeland Security the authority to issue a shortened ESTA validity period.

[43] A foreign national will be denied entry if he or she is found to be inadmissible under any of the Immigration Nationality Act's (INA's) grounds of inadmissibility (8 U.S.C. §1182).

[44] DHS, Customs and Border Protection, "DHS, CBP Announce Interim Final Rule for ESTA Fee," press release, August 6, 2010.

[45] The ESTA fee was established in P.L. 111-145, Section 9 and later extended by P.L. 113-235, Title 6.

[46] P.L. 116-94, Division I, Title 8.

Country-to-Country Security Agreements

To participate in the VWP, countries must agree to share extensive information with the United States about lost passports, known and suspected terrorists, and serious criminals.[47] Since 2015, the Secretary of Homeland Security had been authorized to immediately suspend a country's participation in the VWP if the country fails to provide information related to security threats.[48]

The VWP also sets standards for participating foreign countries' passports, visas, and border security. As previously mentioned, VWP countries must issue biometric e-passports and tamper-resistant, machine-readable visa documents. Furthermore, since December 2017, DHS requires VWP countries to use U.S. counterterrorism information to screen travelers crossing their borders and to implement certain aviation security measures.[49]

Moreover, foreign countries' participation in the VWP allows the United States to monitor their border operations. Since 2002, DHS is statutorily obligated to assess and report on VWP countries' compliance with VWP criteria every two years.[50] Thus, to remain in the program participating countries are subject to regular audits of their security operations, which include "rigorous and thorough inspection of airports, seaports, land borders, and passport production/issuance facilities as well as continuous monitoring."[51] According to DHS, "no other program enables the U.S. Government to conduct such broad and consequential assessments of foreign partners' border security operations."[52]

The possibility of joining the VWP is an incentive for aspiring VWP countries to share such information and improve their border security. According to DHS, "many countries not in the VWP complete program requirements in the hope of joining the program."[53] For participating countries that wish to remain in the VWP program, DHS contends that "VWP requirements provide our allies with the impetus to implement security measures that can sometimes be politically challenging for them, like amending legislation and updating their data privacy frameworks."[54]

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[47] For example, VWP countries must provide data on lost and stolen passports (LASP) through INTERPOL, share information on known and suspected terrorists pursuant to Homeland Security Presidential Directive 6 (HSPD-6), and have signed the Preventing and Combating Serious Crime (PCSC) Agreements, which require them to share information on potential serious criminals and terrorists with the United States.

[48] P.L. 114-113, Title II.

[49] DHS, "Secretary Kirstjen Nielsen Announces Targeted Security Enhancements to the Visa Waiver Program," press release, December 15, 2017, at https://www.dhs.gov/news/2017/12/15/secretary-kirstjen-nielsen-announces-targeted-security-enhancements-visa-waiver.

[50] P.L. 107-52, §711. According to a 2016 GAO report, DHS needs to improve the timeliness of these biannual reports; GAO, *Visa Waiver Program: DHS Should Take Steps to Ensure Timeliness of Information Needed to Protect U.S. National Security*, GAO-16-498, May 2016.

[51] Testimony of Hillary Batjer Johnson, Deputy Coordinator for Homeland Security, Screening, and Designations Bureau of Counterterrorism, in U.S. Department of State, U.S. Congress, House Committee on Oversight and Government Reform, Subcommittees on National Security and Government Operations, *The President's Waiver of Restrictions on the Visa Waiver Program*, hearings, 114th Cong., 2nd sess., February 10, 2016, H.Hrg. 114-104 (Washington, DC: GPO, 2017), p, 27.

[52] Ibid.

[53] Ibid., p. 19.

[54] Ibid., p. 27.

Individual VWP Traveler Screening

The vetting of VWP travelers contains some features absent from the traditional screening required to receive a nonimmigrant visitor visa for business and tourist travel. As previously mentioned, ESTA screens the data of those authorized for VWP travel on a daily basis throughout ESTA's two-year validity period; new derogatory information could result in a denial of ESTA authorization.[55] In contrast, many nonimmigrant visitor visas are valid for 10 years and are not continuously vetted.[56] Moreover, travelers entering under the VWP must present e-passports, which tend to be more difficult to alter than other types of passports.

