

CRS Report for Congress

U.S. Immigration Policy on Temporary Admissions

Updated January 31, 2008

Chad C. Haddal
Analyst in Immigration Policy
Domestic Social Policy Division

Ruth Ellen Wasem
Specialist in Immigration Policy
Domestic Social Policy Division



Prepared for Members and
Committees of Congress

U.S. Immigration Policy on Temporary Admissions

Summary

U.S. law provides for the temporary admission of various categories of foreign nationals, who are known as nonimmigrants. Nonimmigrants are admitted for a designated period of time and a specific purpose. They include a wide range of visitors, including tourists, foreign students, diplomats, and temporary workers. There are 24 major nonimmigrant visa categories, and 72 specific types of nonimmigrant visas issued. These visa categories are commonly referred to by the letter and numeral that denotes their subsection in the Immigration and Nationality Act (INA); for example, B-2 tourists, E-2 treaty investors, F-1 foreign students, H-1B temporary professional workers, J-1 cultural exchange participants, or S-4 terrorist informants.

Interest in nonimmigrant visas soared immediately following the September 11, 2001 terrorist attacks, which were conducted by foreign nationals apparently admitted to the United States on legal visas. Since that time, policy makers have raised a series of questions about aliens in the United States and the extent that the federal government monitors their admission and presence in this country. Some visa categories are the focus of legislative activity (e.g., guest workers).

The U.S. Department of State (DOS) consular officer, at the time of application for a visa, as well as the Department of Homeland Security (DHS) immigration inspectors, at the time of application for admission, must be satisfied that the alien is entitled to nonimmigrant status. The burden of proof is on the applicant to establish eligibility for nonimmigrant status and the type of nonimmigrant visa for which the application is made. Both DOS consular officers (when the alien is petitioning abroad) and DHS inspectors (when the alien is entering the United States) must confirm that the alien is not ineligible for a visa under the so-called “grounds for inadmissibility” of the INA, which include criminal, terrorist, and public health grounds for exclusion.

Nonimmigrant visas issued abroad dipped to 5.0 million in FY2004 after peaking at 7.6 million in FY2001. In FY2006, 5.8 million nonimmigrant visas were issued. Over the past 12 years, DOS has typically issued around 6 million nonimmigrant visas annually. The growth in visa issuance in the late 1990s has been largely attributable to the issuances of border crossing cards to residents of Mexico and the issuances of temporary worker visas. Combined, visitors for tourism and business comprised the largest group of nonimmigrants in FY2006, with about 4.1 million, down from 5.7 million in FY2000. Other notable categories were students and exchange visitors (11.0%) and temporary workers (10.8%).

The law and regulations set terms for nonimmigrant lengths of stay in the United States, typically have foreign residency requirements, and often limit what aliens are permitted to do in the United States (e.g., gain employment or enroll in school), but many observers assert that the policies are not uniformly or rigorously enforced. Achieving an optimal balance among major policy priorities, such as ensuring national security, facilitating trade and commerce, protecting public health and safety, and fostering international cooperation, remains a challenge.

Contents

| | |
|--|----|
| Overview | 1 |
| Introduction | 1 |
| Broad Categories of Nonimmigrants | 2 |
| Diplomats and Other International Representatives | 2 |
| Visitors as Business Travelers and Tourists | 3 |
| Multinational Corporate Executives and International Investors | 3 |
| Temporary Workers | 3 |
| Cultural Exchange | 4 |
| Foreign Students | 4 |
| Family-Related | 4 |
| Law Enforcement-Related | 4 |
| Aliens in Transit and Crew Members | 4 |
| Exclusion and Removal | 4 |
| Inadmissibility | 4 |
| Termination of Status | 5 |
| Periods of Admission | 5 |
| Length of Stay | 5 |
| Duration of Visa | 5 |
| Employment Authorization | 5 |
| Permission to Work | 5 |
| Labor Market Tests | 6 |
| Statistical Trends | 6 |
| Nonimmigrants by Region | 7 |
| Temporary Visas Issued | 7 |
| Temporary Admissions | 8 |
| Temporary Visitors by Category | 12 |
| Temporary Admissions | 12 |
| Temporary Visas Issued | 15 |
| Current Issues | 18 |
| Temporary Workers | 19 |
| Temporary Skilled and Professional Workers | 19 |
| Guest Workers | 19 |
| Foreign Medical Graduates | 19 |
| Foreign Investors | 20 |
| Foreign Students | 21 |
| Enforcing Current Law | 21 |

List of Figures

| | |
|---|----|
| Figure 1. Nonimmigrant Visas <i>Issued</i> by Region, FY2006 | 7 |
| Figure 2. Nonimmigrant Visas <i>Issued</i> by Region, FY1997-FY2006 | 8 |
| Figure 3. Nonimmigrant <i>Admissions</i> by Region, FY2006 | 10 |
| Figure 4. Nonimmigrant <i>Admissions</i> by Region, FY1998-FY2006 | 11 |

| | |
|--|----|
| Figure 5. Nonimmigrant <i>Admissions</i> by Category, FY2006 | 13 |
| Figure 6. <i>Admissions</i> of Nonimmigrants Other Than Visitors, FY1998-FY2006 | 14 |
| Figure 7. <i>Admissions</i> of Nonimmigrant Visitors, FY1998-FY2006 | 15 |
| Figure 8. Nonimmigrant Visas <i>Issued</i> by Category, FY2006 | 16 |
| Figure 9. Visas <i>Issued</i> to Nonimmigrants Other Than Visitors, FY2002-FY2006 | 17 |
| Figure 10. Visas <i>Issued</i> to Nonimmigrant Visitors, FY2002-FY2006 | 18 |

List of Tables

| | |
|---|----|
| Table 1. Periods of Stay and Foreign Residency Requirements for Nonimmigrant Visas | 22 |
| Table 2. Employment Authorization, Numerical Limits, and FY2006 Issuances for Nonimmigrant Visas | 28 |

U.S. Immigration Policy on Temporary Admissions

Overview

Introduction

U.S. law provides for the temporary admission of various categories of foreign nationals, who are known as nonimmigrants. Nonimmigrants are admitted for a designated period of time and a specific purpose. Nonimmigrants include a wide range of people, such as tourists, foreign students, diplomats, temporary agricultural workers, exchange visitors, internationally-known entertainers, foreign media representatives, intracompany business personnel, and crew members on foreign vessels.

