

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

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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. A concern for Congress is whether the VWP, in contrast to its mission, exposes the United States to security threats despite implementation of strict security requirements for participating countries over recent years. At the same time, because of long-standing congressional interest in promoting the U.S. travel and tourism sectors, many lawmakers support adding more countries to the VWP. On September 27, 2023, the Secretary of Homeland Security, in consultation with the Secretary of State, designated Israel into the VWP, bringing the number of participating countries to 41.

A key goal of the VWP is to improve standards for aviation security and travel documents, and improve information-sharing by 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 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, including generally disallowing individuals to travel under the VWP if they had traveled to a country known as a terrorist sanctuary, the program remains a national security vulnerability.

Foreign travel from VWP countries to the United States—as with foreign travel to the United States from non-VWP countries—has fluctuated over the past five years. In 2019, there were 23.8 million arrivals to the United States from VWP countries. In 2020, as the COVID-19 pandemic struck, there were 4.0 million arrivals to the United States from VWP countries. In 2023, the number of arrivals to the United States from VWP countries had rebounded to 18.4 million. Assessing recent visitor trends does not necessarily yield clear conclusions on VWP's impact on U.S. tourism. For example, the average number of arrivals to the United States from non-VWP countries has increased at a higher rate over the past decade than it has from VWP countries.

In recent Congresses, some legislative proposals related to the VWP have sought to expand the number of participating countries or to add restrictions to VWP membership. Other proposals have related to VWP's security goals. In addition, in recent years Congress has passed tourism-related legislation, which became law that affected both VWP and non-VWP countries. In the 117th Congress, the Restoring Brand USA Act (Division FF of the Consolidated Appropriations Act, 2022 [P.L. 117-103]) provided access to \$250 million in one-time funding to the Corporation for Travel Promotion, a national tourism promotion program also known as Brand USA. Also in the 117th Congress, the Visit America Act (Subtitle A, Title VI, Division BB of the Consolidated Appropriations Act, 2023 [P.L. 117-328]) authorized the creation of a new Assistant Secretary of Commerce for Travel and Tourism within the Department of Commerce with responsibility for, among other things, establishing an annual goal for international visitors to the United States and producing an annual forecast of the U.S. tourism industry. At the end of the 116th Congress, in December 2019, Congress authorized the continued use of the ESTA fee to partially fund Brand USA through September 30, 2027. Congress also raised the ESTA fee to generate additional funding for Brand USA, which went into effect on May 20, 2022.

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Introduction

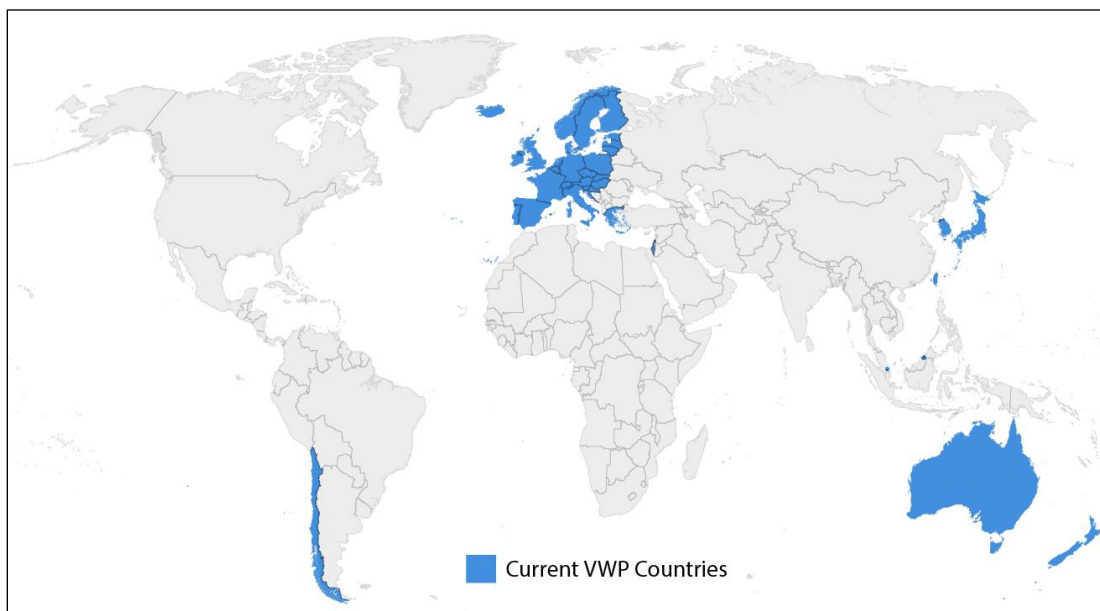
The U.S. government's Visa Waiver Program (VWP) allows eligible nationals¹ from 41 countries² to enter the United States for stays of up to 90 days for tourism or business purposes without applying for a visa from a U.S. embassy or consulate (see **Figure 1**).³ Originally established in 1986 as a pilot program, the VWP was made permanent in 2000.⁴

This report offers an overview of the VWP, discusses the potential effects on national security, and considers the potential economic effects on the U.S. travel and tourism industries if more countries were to be added to the program. The report also reviews recent legislative proposals related to the expansion and implementation of the VWP, and legislation targeting U.S. travel promotion, including the Brand USA program, which Electronic System for Travel Authorization (ESTA) fees partially fund.

Figure 1. Current Visa Waiver Program Countries

As of August 2024

Andorra, Australia, Austria, Belgium, Brunei, Chile, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, the Netherlands, New Zealand, Norway, Poland, Portugal, San Marino, Singapore, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland, Taiwan, and the United Kingdom



Source: CRS presentation of data from the Department of Homeland Security, "Visa Waiver Program Requirements," at <https://www.dhs.gov/visa-waiver-program-requirements>.

¹ In this report, the term *national* refers to a person who is a citizen of or who owes permanent allegiance to a state.

² Throughout this report, the term *country* is used to describe VWP members. However, the VWP can and does include jurisdictions that the United States does not formally recognize as countries.

³ Canada and Bermuda do not participate in the VWP but their citizens do not need to obtain a nonimmigrant visa except in specified circumstances. For more information, see U.S. State Department, Bureau of Consular Affairs, "Citizens of Canada and Bermuda," at <https://travel.state.gov/content/travel/en/us-visas/tourism-visit/citizens-of-canada-and-bermuda.html>.

⁴ P.L. 106-396.

Visa Waiver Program Designation

The Department of Homeland Security (DHS), in consultation with the Department of State (DOS), has the authority to designate countries into the VWP. The Secretary of State must formally make the nomination; DHS then conducts a final review and certifies that the aspiring country meets all the requirements. To be eligible, a country 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 visa⁶ refusal rate⁷ of less than 3% for the previous year or a lower average percentage over the previous two fiscal years;⁸
- issue electronic, machine-readable passports⁹ that contain a biometric identifier (known as *e-passports*);¹⁰
- certify that it issues tamper-resistant, machine-readable visa documents that incorporate biometric identifiers, which are verifiable at the country's port of entry;¹¹
- certify that it has in place mechanisms to validate machine-readable passports and e-passports at each port of entry;¹²
- enter into an agreement with the United States to report or make available through International Criminal Police Organization (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;¹³
- 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);¹⁴
- 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;¹⁵

⁵ P.L. 99-603.