VWP travelers do not undergo the same screening required of travelers from most countries to receive a nonimmigrant visitor visa, which typically includes a personal interview with a U.S. consular officer.[57] As such, VWP travelers' first face-to-face encounter with U.S. officials could be at a port of entry.[58] Additionally, ESTA is a name-based system and cannot be used to run checks against databases that use biometrics, such as the Automated Biometric Identification System and Next Generation Identification.[59] However, when VWP travelers enter the United States, CBP takes their fingerprints and photographs and checks them against these biometric systems.[60] Finally, visitor visa applicants are required to submit social media identifiers, but this is optional for VWP travelers.[61]

Another concern, following a number of high-profile terrorist attacks in Europe in recent years perpetrated mainly by European citizens, has been the possible threat posed by nationals from VWP countries who are aligned with the Islamic State. A focus had been on radicalized citizens of VWP countries who could have fought in the Middle East for the Islamic State or other terrorist groups. Conceivably, these individuals may have been able to travel to the United States under the VWP if there was no derogatory information about them in U.S. biographic databases. In response, Congress passed the Visa Waiver Program Improvement and Terrorist Travel Prevention Act, enacted as part of the FY2016 Consolidated Appropriations Act.[62] This makes citizens of VWP countries ineligible for admission to the United States under the VWP if they are dual nationals of the Democratic People's Republic of Korea, Iran, Iraq, Sudan, or Syria or had been present in any of those countries, or in Libya, Somalia, or Yemen, at any time on or after

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[55] Testimony of Gil Kerlikowske, Commissioner, U.S. Customs and Border Protection, in U.S. Congress, House Committee on Oversight and Government Reform, Subcommittees on National Security and Government Operations, *The President's Waiver of Restrictions on the Visa Waiver Program,* hearings, 114th Cong., 2nd sess., February 10, 2016, H.Hrg. 114-104 (Washington, DC: GPO, 2017).

[56] Although nonimmigrant visitor visas are not continuously vetted, CBP screens individuals traveling on them at ports of entry each time they enter the United States.

[57] Federation for American Immigration Reform (FAIR), "The Visa Waiver Program: Suspend It or Eliminate It," December 2015, at https://www.fairus.org/issue/legal-immigration/visa-waiver-program-suspend-it-or-eliminate-it.

[58] VWP travelers may have previously applied for a visa to the United States and undergone an interview with a U.S. consular officer.

[59] See **Appendix B** for more details about these systems.

[60] CRS Report R43356, *Border Security: Immigration Inspections at Ports of Entry*.

[61] DHS is considering a proposal to require VWP travelers to submit social media identifiers on their ESTA applications; see DHS, "Agency Information Collection Activities: Generic Clearance for the Collection of Social Media Information on Immigration and Foreign Travel Forms," 84 *Federal Register* 46557, September 4, 2019. Some stakeholders are concerned that this could have a "chilling effect" on U.S. tourism; see Rosie Spinks, "Social Media Requirement for Visa Waivers May Have chilling Effect on U.S. Tourism," *Skift,* September 16, 2019, at https://skift.com/2019/09/16/social-media-requirement-for-visa-waivers-may-have-chilling-effect-on-u-s-tourism/.

[62] P.L. 114-113.

March 1, 2011 (with limited exceptions). These individuals can still apply for a visa to travel to the United States.

Another point of contention is whether the VWP threatens the United States' immigration enforcement interests.[63] As of December 2017, VWP countries that have an overstay rate of over 2% must initiate a public information campaign to educate their citizens about the conditions for admission to the United States.[64] If this does not reduce overstay violations, a country could be removed from the program, as occurred with Argentina and Uruguay in 2002 and 2003, respectively.[65]

U.S. Travel and Tourism Economy

A principal objective of the VWP is to boost the U.S. travel and tourism sectors by encouraging travel from high-volume and low-risk countries to the United States. The number of international visitors arriving in the United States totaled 79.3 million in 2019, down slightly from a record high of 79.7 million in 2018. Because of the sharp decline in international travel in the wake of the COVID-19 pandemic, many international flights have been cancelled and visitor volume is likely to fall sharply in 2020.[66]

In 2018, the travel and tourism sectors accounted for 2.9% of U.S. gross domestic product, a larger share than many other industries, including agriculture, mining, or utilities,[67] and they directly and indirectly employed 9.2 million workers.[68]

Every dollar international visitors spend in the United States counts as an export. Collectively, foreign visitors spent about $256 billion in 2018 on domestic passenger fares aboard U.S. airlines and on travel-related goods and services, which makes tourism the United States' single-largest services sector export.[69] Every year since 1989, the U.S. travel and tourism industries have posted a trade surplus, which in 2018 was $69.6 billion. Travel- and tourism-related exports accounted for 31% of all U.S. services exports and 10% of total exports in 2018.[70]

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[63] Although some stakeholders fear that foreign nationals could utilize the VWP to enter the United States and remain past the 90-day period of admission, current VWP countries have a relatively low overstay rate (an average of 0.5%).

[64] DHS, "Secretary Kirstjen Nielsen Announces Targeted Security Enhancements to the Visa Waiver Program," press release, December 15, 2017, at https://www.dhs.gov/news/2017/12/15/secretary-kirstjen-nielsen-announces-targeted-security-enhancements-visa-waiver.

[65] A country can be terminated from the program if the Secretary of Homeland Security, in consultation with the Secretary of State, determines that a country's participation in the VWP threatens U.S. law enforcement, including immigration enforcement.

[66] National Travel and Tourism Office (NTTO), *Non-Resident Arrivals to the United States: Overseas, Canada, Mexico, and International, Trend Line Data—Country of Residence*, March 2020, at https://travel.trade.gov/view/m-2017-I-001/index.asp.

[67] Connor Franks and Sarah Osborne, *U.S. Travel and Tourism Satellite Account for 1998-2018*, U.S. Bureau of Economic Analysis (BEA), Survey of Current Business, November 2019, p. 5.

[68] Of those jobs, 5.9 million were direct tourism jobs and 3.3 million were indirect tourism jobs. U.S. Bureau of Economic Analysis (BEA), Tourism Satellite Accounts Data Sheets, Tourism Satellite Accounts 2018, at https://www.bea.gov/tourism-satellite-accounts-data-sheets.

[69] Travel exports cover travel for all purposes, including education and health-related spending. U.S. Bureau of Economic Analysis (BEA), *U.S. International Trade in Services*, October 15, 2019.

[70] National Travel and Tourism Office (NTTO), *Fast Facts: United States Travel and Tourism Industry, 2018*, October 2019.

Each overseas visitor spends, on average, about $4,200 per trip in the United States on travel activities such as shopping, lodging, dining, and sightseeing.[71] According to the Bureau of Economic Analysis (BEA), international travelers account for a disproportionate amount of all travel and tourism spending in the United States. One reason for this is that international visitors have relatively longer stays than domestic visitors, spending, on average, 18 nights in the United States.[72]

Travelers from VWP countries are among the highest in spending and visitor volume (see **Table 1**). However, an increasing number of overseas visitors come from non-VWP countries, notably China, Venezuela, Brazil, and India. Combined, these four non-VWP countries accounted for nearly 6.7 million visitors to the United States in 2019, down 4% from a year earlier.[73] Travelers from these countries spent more than $5,000 on average per trip during their visits to the United States, with visitors from China leading in country-level travel spending. Spending in the United States by visitors from large source markets has risen substantially in recent years, up 45% from China and 78% from India since 2013.[74]

Table 1. Travel Spending and Volume of Visitors in the United States by Selected Countries

(Ranked by average travel spending, 2018)

Country	Travel Spending (in $ millions)	Volume of Visitors to the United States	Average Travel Spending
China	$19,520	2,992,000	$6,524
Australia (VWP Member)	$8,352	1,362,000	$6,132
Venezuela	$2,827	502,000	$5,631
Brazil	$11,501	2,209,000	$5,206
India	$7,162	1,378,000	$5,197
Switzerland (VWP Member)	$2,388	463,000	$5,158
Argentina	$4,795	994,000	$4,824
Japan (VWP Member)	$15,062	3,493,000	$4,312
Germany (VWP Member)	$7,873	2,062,000	$3,818
Italy (VWP Member)	$4,073	1,073,000	$3,796

Source: Calculated by the Congressional Research Service (CRS) using data from the U.S. Department of Commerce's Bureau of Economic Analysis (BEA) and the National Travel and Tourism Office (NTTO).