⁶ Nonimmigrants are foreign nationals who are admitted for a designated period of time and a specific purpose. Visitor visas are for tourism and business. This report uses the term *nonimmigrant visitor visa* to refer to temporary visas for tourism and/or business. For more information, see CRS Report R45040, *Immigration: Nonimmigrant (Temporary) Admissions to the United States*.

⁷ For more information, see the section, "Nonimmigrant Visitor Visa Refusal Rate Versus Overstay Rate."

⁸ 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). 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.

⁹ P.L. 106-396, P.L. 107-56.

¹⁰ P.L. 107-173, P.L. 114-113.

¹¹ P.L. 108-458.

¹² P.L. 114-113.

¹³ P.L. 110-53, P.L. 114-113. INTERPOL is an inter-governmental organization that enables its 196 member countries to share information on crime and criminals.

¹⁴ P.L. 114-113.

¹⁵ P.L. 110-53.

- 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;¹⁶ 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.¹⁷

As of August 2024, 32 European countries, 7 Asia-Pacific countries, 1 South American country, and one Middle Eastern country are in the program (see **Figure 1**).

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.¹⁸ However, at the time DHS did not have reliable data on overstays. While overstay data have since improved,¹⁹ DHS still has challenges measuring visitor departures via land ports of entry. For instance, while DHS relies on information from air and sea passenger manifests to identify arriving and departing visitors, persons entering by air or sea but exiting at a land port of entry may be mischaracterized as overstays.²⁰

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 should be raised and used in conjunction with the overstay rate.²¹

Some advocates for adding additional countries to the VWP have called for the return of the nonimmigrant visitor visa refusal rate waiver, which was available from October 2008 to July

¹⁶ P.L. 110-53.

¹⁷ P.L. 114-113.

¹⁸ 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. Of note, 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 *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. (For more information, see CRS In Focus IF12662, *Immigration: Grounds of Inadmissibility*.) Although most visitor visa denials are because the applicant has not adequately demonstrated 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.

¹⁹ See CRS Report R47848, *Nonimmigrant Overstays: Overview and Policy Issues*.

²⁰ 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>.

²¹ 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, *Combating 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).

2009.²² The waiver allowed DHS to admit into the VWP countries that had met all of the security requirements, if the prospective VWP countries had a low overstay rate and a declining nonimmigrant visitor visa refusal rate that was below 10% in the previous fiscal year.²³ Due to this waiver, eight countries that otherwise would not have qualified for the VWP were added in 2008.²⁴ Currently, the Secretary of Homeland Security's authority to waive the nonimmigrant visitor visa refusal rate is suspended²⁵ until the airline passenger exit system is able to match an alien's biometric information with relevant watchlists and manifest information.²⁶

The latest DHS overstay report reflects data from FY2022. VWP countries had an estimated average overstay rate of 1.32%, whereas non-VWP countries had an average rate of 7.18%.²⁷ Israel, which had not yet been admitted to the VWP in FY2022, had a DHS-estimated overstay rate of 0.89%.²⁸

Adding and Removing Countries

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 2**). Six countries were added in 1989. An additional 13 countries were admitted in 1991, eight countries joined from 1993 to 1999, and another eight countries were admitted in 2008.²⁹ Since 2010, Greece, Taiwan, Chile, Poland, Croatia, and, most recently, Israel have been added. Argentina and Uruguay are the only two countries that have been removed from the program, in 2002 and 2003, respectively.

²² The waiver was authorized in P.L. 110-53 but was subsequently suspended until the United States fully implements a biometric air exit system. For more information, see CRS Report RL32221, *Visa Waiver Program*.

²³ 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.

²⁴ These were the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Slovakia, and South Korea.

²⁵ The suspension of the waiver is required by P.L. 110-53, §711.

²⁶ 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. For more information, see DHS, *Transportation Security Administration and U.S. Customs and Border Protection: Deployment of Biometric Technologies*, Report to Congress, August 30, 2019, and CRS Report R47541, *Immigration: The U.S. Entry-Exit System*.

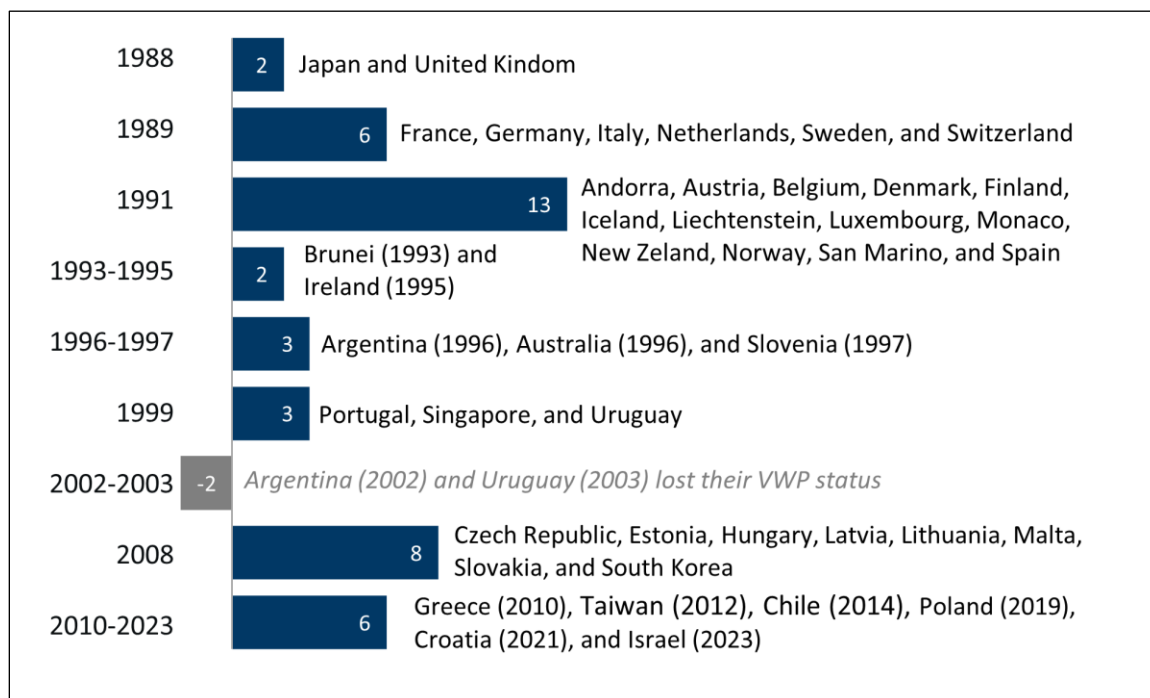
²⁷ This rate reflects visitors for business or pleasure only, not all temporary admissions from non-VWP countries (e.g., the rate does not reflect admissions of students or temporary workers). DHS, "Fiscal Year 2022 Entry/Exit Overstay Report," June 21, 2023, https://www.dhs.gov/sites/default/files/2023-07/23_0707_FY22_FY23_CBP_Integrated_Entry_Exit_Overstay_Report.pdf.

²⁸ Ibid.

²⁹ These countries received a waiver for the nonimmigrant visa refusal rate; see the section, "Nonimmigrant Visitor Visa Refusal Rate Versus Overstay Rate."

Figure 2.VWP Participants

1988-2023



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

Israel: The Latest VWP Addition

Prior to Israel's designation into the VWP, Israeli officials had been vocal about wanting to enter the program,³⁰ but the country faced challenges meeting certain criteria. For instance, Israel's Biometric Database Law prohibits sharing fingerprint data with foreign authorities. However, in 2017 the United States and Israel reportedly came to an agreement to share fingerprint data only for those with a criminal background.³¹ Another obstacle was that Israel had not met the 3% nonimmigrant visitor visa refusal rate criterion; it had not fallen below 3% since 2007. From FY2008-FY2021, the rate had vacillated between 3.0% and 8.6%; however, in FY2022 the rate dropped to 2.27%. Yet another hurdle for Israel to overcome was equal treatment of U.S. citizens. Israel has been accused of discriminating against Arab Americans.³² Moreover, American citizens who were registered with the Palestinian

³⁰ See, for example, Amy Spiro, "Israel a candidate for visa waiver program, says top US official," *Times of Israel*, October 27, 2021, at <https://www.timesofisrael.com/israel-a-candidate-for-visa-waiver-program-says-top-us-official/>.

³¹ 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/>.

³² 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>. This was also referenced in an archived version of the DOS' International Travel page about Israel, the West Bank and Gaza: "Some U.S. citizens of Arab or Muslim heritage (including Palestinian-Americans) have experienced significant difficulties and unequal and occasionally hostile treatment at Israel's borders and checkpoints. U.S. citizens who have traveled to Muslim countries or who are of Arab, Middle Eastern, or Muslim origin may face additional questioning by immigration and border authorities." <https://web.archive.org/web/20230420150251/https://travel.state.gov/content/travel/en/international-travel/International-Travel-Country-Information-Pages/IsraeltheWestBankandGaza.html>

Authority population registry could not enter Israel without advanced permission.³³ As explained in a DHS press release, in order to address this,

Israel made updates to its entry policies to meet the VWP requirement to extend reciprocal privileges to all U.S. citizens without regard to national origin, religion, or ethnicity. DHS monitored Israel's compliance with these requirements and engaged with Palestinian-Americans both living in the West Bank and living in the United States, who now have the ability to enter Israel visa free.³⁴

Thus, Israel met the final criterion and, on September 27, 2023, was designated into the VWP by Secretary of Homeland Security Alejandro Mayorkas, in consultation with Secretary of State Antony Blinken.³⁵ Starting on October 19, 2023, Israeli citizens and nationals could apply for ESTA.³⁶

Aspiring VWP Countries

Many countries would like to join the VWP. 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.³⁷ Of these, 10 have since been admitted. This report examines a selected number of aspiring VWP countries: Argentina, Brazil, Bulgaria, Cyprus, Romania, and Uruguay (see **Figure 3**).³⁸

Three currently aspiring countries—Bulgaria, Cyprus, and Romania—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 three EU countries that are not VWP participants need a visa to travel to the United States. 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.”³⁹ The European Union considered suspending its visa waiver for U.S. nationals in 2017, but decided not to do so.⁴⁰

³³ DOS, “Israel, the West Bank and Gaza,” archived webpage, <https://web.archive.org/web/20230420150251/https://travel.state.gov/content/travel/en/international-travel/International-Travel-Country-Information-Pages/IsraeltheWestBankandGaza.html>.

³⁴ DHS, “Secretary Mayorkas and Secretary Blinken Announce Designation of Israel into the Visa Waiver Program,” press release, September 27, 2023, <https://www.dhs.gov/news/2023/09/27/secretary-mayorkas-and-secretary-blinken-announce-designation-israel-visa-waiver>.

³⁵ Ibid.

³⁶ DOS, “Visa Waiver Travel for Israeli Citizens,” <https://travel.state.gov/content/travel/en/News/visas-news/visa-waiver-travel-for-israeli-citizens.html>.

³⁷ Croatia joined the European Union in 2013, which might explain its absence from this list.

³⁸ 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 identified aspiring VWP countries based on multiple sources, such as think tank publications, travel industry sources, and news reports.

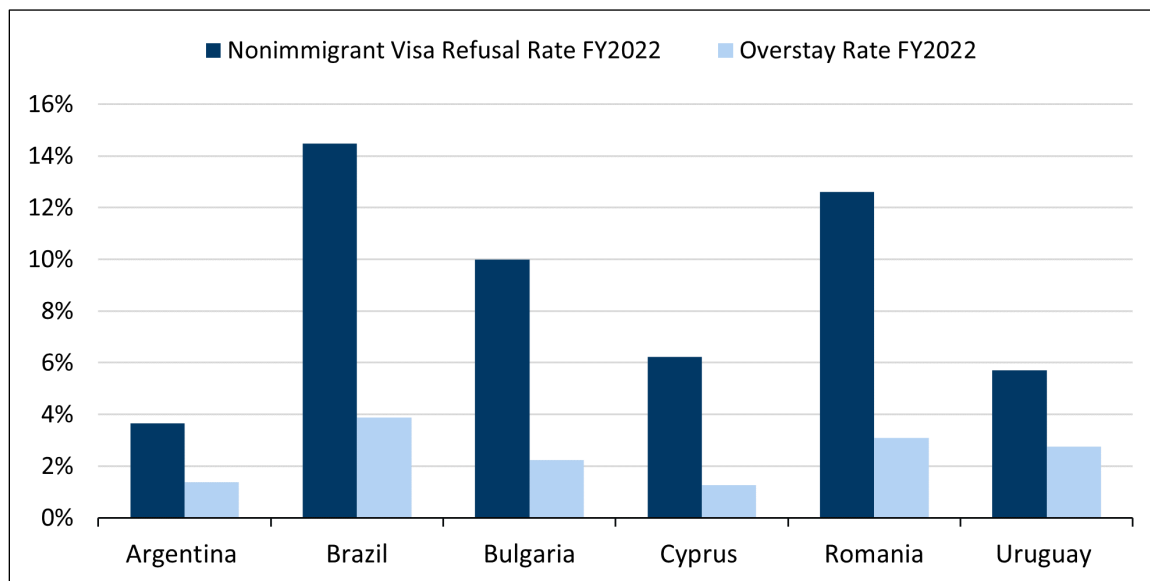
³⁹ European Commission, “Visa non-reciprocity: Commission takes stock of progress and developments,” press release, December 18, 2018, https://ec.europa.eu/commission/presscorner/detail/en/IP_18_6821.

⁴⁰ European Commission, “Visa Reciprocity: Commission responds to Parliament,” press release, May 1, 2017, https://ec.europa.eu/commission/presscorner/detail/en/IP_17_1148. 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 30 European countries. ETIAS is expected to be operational in 2025. 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. For more information, see EU, “New requirement to travel to Europe,” at https://travel-europe.europa.eu/etias/what-etias_en.