Notes: Countries selected from top 20 markets by number of visitors. Travel spending covers travel spending, excluding travel for education and medical purposes, and passenger fares. Average travel spending is calculated by adding travel spending and passenger fares and dividing by the number of visitors to the United States.

[71] U.S. Travel, *Top 20 Travel Export Markets (2018)*, October 26, 2019.

[72] U.S. Travel, *U.S. Travel Answer Sheet: Facts About a Leading American Industry That's More than Just Fun*, 2019.

[73] The number of overseas visitors, excluding travelers from Canada and Mexico, to the United States was down 3% in 2019 from 2018. Because of travel restrictions due to the global pandemic (COVID-19), overseas visitation to the United States is likely to decline significantly in 2020.

[74] U.S. Bureau of Economic Analysis (BEA), *U.S. International Trade in Services*, October 15, 2019.

Global Competitiveness of the U.S. Travel and Tourism Sectors

Although the number of foreign visitors to the United States has continued to rise, the U.S. share of total global tourism arrivals declined from 6.4% in 2015 to 5.7% in 2017, the most recent year for which statistics are available.[75] One reason for this declining market share is that it is now much easier for travelers to visit many parts of the world, including Asia and Africa, compared to a few years ago.[76]

In 2012, the Obama Administration established a Task Force on Travel and Competitiveness, which set a goal of welcoming 100 million international visitors in 2021.[77] Among other things, the task force recommended expediting visa processing for tourists from certain emerging economies, such as China and Brazil, and adding countries to the VWP in order to encourage tourism. Before the advent of the global pandemic (COVID-19) in 2020, the U.S. government had forecasted that the volume of tourist arrivals would not meet the task force's goal, with the number of total international visitors to the United States expected to reach close to 82.9 million in 2021.[78] It is too early to know what the repercussions of shutting down a significant share of overseas travel to the United States may mean for the U.S. travel and tourism industries. Current indications suggest that the stated goal in overseas travelers to the United States is beyond reach by 2021 as potential visitors modify their travel plans.

Economic Impact of Visitors from VWP Countries

Determining whether the VWP has directly led to increased travel to the United States is not straightforward because many factors affect international travel, including general economic conditions, currency exchange rates, and even the nature of bilateral relations. Nevertheless, the VWP could be a factor that has encouraged more visits to the United State because it arguably reduces uncertainty, inconvenience, and costs associated with a visa application.[79]

Of the 37 nations in the VWP as of 2012, all but 10 recorded an increase in the volume of tourists and business visitors to the United States from FY2013 to FY2018. Three-fourths of the top 20 countries by number of VWP visitors recorded double-digit growth rates in VWP admissions over this period, including Taiwan, South Korea, Spain, and New Zealand, although the annual change for VWP countries has been uneven. Germany, Austria, Switzerland, and Japan are among the 20 VWP countries that posted drops in U.S. VWP admissions between FY2013 and FY2018 (see **Table 2**).

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[75] The World Bank, *Travel and Tourism Number of Arrivals and Receipts*, at https://data.worldbank.org/indicator/ST.INT.ARVL and https://data.worldbank.org/indicator/ST.INT.RCPT.CD.

[76] World Economic Forum, *The Travel & Tourism Competiveness Report 2019*, September 4, 2019, p. 8, at https://www.weforum.org/reports/the-travel-tourism-competitiveness-report-2019.

[77] The White House (Obama Administration), Executive Order 13597, "Establishing Visa and Foreign Visitor Processing Goals and the Task Force on Travel and Competitiveness," 77 *Federal Register* 3373, January 24, 2012. Also see *National Travel & Tourism Strategy: Task Force on Travel & Competitiveness*, 2012.

[78] The National Travel and Tourism Office's (NTTO's) prediction rests on several assumptions, which did not include the effects of the coronavirus that started in January 2020. One is an annual rate of growth in overseas visitors of 2.7% or more, and another is a yearly increase in visitors from countries such as China and India of at least 4%. The only decrease NTTO anticipates among international visitors over the next four years is a drop from Venezuela to around 380,000 travelers by 2024 from more than 500,000 in 2018. NTTO, *International Visitors to the U.S. and Projections, 2000-2024*, October 2019, at https://travel.trade.gov/view/f-2000-99-001/index.html.

[79] A barrier for non-VWP travelers on nonimmigrant visitor visas is that they must arrange for an in-person appointment at an embassy or consulate and pay a non-refundable $160 visa application fee before they can visit the United States, and, moreover, visa approvals are not guaranteed.

Table 2. Top 20 VWP Participants by Number of Visitors
(FY2013 and FY2018, ranked by FY2018 admissions)

Country	Year Admitted to VWP	VWP Admissions FY2013	VWP Admissions FY2018	% Change FY2013 to FY2018
United Kingdom	1988	4,163,297	4,635,480	11%
Japan	1988	4,035,039	3,509,759	-13%
South Korea	2008	1,212,739	2,290,705	89%
Germany	1989	2,173,849	2,130,453	-2%
France	1989	1,804,035	2,022,153	12%
Australia	1996	1,351,238	1,412,605	5%
Italy	1989	1,108,013	1,315,270	19%
Spain	1991	838,935	1,080,300	29%
Netherlands	1989	730,997	812,905	11%
Ireland	1995	442,533	576,099	30%
Sweden	1989	512,299	529,534	3%
Taiwan	2012	228,515	442,622	94%
Switzerland	1989	437,567	403,095	-8%
New Zealand	1991	269,654	345,102	28%
Denmark	1991	299,941	338,063	13%
Belgium	1991	293,217	303,669	4%
Norway	1991	292,812	276,912	-5%
Austria	1991	218,779	206,643	-6%
Portugal	1999	160,183	205,780	28%
Finland	1991	148,524	150,440	1%

Source: Department of Homeland Security, *Yearbook of Immigration Statistics*, Table 28, "Nonimmigrant Admissions (I-94 Only) by Selected Category of Admission and Region and Country of Citizenship," multiple years.

Economic Impact of Adding New Countries to the VWP

U.S. Travel, an advocacy group for the travel industry, has produced several analyses of the effects of adding countries to the VWP. All of the organization's reports conclude that adding new countries to the program would yield positive results. For example, in a 2014 report U.S. Travel estimated that if Brazil, Bulgaria, Croatia, Israel, Poland, Romania, and Uruguay were included in the program, annual visitation from those countries would increase by more than 500,000, adding $5.3 billion per year to the U.S. economy and supporting 31,600 additional jobs in the United States.[80] Likewise, an economic analysis of U.S. Department of Commerce data on travel and

[80] U.S. Travel, "Visa Waiver Works: Expanding the U.S. Visa Waiver Program Brightens the American Economy and Safeguards Security: Republic of Korea Case Study," March 2014, p. 5.

tourism from 1980 to 2013 found that the VWP had a "meaningful impact driving increases in U.S. tourist volumes."[81] In a 2019 report, U.S. Travel predicted that over the first three years of Poland's participation in the VWP, travel spending by Polish visitors to the United States would increase by $312 million, the number of Polish arrivals would rise by 97,000, and visitors from Poland would support 4,200 American jobs.[82]

Visitors from the four non-VWP EU countries (Bulgaria, Croatia, Cyprus, and Romania), who currently enter the United States on nonimmigrant visitor visas, accounted for approximately 1% of total EU visitor spending in the United States in 2018 (approximately $580 million). This seems to suggest that the overall economic effect of adding these four countries to the VWP would likely be relatively small. According to an estimate by U.S. Travel, the number of arrivals in the United States from these countries would increase by nearly 73,000 visitors at the end of the first three years after joining the VWP.[83] In a separate report, U.S. Travel projected that if Romania were to become a VWP country, annual arrivals from the country would increase by 38,000 and bring $128 million in additional travel spending to the United States.[84] Both reports were prepared before the COVID-19 pandemic interrupted international travel in 2020.