Brazil is often included in reports about aspiring VWP countries.⁴¹ It 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.⁴² Argentina and Uruguay are also often included as aspiring VWP countries, as they are the only two countries to ever have been removed from the VWP (see the section, “Countries Removed from the VWP”).

As previously mentioned (see the section, “Nonimmigrant Visitor Visa Refusal Rate Versus Overstay Rate”), 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. **Figure 3** shows the nonimmigrant visitor visa refusal rates and the DHS-estimated overstay rates for selected aspiring VWP countries⁴³ from the most recent fiscal year in which both metrics are available. None of these countries had a nonimmigrant visitor visa refusal rate of less than 3% in FY2022.

Figure 3. Nonimmigrant Visitor Visa Refusal Rate Versus Overstay Rate for Selected Aspiring VWP Countries



Source: CRS, with data compiled from U.S. State Department, *Adjusted Refusal Rate – B-Visas Only by Nationality Fiscal Year 2022*; and DHS, *FY2022 Entry/Exit Overstay Report*, Table 3.

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

⁴¹ See, for example, 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>.

⁴² 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>.

⁴³ See the “Aspiring VWP Countries” section for a discussion of how these countries were selected.

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.⁴⁴

Argentina and Uruguay are former members of the VWP. Argentina joined in 1996, and 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.⁴⁵ Uruguay joined in 1999, and 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.⁴⁶

National Security

Enhancing national security is a key goal of the VWP. Over the years, Congress has continued to add security criteria for VWP participation.⁴⁷ 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.⁴⁸ If not approved, the individual must obtain a visa prior to coming to the United States. This normally involves making an appointment for an interview with a U.S. consular official who will determine

⁴⁴ U.S. law includes provisions for termination of a country's membership in the VWP after periodic evaluations of a country's continued designation as well as for emergency terminations (8 U.S.C. §1187(c)(5)(A) and (B)). Countries are evaluated based on "law enforcement and security interests of the United States (including the interest in enforcement of the immigration laws of the United States and the existence and effectiveness of its agreements and procedures for extraditing to the United States individuals, including its own nationals, who commit crimes that violate United States law)" (8 U.S.C. §1187(c)(5)(A)).

⁴⁵ 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. Department of Justice (DOJ), Immigration and Naturalization Service (INS), "Termination of the Designation of Argentina as a Participant Under the Visa Waiver Program," 67 *Federal Register* 7944, February 21, 2002.

⁴⁶ 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. DOJ, INS, "Attorney General's Evaluations of the Designations of Belgium, Italy, Portugal, and Uruguay as Participants Under the Visa Waiver Program" 68 *Federal Register* 10954, March 7, 2003.

⁴⁷ For a legislative history of the VWP, see CRS Report RL32221, *Visa Waiver Program*.

⁴⁸ In most cases, the ESTA decision is almost instantaneous. Under statute, ESTA determinations are not reviewable by the courts.

whether the individual is eligible for a U.S. visa, a process that could delay the individual's departure for the United States.⁴⁹

ESTA became fully operational for all VWP visitors traveling to the United States by airplane or cruise ship on January 12, 2009.⁵⁰ Beginning on October 1, 2022, VWP travelers entering by land were required to obtain ESTA authorization.⁵¹ Prior to the implementation of ESTA, the first time a foreign 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 Dataset (TSDS);⁵² TECS (not an acronym), a system used by U.S. Customs and Border Protection officers to screen arriving travelers to the United States;⁵³ 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 revoke an ESTA approval if new derogatory information is discovered.⁵⁴ In addition, the validity period can be shortened at any time for any reason.⁵⁵ 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.⁵⁶

⁴⁹ In addition, temporary visitor visa applicants must pay a processing fee. It is currently \$185. DOS, "Fees for Visa Services," <https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/fees/fees-visa-services.html>.

⁵⁰ 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.

⁵¹ The ESTA authorization is used instead of the paper I-94W Nonimmigrant Visa Waiver Arrival/Departure Record (Form I-94W) that was previously required for noncitizens from VWP travelers at land ports of entry. DHS, "Implementation of the Electronic System for Travel Authorization (ESTA) at U.S. Land Borders," 87 *Federal Register* 18967, April 1, 2022, <https://www.govinfo.gov/content/pkg/FR-2022-04-01/pdf/2022-06366.pdf>.

⁵² Formerly called the Terrorist Screening Database (TSDB).

⁵³ TECS, managed by DHS, is an updated version of the Treasury Enforcement Communications System.

⁵⁴ 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).

⁵⁵ P.L. 114-113, Division O, Title II, Section 207 gave the Secretary of Homeland Security the authority to issue a shortened ESTA validity period.

⁵⁶ A foreign national will be denied entry if he or she is found to be inadmissible under any of the Immigration and Nationality Act's grounds of inadmissibility (8 U.S.C. § 1182(a)). For more information, see CRS In Focus IF12662, *Immigration: Grounds of Inadmissibility*.

Travelers who use ESTA pay a \$21 fee.⁵⁷ The fee includes \$4 to cover the costs of administering ESTA and \$17 for the travel promotion fee established by Congress in the Travel Promotion Act of 2009.⁵⁸

Security Debate

Although there tends to be agreement that the VWP benefits the U.S. economy by facilitating tourism (see the section, “Recent Trends in the 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.

Country-to-Country Security Agreements

To participate in the VWP, countries must agree to share information with the United States about lost passports, known and suspected terrorists, and serious criminals.⁵⁹ 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.⁶⁰ In 2022, congressional interest in the parameters of information-sharing agreements increased after a British national traveled to the United States under the VWP and held four congregants hostage at a synagogue in Texas. During a Senate Committee on Homeland Security and Governmental Affairs hearing, a DHS official stated that this individual

had several criminal and potentially terrorist related interactions with the UK government. However, none of these resulted in information that rose to the threshold for passing to the United States. And so the Department is looking to reevaluate the information sharing agreements we have under the Visa Waiver Program and looking for opportunities to close any gaps.⁶¹

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-

⁵⁷ DHS, Customs and Border Protection, “DHS, CBP Announce Interim Final Rule for ESTA Fee,” press release, August 6, 2010; and DHS, “Changes to the Visa Waiver Program To Implement the Electronic System for Travel Authorization (ESTA) Program and the Fee for Use of the System,” 80 *Federal Register* 32267, June 8, 2015.

⁵⁸ The fee was instituted on September 8, 2010. Originally the fee was \$14: \$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 (§9 of P.L. 111-145) and extended until September 30, 2020, by Title VI of P.L. 113-235. (DHS, Customs and Border Protection, “DHS, CBP Announce Interim Final Rule For ESTA Fee,” press release, August 6, 2010). P.L. 116-94, Division I, Title VIII reduced the amount available for travel promotion to \$7 per traveler. Of the remainder, \$4 continued to go to CBP to cover the costs of administering ESTA, and \$10 was directed to the U.S. Treasury for the general fund. Title VIII of P.L. 116-94 further extended it until September 30, 2027. In 2019, Congress approved raising the ESTA fee from \$14 to \$21, which went into effect on May 20, 2022. DHS continues to receive \$4 and the remaining \$17 goes to the travel promotion fee. (DHS, CBP, “Electronic System for Travel Authorization (ESTA) Fee Increase,” 87 *Federal Register* 30769, May 20, 2022.)

⁵⁹ 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.

⁶⁰ P.L. 114-113, Title II.

⁶¹ Testimony of Stephanie Dobitsch, Deputy Under Secretary for Intelligence Enterprise Operations in the Office of Intelligence and Analysis at DHS, in the U.S. Senate, Senate Committee on Homeland Security and Governmental Affairs, *Violent Extremism and Terrorism: Examining the Threat to Houses of Worship and Public Spaces*, 117th Cong., 2nd sess., March 16, 2022, <https://www.hsgac.senate.gov/media/rep/portman-at-hearing-on-violent-extremism-and-terrorism-in-the-us-lets-tighten-things-up-and-avoid-another-colleyville-situation/>.

resistant, machine-readable visa documents. Furthermore, since December 2017, DHS requires VWP countries to use U.S. counterterrorism information to screen travelers crossing their respective borders and to implement certain aviation security measures.⁶²

Foreign countries' participation in the VWP allows the United States to monitor their border security operations. Since 2002, DHS is statutorily obligated to assess and report on VWP countries' compliance with VWP criteria every two years.⁶³ 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."⁶⁴ According to DHS, "no other program enables the U.S. Government to conduct such broad and consequential assessments of foreign partners' border security operations."⁶⁵

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."⁶⁶ For participating countries that wish to remain in the VWP program, DHS acknowledges 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."⁶⁷

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.⁶⁸ In contrast, many nonimmigrant visitor visas are valid for 10 years and the traveler's data are not continuously vetted.⁶⁹ 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 type of screening required of travelers applying for a nonimmigrant visitor visa, which typically includes a personal interview with a U.S. consular

⁶² 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>.

⁶³ P.L. 107-53, §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.

⁶⁴ 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.

⁶⁵ Ibid.

⁶⁶ Ibid., p. 19.

⁶⁷ Ibid., p. 27.

⁶⁸ 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).

⁶⁹ Although nonimmigrant visitor visas are not continuously vetted, CBP screens individuals traveling on them each time they arrive at U.S. ports of entry.

officer.⁷⁰ As such, VWP travelers' first face-to-face encounter with U.S. officials could be at a port of entry.⁷¹ Additionally, ESTA is a name-based system and cannot be used to run checks against biometric databases, such as the Automated Biometric Identification System and Next Generation Identification.⁷² However, when VWP travelers arrive at a U.S. port of entry, CBP takes their fingerprints⁷³ and photographs and checks them against these biometric systems.⁷⁴ Finally, visitor visa applicants are required to submit social media identifiers, but this is optional for VWP travelers.⁷⁵

Following a number of high-profile terrorist attacks in Europe in recent years perpetrated mainly by European citizens, another concern 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 Consolidated Appropriations Act, 2016.⁷⁶ This law makes citizens of VWP countries ineligible for participation in 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 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. 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 1.32 % in FY2022, the most recent year data are available). 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

⁷⁰ 8 U.S.C. §1202(h).

⁷¹ VWP travelers may have previously applied for a visa to the United States and undergone an interview with a U.S. consular officer.

⁷² See **Appendix B** for more details about these systems.

⁷³ Fingerprints used to be taken at ports of entry. GAO, *Information Technology: Homeland Security Needs to Improve Entry Exit System Expenditure Planning*, GAO-03-563, June 2003, p. 9, <https://www.gao.gov/assets/gao-03-563.pdf>. Today, "foreign travelers who have traveled to the United States previously may no longer need to provide fingerprints, as their identity will be confirmed through the touchless facial biometric process"; CBP, "CBP Completes Simplified Arrival Expansion at All US Airports," press release, June 2, 2022, <https://www.cbp.gov/newsroom/national-media-release/cbp-completes-simplified-arrival-expansion-all-us-airports>.

⁷⁴ For more information, see CRS Report R43356, *Border Security: Immigration Inspections at Ports of Entry* and CRS Report R47541, *Immigration: The U.S. Entry-Exit System*.

⁷⁵ 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/>.

⁷⁶ P.L. 114-113.

admission to the United States.⁷⁷ If this does not reduce overstay violations, a country could be removed from the program, as occurred with Argentina and Uruguay.⁷⁸

Recent Trends in the U.S. Travel and Tourism Economy

The COVID-19 pandemic caused a sharp decline in international travel. As a result, visitor volume to the United States fell sharply among both VWP and non-VWP countries. Total international arrivals to the United States in 2020 were 19.2 million, down 75.8% from 79.4 million in 2019.⁷⁹

Tourism to the United States has begun to recover from the pandemic, although it has yet to reach pre-pandemic levels. In 2023, 66.5 million international visitors arrived in the United States; of those, 18.4 million were from VWP countries.⁸⁰

Congress and federal agencies have expressed interest in tourism’s post-pandemic growth. The federal government’s interagency National Travel and Tourism Strategy, published in June 2022, called for attracting 90 million international visitors annually to the United States by 2027.⁸¹ The 117th Congress passed the Visit America Act (Subtitle A, Title VI, Division BB of the Consolidated Appropriations Act, 2023 [P.L. 117-328]) which, among other things, authorized the creation of a new Assistant Secretary of Commerce for Travel and Tourism within the Department of Commerce.⁸²

In 2022, the travel and tourism industry accounted for 3.0% of U.S. gross domestic product (GDP) and directly employed 6.6 million workers⁸³ (see **Table 1**). This represented an increase in direct employment from 2020, but was still below 2019 direct employment levels.

Table 1. Travel and Tourism GDP Contribution and Direct Employees, 2018-2022

Year	Travel and Tourism Industry Share of U.S. GDP	Travel and Tourism Industry Direct Employees (millions)
2018	3.0%	6.6
2019	3.0%	7.3
2020	2.2%	4.4

⁷⁷ 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>.

⁷⁸ 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.

⁷⁹ National Travel and Tourism Office (NTTO), *Non-Resident Arrivals to the United States: Overseas, Canada, Mexico, and International, Trend Line Data—Country of Residence*, January 2024, at <https://www.trade.gov/i-94-arrivals-program>.

⁸⁰ U.S. International Trade Administration (ITA), *ADIS/I-94 Visitor Arrivals Program*, <https://www.trade.gov/i-94-arrivals-program>.

⁸¹ Department of Commerce, *National Travel and Tourism Strategy*, June 2022, p. 5, <https://www.commerce.gov/sites/default/files/2022-06/National-Travel-Tourism-Strategy.pdf>.

⁸² 136 Stat. 5566-5567.

⁸³ Hunter Arcand and Paul Kern, *U.S. Travel and Tourism Satellite Account for 2018-2022*, U.S. Bureau of Economic Analysis, April 29, 2024, <https://apps.bea.gov/scb/issues/2024/04-april/0424-travel-tourism-satellite-account.htm>.