According to figures from the Department of Commerce spending by Israeli visitors in 2018 in the United States on passenger fares and travel-related goods and services was nearly $1.8 billion.[85] U.S. Travel estimated in 2019 that if Israel were admitted to the VWP, an additional 450,200 Israeli travelers would visit the United States over a three-year period, generating $1.2 billion in travel spending.[86]

The U.S. travel and tourism industries support expanding the VWP to other countries, especially populous countries such as Brazil. Brazil was the fifth-largest tourism source market for the United States, with 2.1 million Brazilians visiting in 2018. As shown in **Table 1**, average spending per Brazilian visitor to the United States was $5,200 in 2018, among the highest of all source countries. The number of visitors from Brazil is projected to reach 2.6 million by 2024 even if Brazil is not admitted to the VWP.[87] In November 2019, the United States announced that Brazil will soon join the Global Entry program, which will reduce waiting time for approved Brazilian visitors arriving at U.S. airport immigration checkpoints.[88]

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[81] Stephen Bronars, *Passport to Future Economic Growth: How Expanding the Visa Waiver Program Will Strengthen the U.S. Economy and Create American Tourism Jobs*, Partnership for a New American Economy, 2014, p. 2.

[82] U.S. Travel, *Poland is a Logical Next Addition to the Visa Waiver Program*, June 12, 2019, at https://www.ustravel.org/news/poland-logical-next-addition-visa-waiver-program.

[83] U.S. Travel, *Fact Sheet: The Visa Waiver Program Makes America More Secure*, February 12, 2019, at https://www.ustravel.org/research/visa-waiver-program-makes-america-more-secure.

[84] U.S. Travel, *U.S. Travel Encouraged by U.S.-Romania Visa Waiver Program Discussions*, August 20, 2019, at https://www.ustravel.org/news/us-travel-encouraged-us-romania-visa-waiver-program-discussions.

[85] Average visitor spending takes into account travel receipts and passenger fares, but excludes education and other travel-related exports. See U.S. Bureau of Economic Analysis (BEA), *U.S. Trade in Services*, Table 2.2, October 15, 2019.

[86] U.S. Travel, *Israel: International Inbound Travel Market Profile*, December 17, 2019, p. 2, at https://www.ustravel.org/research/israel-international-inbound-travel-market-profile-2018.

[87] National Travel and Tourism Office (NTTO), *Forecast of International Travelers to the United States by Top Origin Countries*, October 2019.

[88] Currently, trusted travelers from Argentina, India, Colombia, Germany, Panama, Singapore, South Korea, Switzerland, Taiwan, the United Kingdom, and Mexico are eligible for the program.

The VWP and U.S. Travel Promotion Efforts

The VWP is closely related to the promotion of foreign tourism to the United States. The United States no longer has a central agency to promote travel to it; the National Travel and Tourism Office (NTTO), within the International Trade Administration of the U.S. Department of Commerce, mainly provides official tourism statistics.[89] Travel promotion is the responsibility of Brand USA (formally known as the Corporation for Travel Promotion), a nonprofit public-private entity that also is charged with communicating U.S. visa and entry policies to overseas visitors. Brand USA was established under the Travel Promotion Act of 2009 (P.L. 111-145) and began operations in May 2011.[90] In addition to private funding, since 2010 Brand USA has received $10 of the $14 fee paid by each prospective visitor from a VWP country who requests approval to travel to the United States through ESTA. In 2019, Congress approved raising the ESTA fee from $14 to $21, while reducing the amount available to Brand USA to $7 per traveler. Of the remainder, $4 will continue to go to CBP to cover the costs of administering ESTA, and $10 will be directed to the U.S. Treasury for the general fund.[91] The effective date of the new ESTA fee has not yet been announced.

Brand USA is not without controversy. The Trump Administration's FY2021 budget called for ending the federal grant that matches the private sector contributions to Brand USA and making the revenue available to the U.S. Treasury to reduce the federal deficit.[92] Brand USA remains controversial among other travel and tourism stakeholders too, with some critics asserting that promotion of tourism should be left to the private sector. For example, Airlines for America, an airline industry group representing U.S. carriers, opposed Brand USA's reauthorization, asserting that ESTA funds would be better spent by CBP on border security, vetting travelers and refugees, and modernizing entry and exit processes.

In another effort to promote travel and tourism, the United States has indicated that it is considering rejoining the United Nations' World Tourism Organization (UNWTO), which was established in 1975 to promote tourism worldwide. The United States was one of its founding members, but withdrew in 1996 after Congress stopped funding the United States Travel and Tourism Administration. In June 2019, the Trump Administration announced that the United States may rejoin the UNWTO.[93] The announcement met with some criticism,[94] and the Administration has subsequently taken no action. Other countries with large travel and tourism sectors that are not members of the UNWTO include the United Kingdom, Canada, and Australia.