Year	Travel and Tourism Industry Share of U.S. GDP	Travel and Tourism Industry Direct Employees (millions)
2021	2.8%	5.6
2022	3.0%	6.6

Source: Hunter Arcand and Paul Kern, *U.S. Travel and Tourism Satellite Account for 2018-2022*, U.S. Bureau of Economic Analysis, April 29, 2024, <https://apps.bea.gov/scb/issues/2024/04-april/0424-travel-tourism-satellite-account.htm>.

Every dollar international visitors spend in the United States counts as a U.S. export. Collectively, foreign visitors spent about \$226 billion in 2023 on passenger fares on U.S. airlines and travel-related goods and services.⁸⁴ This represented a 168% and 167% increase from 2020 and 2021, respectively, but was 6% below 2019 export levels.⁸⁵

According to the Bureau of Economic Analysis, international travelers account for a disproportionate share 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. Travelers from VWP countries are among the highest in per-person spending.⁸⁶

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

The COVID-19 pandemic and U.S. restrictions imposed on foreign travelers in March 2020 led to a sharp drop in the number of international visitors globally, from a high of 1.5 billion in 2019 to around 400 million in 2020. Although the number of foreign visitors to the United States was rising prior to the pandemic, the U.S. share of total global tourism arrivals declined from 6.5% in 2015 to 5.4% in 2019.⁸⁷ The U.S. tourism industry is yet to fully regain that pre-pandemic figure; the U.S. share of global tourism arrivals was 5.1% in 2023, after falling to 4.7% and 4.9% in 2020 and 2021, respectively.⁸⁸

Some research suggests the United States has lost some appeal as a global tourism destination, partially due to restrictions on visa-free travel. For example, the U.S. Travel Association (U.S. Travel), an industry trade group, released a study in January 2024 finding that the United States ranked 17th out of 18 markets analyzed in terms of global travel competitiveness.⁸⁹ Among other factors, the study cited the U.S.'s lack of a national travel strategy and the number of countries whose nationals are allowed to visit the United States without a visa as reasons for the low ranking. Further, U.S. Travel's January 2024 industry forecast projected that international travel

⁸⁴ ITA, *International Travel Receipts and Payments Program, Monthly Trade Monitor, Annual Visitor Spending 1960-2022*, <https://www.trade.gov/international-travel-receipts-and-payments-program>.

⁸⁵ Ibid. and ITA, *National Travel and Tourism Office: Travel Exports*, p. 1, <https://www.trade.gov/sites/default/files/2023-05/Travel-and-Tourism-Exports.pdf>.

⁸⁶ Ibid.

⁸⁷ United Nations World Tourism Organization (UNWTO), "Global and regional tourism performance," <https://www.unwto.org/tourism-data/global-and-regional-tourism-performance>.

⁸⁸ Ibid.

⁸⁹ U.S. Travel, "Stunning New Research Ranks United States Nearly Dead Last in Competition for Global Travelers," press release, January 11, 2024, <https://www.ustravel.org/press/stunning-new-research-ranks-united-states-nearly-dead-last-competition-global-travelers>.

to the United States would reach pre-pandemic levels in 2025, and that spending levels are not expected to fully recover from the pandemic until 2026.⁹⁰

U.S. Visitor Trends from VWP Countries

An 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. Determining whether the VWP has directly led to increased travel to the United States is not straightforward, because, as noted, many factors affect international travel. Further, as shown in **Table 2**, non-VWP countries averaged higher U.S. tourism growth than did VWP countries over the past decade.

One method for assessing the VWP’s impact on travel to the United States is to compare the growth rate of arrivals from countries in the VWP to arrivals from countries not in the VWP—particularly over recent years, as travel trends tend to be influenced by current events. For both the periods 2015-2019 and 2020-2023, non-VWP countries had higher growth rates for arrivals to the United States than did VWP countries.

Over the four-year period from 2015 to 2019, the average annual number of U.S. arrivals from VWP countries increased by 10.0%. Over that same period, the average annual number of U.S. arrivals from non-VWP countries increased by 21.1%. In more recent years, as the COVID-19 pandemic began and later abated, both VWP and non-VWP had large increases in average U.S. arrivals. Over the three-year period from 2020 to 2023, the average annual number of U.S. arrivals from VWP countries increased by 420.0%. Over that same period, the average annual number of U.S. arrivals from non-VWP countries increased by 423.1%.⁹¹

Table 2. U.S. Arrivals, VWP and non-VWP Countries, 2015-2019 and 2020-2023

Years	Average U.S. Arrival Percentage Change, VWP Countries	Average U.S. Arrival Percentage Change, Non-VWP Countries
2015-2019	+10.0%	+21.1%
2020-2023	+420.0%	+423.1%

Source: CRS analysis of ITA, ADIS/I-94 Visitor Arrivals Program, <https://www.trade.gov/i-94-arrivals-program>.

Economic Impact of Adding New Countries to the VWP

Although non-VWP countries had larger U.S. tourism growth over the past decade than VWP countries, some groups argue that adding countries to the VWP would benefit U.S. tourism and the national economy. For example, an analysis of U.S. Department of Commerce (DOC) data on travel and tourism from 1980 to 2013 found that the VWP had a “meaningful impact driving increases in U.S. tourist volumes.”⁹² U.S. Travel has also published studies suggesting that adding

⁹⁰ U.S. Travel, “NEW Forecast Predicts United States will Continue to Struggle for International Inbound, Domestic Business Travel,” press release, January 17, 2024, <https://www.ustravel.org/press/new-forecast-predicts-united-states-will-continue-struggle-international-inbound-domestic>.

⁹¹ CRS analysis of ITA, *ADIS/I-94 Visitor Arrivals Program*, <https://www.trade.gov/i-94-arrivals-program>.

⁹² 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 <https://research.newamericaneconomy.org/report/passport-to-growth/>.

countries to the VWP could create billions of dollars of new spending in the United States.⁹³ (The federal government does not provide similar forecasts on the potential impacts of adding countries to the VWP.) Although some of the research on expanding the VWP was done before the COVID-19 pandemic, given the federal government's new, expanded tourism goals (see the section, "Recent Trends in the U.S. Travel and Tourism Economy"), Congress may maintain an interest in the potential economic impacts of expanding the VWP.

Israel is the newest VWP country, having been added to the program in September 2023. U.S. Travel estimated that with Israel's inclusion in the VWP, the country would send an additional 200,000 visitors annually to the United States, which would result in an additional \$800 million in direct travel spending resulting in a \$1.8 billion economic impact overall.⁹⁴ (Israel was already responsible for the 22nd-highest number of arrivals to the United States in 2023, ahead of such VWP countries as Poland, Sweden, and Taiwan.⁹⁵) As noted, the federal government does not provide similar types of forecasts on the impact of adding countries to the VWP.