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[89] In 1981, Congress passed the National Tourism Policy Act, (P.L. 97-63), which created the United States Travel and Tourism Administration (USTTA) as the nation's government tourism office, but Congress repealed the authorization for USTTA in 1996, placing tourism policy in the hands of individual states and the private sector. U.S. Congress, House Committee on Commerce, Committee of the Whole House, *United States National Tourism Organization Act of 1996*, 104th Cong., 2nd sess., September 26, 1996.

[90] The Corporation for Travel Promotion was renamed Brand USA in November 2011; it has an 11-member board of directors and a staff of more than three dozen full-time employees in Washington, DC.

[91] P.L. 116-94, Division I, Title 8.

[92] White House, *A Budget for America's Future: Major Savings and Reforms*, February 10, 2020, p. 181, at https://www.whitehouse.gov/omb/budget/.

[93] U.S. Department of State, press release, June 17, 2019, at https://www.state.gov/the-united-states-to-explore-rejoining-the-united-nations-world-tourism-organization/.

[94] For example, see Brett D. Schaefer and James Jay Carafano, *6 Reasons Why the U.S. Should not Rejoin the U.N. World Tourism Organization*, The Heritage Foundation, October 2, 2019, at https://www.heritage.org/terrorism/commentary/6-reasons-why-the-us-should-not-rejoin-the-un-world-tourism-organization.

Legislation in the 116th Congress

Proposals introduced in the 116th Congress would give DHS greater flexibility to admit countries into the VWP that do not meet the criteria discussed above. Representative Mike Quigley introduced the Jobs Originated through Launching Travel (JOLT) Act (H.R. 2187), which would reinstate DHS's authority to grant a waiver for the nonimmigrant visitor visa refusal rate. That bill would also change the name of the VWP to Secure Travel Partnership.[95] H.R. 1996, also introduced by Representative Quigley, would solely rename the VWP to Secure Travel Partnership. Representative Dan Lipinski introduced the Allied Nations Travel Modernization Act (H.R. 2946), which would allow countries to be designated into the VWP if, instead of a low nonimmigrant visitor visa refusal rate, they have a low visa overstay rate and agree to spend 2% of their gross domestic product on defense;[96] according to the sponsor, the bill was drafted "to create an alternative pathway into the program for NATO nations like Poland." As noted above, Poland was recently designated into the VWP. In previous Congresses, numerous bills have been introduced to designate Israel and Hong Kong into the VWP.[97]

Senator John Cornyn introduced the Humanitarian Upgrades to Manage and Assist our Nation's Enforcement (HUMANE) Act of 2019 (S. 1303); among other provisions, it seeks to deter VWP overstays by amending the Immigration and Nationality Act's terms and conditions of admission for VWP travelers, the VWP waiver of rights, and the detention and repatriation of visa waiver violators.

The 116th Congress also addressed the spending of ESTA funds. Senator Mike Enzi introduced the Responsibly Enhancing America's Landscapes Act (S. 2783), which would establish the National Park Service Legacy Restoration Fund to help with the backlog of maintenance projects in national parks. This fund would be paid for by increasing the ESTA fee by $16, along with an increase in nonimmigrant visitor visa fees by $25 and a park fee increase of $5. The Further Consolidated Appropriations Act of 2020 (P.L. 116-94), which passed in December 2019, extended the authority for Brand USA to receive fees from the VWP through the end of September 2027 and raised the ESTA fee (as described in "The VWP and U.S. Travel Promotion Efforts" section above). The private sector still must provide at least $100 million per year in in-kind contributions and cash to the Brand USA program in order for it to receive these federal funds.

[95] Unrelated to the VWP, H.R. 2187 would also allow Canadians over age 50 entering on tourist visas who own or have rented property in the United States to be admitted for up to 240 days. Currently, the maximum duration of stay on a tourist visa is 180 days. Additionally, H.R. 2187 includes sections related to visa processing, such as developing a secure remote videoconferencing program for visa interviews.

[96] For more information, see North Atlantic Treaty Organization, "Wales Summit Declaration," press release, September 5, 2014, at https://www.nato.int/cps/en/natohq/official_texts_112964.htm?selectedLocale=en.

[97] For example, S. 703, S. 266, S.Amdt. 3933, H.R. 1923, and H.R. 300.

Appendix A. Temporary Visitors to the United States for Business or Pleasure from Selected Aspiring VWP Countries

Table A-1. Temporary Visitors from Aspiring VWP Countries, FY2008 and FY2018

Aspiring VWP Countries	FY2008	FY2018	% Change 2008 to 2018
Israel	388,787	453,620	17%
Brazil	893,186	2,376,392	166%
Cyprus	11,003	10,982	-0.2%
Bulgaria	41,793	32,800	-22%
Croatia	27,772	28,846	4%
Romania	76,799	93,131	21%

Source: Department of Homeland Security, *Yearbook of Immigration Statistics*, Table 28, "Nonimmigrant Admissions (I-94 Only) by Selected Category of Admission and Region and Country of Citizenship," multiple years.

Appendix B. Selected Immigration Inspections Databases and Systems

Advance Passenger Information System (APIS): CBP database containing information about inbound air passengers and crew members. Air carriers submit passenger information to APIS prior to departing on U.S.-bound flights (or prior to arrival in the United States, in certain cases), and CBP uses the data to identify high-risk and inadmissible passengers.

Arrival and Departure Information System (ADIS): DHS database that collects and maintains biographic arrival and departure information on non-U.S. citizens traveling in and out of the United States. ADIS is maintained by CBP and the DHS Office of Biometric Identity Management (OBIM), and is the main database used by ICE to identify suspected visa overstayers.

Automated Biometric Identification System (IDENT): DHS's primary biometric database. Certain aliens' biometric records are added to IDENT upon admission to the United States, when aliens are apprehended or arrested by a DHS agency, and when aliens apply for certain immigration benefits.

Automated Targeting System (ATS): CBP database of incoming and certain outbound cargo and persons. Advanced screening information is added to the ATS and checked against intelligence data from CBP's National Targeting Center (NTC) and other intelligence and law enforcement databases to produce a risk-based score. Travelers above a certain ATS threshold generally are selected for secondary inspection.

Consular Lookout and Support System (CLASS): DOS database used by passport agencies, posts, and border inspection agencies to perform name checks on visa and passport applicants to identify subjects of terrorist lookouts and watchlists and other individuals who are ineligible for a visa or require other special action.

Electronic System for Travel Authorization (ESTA): Web-based CBP system that screens applicants to enter the United States through the VWP against terrorist, national security, and criminal watchlists.

Interagency Border Inspection System (IBIS): DHS database of shared law enforcement files related to individuals, businesses, vehicles, aircraft, and vessels with suspected criminal violations. IBIS is used by CBP officers at ports of entry (POEs), U.S. Citizens and Immigration Services (USCIS) officers making determinations about immigration benefits, and other U.S. and international law enforcement agencies involved with border enforcement.

National Crime Information Center (NCIC): FBI database for tracking federal, state, local, and tribal crime data. NCIC includes records of stolen vehicles and other articles, foreign fugitives, missing persons, gang members, known or suspected terrorists, and persons with outstanding criminal warrants, among other data.

National Targeting Center-Passenger (NTC-P): CBP, other DHS, and DOS officials at the NTC-P use the ATS to screen passenger manifests and visa records against the FBI's Terrorist Screening Database (TSDB) and other national security records to prevent certain travelers from boarding U.S.-bound flights.

Next Generation Identification (NGI): FBI criminal database of biometric and criminal history information. Biometric records may be checked against NGI to verify that aliens have not been convicted of crimes making them inadmissible to the United States.

TECS (not an acronym): The principal information-sharing system used by CBP officers at POEs to screen arriving travelers for admissibility to the United States. CBP officers use TECS to check travelers against law enforcement and national security watchlists and to record and report on primary and secondary inspection results.

Terrorist Identities Datamart Environment (TIDE): Classified database of known or suspected terrorists maintained by the U.S. intelligence community. Data from TIDE are used to populate the TSDB.

Terrorist Screening Database (TSDB): Also known as the consolidated Terrorist Watchlist, the TSDB is maintained by the FBI's Terrorist Screening Center and includes biometric and biographic records of known and suspected domestic and international terrorists.

Source: Congressional Research Service (CRS) analysis of DHS, DOJ, DOS, and DOD Privacy Impact Assessments and related documents.

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