News reports suggest that U.S. government officials have expressed interest in adding the three non-VWP EU countries (Bulgaria, Cyprus, and Romania) to the program.⁹⁶ Visitors from those countries, who currently enter the United States on nonimmigrant visitor visas, together accounted for 1.5% of total EU arrivals to the United States in 2023.⁹⁷ This may suggest that the overall economic effect of adding these three countries to the VWP would be relatively small. According to a pre-pandemic estimate by U.S. Travel, the number of arrivals in the United States from these countries would increase by 182,900 visitors at the end of the first three years after joining the VWP, bringing \$514 million in additional travel spending to the United States.⁹⁸

The U.S. travel and tourism industries support expanding the VWP to other countries, especially populous countries such as Brazil. In the same U.S. Travel report that estimated the impacts of admitting Bulgaria, Cyprus, and Romania to the VWP, the organization projected that the number of arrivals in the United States from Brazil would increase by 2.4 million at the end of the first three years after Brazil joined the VWP, bringing \$11.9 billion in additional travel spending to the United States.⁹⁹ In November 2019, the United States announced that Brazil would soon join the Global Entry program,¹⁰⁰ which would reduce waiting time for approved Brazilian visitors arriving at U.S. airport immigration checkpoints.¹⁰¹ Brazil formally joined the program in February 2022.¹⁰²

⁹³ For example, see U.S. Travel, *The Visa Waiver Program Makes America More Secure*, February 12, 2019, https://www.ustravel.org/system/files/media_root/document/VWP-Qualified-Countries_final.pdf.

⁹⁴ U.S. Travel, "Israel VWP Admission to Add \$1.8 Billion to U.S. Economy," press release, September 28, 2023, <https://www.ustravel.org/press/israel-vwp-admission-add-18-billion-us-economy>.

⁹⁵ ITA, *ADIS/I-94 Visitor Arrivals Program*, <https://www.trade.gov/i-94-arrivals-program>.

⁹⁶ David Shepardson, "U.S. considering adding Israel, Romania, Bulgaria to visa waiver program," *Reuters*, October 26, 2021.

⁹⁷ CRS analysis of ITA, *ADIS/I-94 Visitor Arrivals Program*, <https://www.trade.gov/i-94-arrivals-program>.

⁹⁸ U.S. Travel, *Fact Sheet: The Visa Waiver Program Makes America More Secure*, February 12, 2019, <https://www.ustravel.org/research/visa-waiver-program-makes-america-more-secure>.

⁹⁹ *Ibid.*

¹⁰⁰ For more information on Global Entry, see CRS Report R46783, *Trusted Traveler Programs*.

¹⁰¹ Currently, trusted travelers from Argentina, India, Colombia, Germany, Panama, Singapore, South Korea, Switzerland, Taiwan, the United Kingdom, and Mexico are eligible for the program. For more information, see CRS Report R46783, *Trusted Traveler Programs*.

¹⁰² U.S. Customs and Border Protection, "CBP Announces Global Entry Partnership with Brazil," press release, February 8, 2022, <https://www.cbp.gov/newsroom/national-media-release/cbp-announces-global-entry-partnership-brazil>.

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. Until recently, the National Travel and Tourism Office (NTTO), within the International Trade Administration (ITA) of DOC, mainly provided official tourism statistics.¹⁰³ However, the Visit America Act (Subtitle A, Title VI, Division BB of the Consolidated Appropriations Act, 2023 [P.L. 117-328]) authorized the creation of a new Assistant Secretary of Commerce for Travel and Tourism within DOC (see the section, “Recent Trends in the U.S. Travel and Tourism Economy”). To support the new position, the Biden Administration’s FY2024 budget request proposed that all NTTO functions and staffing be folded into a new Travel and Tourism business unit within ITA.¹⁰⁴ The new business unit would provide expertise, analytical capability, and data on the tourism industry.¹⁰⁵ Congress did not act to create the new business unit in FY2024.

International travel promotion to the United States is also the responsibility of Brand USA (formally known as the Corporation for Travel Promotion), a nonprofit public-private entity that 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 2011.¹⁰⁶

The private sector funds half of Brand USA’s spending through a combination of cash and in-kind contributions, such as advertising. The federal government matches the cash and in-kind contributions with an annual grant of no more than \$100 million. Brand USA currently receives \$17 of the \$21 paid to ESTA by each prospective visitor from a VWP country who requests approval to travel to the United States.

Selected Recent Legislative Activity

In recent Congresses, legislative proposals related to the VWP have sought to expand the number of participating countries by changing the criteria¹⁰⁷ or giving DHS greater flexibility to designate countries into the VWP that do not meet the existing criteria.¹⁰⁸ Some bills proposed directly designating specific countries¹⁰⁹ or requiring reports assessing a specific country’s eligibility for

¹⁰³ The National Tourism Policy Act of 1981 (P.L. 97-63) 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 promotion 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.

¹⁰⁴ ITA, *International Trade Administration, Budget Estimates, Fiscal Year 2024*, p. ITA-105, <https://www.commerce.gov/sites/default/files/2023-03/ITA-FY2024-Congressional-Budget-Submission.pdf>.

¹⁰⁵ For more information, see CRS Report R47857, *U.S. Tourism: Economic Impacts and Pandemic Recovery*.

¹⁰⁶ 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.

¹⁰⁷ For example, the Allied Nations Travel Modernization Act (H.R. 2946) in the 116th Congress would have allowed 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.

¹⁰⁸ For example, in the 116th Congress the Jobs Originated through Launching Travel (JOLT) Act (H.R. 2187), sought to reinstate DHS’s authority to grant a waiver for the nonimmigrant visitor visa refusal rate.

¹⁰⁹ For example, in the 118th Congress S. 814 seeks to designate Romania into the VWP. In the 114th Congress, multiple bills sought to designate Poland into the VWP (e.g., S. 2534, S. 1619, S. 2131). In the 113th Congress, some bills sought to designate Hong Kong into the program (e.g., S. 703, H.R. 1923) and others sought to designate Israel (e.g., S. 266, H.R. 300, S.Amdt. 3933).

the program.¹¹⁰ Some proposals have addressed the spending of funds generated from ESTA fees.¹¹¹

A number of recent proposals would make countries ineligible for VWP membership if they have so-called *golden visas*,¹¹² which allow individuals to acquire citizenship based on a monetary donation or investment in the country.¹¹³

Some proposals relate to VWP security. For example, in response to the 2022 synagogue attack in Texas (see the section, “Country-to-Country Security Agreements”), bills were introduced to add provisions enhancing information-sharing agreements between the United States and countries participating in the VWP.¹¹⁴ Unrelated to this attack, other bills have called for increased information-sharing specifically for certain VWP member countries.¹¹⁵ Others sought to rename the VWP as the “Secure Travel Partnership” to reflect one of the program’s main goals of securing travel to the United States.¹¹⁶ Previous legislation has also sought to deter VWP overstays.¹¹⁷

In the 117th Congress, the Restoring Brand USA Act (Division FF of the Consolidated Appropriations Act, 2022 [P.L. 117-103]) provided access to \$250 million in one-time funding to Brand USA using funds from ESTA fees between 2010 and 2020 that exceeded the maximum \$100 million available to Brand USA annually.¹¹⁸ In FY2021 and FY2022, ESTA fee collections were less than \$100 million for the first time, coming in at \$62 million and \$13 million, respectively.¹¹⁹

Section 25018 of the Infrastructure Investment and Jobs Act (IIJA, P.L. 117-58) directed the Department of Transportation (DOT) to update its January 2021 national travel and tourism infrastructure strategic plan within 180 days of the law’s enactment.¹²⁰ The plan’s publication was mandated a few years earlier in the Fixing America’s Surface Transportation (FAST) Act (P.L. 114-94). The updated plan was required to include immediate- and long-term strategies across all modes of transportation for DOT and other agencies to use infrastructure investments to revive

¹¹⁰ For example, S. 1926 and H.R. 6875 in the 118th Congress seek to assess whether Uruguay meets the program’s eligibility requirements.

¹¹¹ For example, the Responsibly Enhancing America’s Landscapes Act (S. 2783) from the 116th Congress would have established 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 a \$16 ESTA fee along with a \$25 nonimmigrant visitor visa fee and a \$5 park entrance fee.

¹¹² For more information on golden visas, see CRS In Focus IF11344, *The Changing Landscape of Immigrant Investment Programs*.

¹¹³ For example, S.Amdt. 400 in the 118th Congress and S.Amdt. 5539 and H.R. 6911 in the 117th Congress.

¹¹⁴ For example, see S. 493 from the 118th Congress and S. 4220 from the 117th Congress. For more context on the motivation for the introduction of this bill, see Marco Rubio, U.S. Senator for Florida, “Rubio, Cruz Introduce the Security the Visa Waiver Program Act, press release, May 16, 2022, <https://www.rubio.senate.gov/rubio-cruz-introduce-the-securing-the-visa-waiver-program-act/>.

¹¹⁵ See H.R. 4367 in the 118th Congress.

¹¹⁶ For example, H.R. 2187 and H.R. 1996 in the 116th Congress.

¹¹⁷ For example, the Humanitarian Upgrades to Manage and Assist our Nation’s Enforcement (HUMANE) Act of 2019 (S. 1303) in the 116th Congress sought to reduce VWP overstays by amending the INA’s terms and conditions of admission for VWP travelers, the VWP waiver of rights, and the detention and repatriation of visa waiver violators.

¹¹⁸ 136 Stat. 1111-1112.

¹¹⁹ Brand USA, *Restoring Brand USA Act Funding Plan*, May 2022, p. 6, https://www.thebrandusa.com/system/files/Restoring_BrandUSA_Act_Funding_Plan_May_2022_0.pdf.

¹²⁰ 135 Stat. 874-875.

the tourism industry following the pandemic. The updated plan was released publicly in April 2024.¹²¹

IIJA also authorized the creation of a Chief Travel and Tourism Officer within the Office of the Secretary of Transportation.¹²² The new position has responsibility for carrying out the updated plan (along with DOT's Assistant Secretary for Aviation and International Affairs) and for other travel and tourism-related issues related to DOT. The position was filled in 2023.¹²³

As noted, the Visit America Act (Subtitle A, Title VI, Division BB of the Consolidated Appropriations Act, 2023 [P.L. 117-328]) authorized the creation of a new Assistant Secretary of Commerce for Travel and Tourism within DOC.¹²⁴ The Assistant Secretary's responsibilities include the following:

- establishing an annual goal for international visitors to the United States and developing recommendations to meet that goal;
- consulting with the Secretary of Labor and Bureau of Economic Analysis on improving travel and tourism workforce and industry data;
- increasing and facilitating international business travel to the United States, in coordination with other relevant federal agencies;
- developing and implementing a pandemic tourism recovery strategy and a strategy to address potential future disruptions to tourism such as natural disasters; and
- producing an annual forecast on the tourism industry.¹²⁵

The Visit America Act also required the Secretary of Commerce, at least every 10 years and in consultation with the U.S. Travel and Tourism Advisory Board (a Federal Advisory Committee Act body that provides recommendations related to tourism to the Secretary of Commerce) and the Tourism Policy Council (an interagency federal committee whose goal is to ensure that travel and tourism are considered in federal decisionmaking), to develop and submit to Congress a 10-year travel and tourism strategy. The Visit America Act required the strategy to establish goals for the number of annual international visitors to the United States and the annual amount of travel and tourism commerce in the United States.¹²⁶ This requirement is separate from the June 2022 National Travel and Tourism Strategy.

Subtitle B, Title VI, Division BB of P.L. 117-328 required the Secretary of Commerce to complete an interim study about the effects of the COVID-19 pandemic on the U.S. travel and tourism industry.¹²⁷ Among other things, the study was to assess employment changes in the travel and tourism industry and travel and tourism business revenue trends during the pandemic. DOC published the study in 2023.¹²⁸ P.L. 117-328 also directed the Secretary of Commerce to

¹²¹ DOT, *The National Travel and Tourism Infrastructure Strategic Plan*, April 2024, <https://www.transportation.gov/briefing-room/national-travel-and-tourism-infrastructure-strategic-plan>.

¹²² 135 Stat. 875.

¹²³ DOT, *Oversight and Implementation of Travel and Tourism Legislation*, June 13, 2023, <https://www.transportation.gov/oversight-and-implementation-travel-and-tourism-legislation>.

¹²⁴ 136 Stat. 5566-5567.

¹²⁵ 136 Stat. 5567-5569.

¹²⁶ 136 Stat. 5569.

¹²⁷ 136 Stat. 5570-5571.

¹²⁸ ITA, *Interim Study and Report to Congress on the Effects of the COVID-19 Pandemic on the Travel and Tourism Industry in the United States*, 2023, <https://www.trade.gov/sites/default/files/2023-06/> (continued...)

submit to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Energy and Commerce a final report based on the findings of the interim study within six months of the interim study's publication.¹²⁹

At the end of the 116th Congress, the Further Consolidated Appropriations Act of 2020 (P.L. 116-94) 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 section, "Electronic System for Travel Authorization (ESTA)").

The private sector must still provide at least \$100 million per year in in-kind contributions and cash to the Brand USA program in order for the program to receive these federal funds.

INTERIM%20REPORT%20TO%20CONGRESS%20-%20EFFECTS%20OF%20THE%20COVID19%20PANDEMIC_FINAL_0.pdf.

¹²⁹ 136 Stat. 5572. As of the cover date of this report, the final study has not been made publicly available.

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, 2009, 2019, 2020, and 2022

Aspiring VWP Countries	2009	2019	% Change 2009 to 2019	2020	2022	% Change 2020 to 2022
Argentina	356,428	854,442	140.7%	197,748	524,841	165.4%
Brazil	892,611	2,104,617	135.8%	423,689	1,224,974	189.1%
Bulgaria	20,000	31,774	58.9%	7,633	20,553	169.3%
Cyprus	10,174	12,591	23.8%	1,952	7,967	308.1%
Romania	41,411	88,574	113.9%	17,628	55,026	210.9%
Uruguay	36,690	80,883	120.4%	15,393	63,262	311.0%

Source: CRS analysis of data from ITA, *ADIS/I-94 Visitor Arrivals Program*, <https://www.trade.gov/i-94-arrivals-program>.

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 Dataset (TSDS): Also known as the consolidated Terrorist Watchlist, the TSDS 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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