Legislative activity usually focuses on specific visa categories, and legislative revisions to temporary visa categories have usually occurred incrementally. Interest in nonimmigrant visas as a group, however, soared immediately following the September 11, 2001 terrorist attacks, which were conducted by foreign nationals admitted to the United States on temporary visas. Since that time, policy makers have raised a series of questions about aliens in the United States and the extent that the federal government monitors their admission and presence in this country. The Enhanced Border Security and Visa Entry Reform Act (P.L. 107-173), provisions in the Homeland Security Act (P.L. 107-296), and provisions in the Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108-458) are examples of broad reforms of immigration law to tighten procedures and oversight of aliens temporarily admitted to the United States.¹

Foreign nationals may be admitted to the United States temporarily or may come to live permanently.² Those admitted on a permanent basis are known as immigrants or legal permanent residents (LPRs), while those admitted on a temporary basis are known as nonimmigrants. Aliens who are in the United States without authorization (i.e., illegal aliens) are not discussed in this report.

U.S. immigration policy, embodied in the Immigration and Nationality Act (INA), presumes that all aliens seeking admission to the United States are coming to

¹ For a full discussion of current legislative activity, see CRS Report RL34204, *Immigration Legislation and Issues in the 110th Congress*, coordinated by Andorra Bruno, hereafter cited as *Immigration Legislation and Issues in the 110th Congress*.

² For background and analysis of visa issuance policy, see CRS Report RL31512, *Visa Issuances: Policy, Issues, and Legislation*, by Ruth Ellen Wasem.

live permanently.³ As a result, nonimmigrants must demonstrate that they are coming for a temporary period and for a specific purpose. The U.S. Department of State (DOS) consular officer, at the time of application for a visa, as well as the Department of Homeland Security (DHS) immigration inspectors, at the time of application for admission, must be satisfied that the alien is entitled to a nonimmigrant status.⁴ The burden of proof is on the applicant to establish eligibility for nonimmigrant status and the type of nonimmigrant visa for which the application is made. The law exempts only the H-1 workers, L intracompany transfers, and V family members from the requirement that they prove that they are not coming to live permanently.⁵

This report begins with a synthesis of the nonimmigrant categories according to the purpose of the visa. It discusses the periods of admission and length of stay and then summarizes grounds for inadmissibility and removal as well as reasons for termination of status. It describes the circumstances under which nonimmigrants may work in the United States and follows with an analysis of nonimmigrant admissions. The report concludes with a discussion of issues, followed by two detailed tables analyzing key admissions requirements across all nonimmigrant visa types.

Broad Categories of Nonimmigrants

There are 24 major nonimmigrant visa categories, and 72 specific types of nonimmigrant visas issued currently.⁶ Most of these nonimmigrant visa categories are defined in §101(a)(15) of INA. These temporary visas may be grouped under the broad labels described below.

Diplomats and Other International Representatives. Ambassadors, consuls, and other official representatives of foreign governments (and their immediate family and servants) enter the United States on A visas. Official representatives of international organizations (and their immediate family and servants) are admitted on G visas. Those nonimmigrants entering under the auspices

³ §214(b) of INA.

⁴ 22 CFR §41.11(a).

⁵ §214(b) of INA. Nonimmigrant visas are commonly referred to by the letter and numeral that denotes their subsection in §101(a)(15). Hence, the principal visa holder for vocational student category as provided for in §101(a)(15)(M)(i) would be known as an “M-1,” while a spouse or dependent of the principal as provided for under §101(a)(15)(ii) would be known as an “M-2,” etc.

⁶ Law on nonimmigrants dates back to the Immigration Act of 1819. An immigration law enacted in 1924 defined several classes of nonimmigrant admission. The disparate series of immigration and nationality laws were codified into the INA in 1952. Major laws amending the INA are the Immigration Amendments of 1965, the Refugee Act of 1980, the Immigration Reform and Control Act of 1986, the Immigration Act of 1990, and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The newest family-related nonimmigrant visa — known as the V visa — was folded into the District of Columbia FY2001 appropriations conference agreement (H.R. 4942, H.Rept. 106-1005), which became P.L. 106-553.

of the North Atlantic Treaty Organization (NATO) have their own visa categories. Aliens who work for foreign media use the I visa.

Visitors as Business Travelers and Tourists. B-1 nonimmigrants are visitors for business and are required to be seeking admission for activities other than purely local employment or hire. The difference between a business visitor and a temporary worker also depends on the source of the alien's salary. To be classified as a visitor for business, an alien must receive his or her salary from abroad and must not receive any remuneration from a U.S. source other than an expense allowance and reimbursement for other expenses incidental to temporary stay.

The B-2 visa is granted for temporary visitors for "pleasure," otherwise known as tourists. Tourists, who are encouraged to visit as a boon to the U.S. economy, have consistently been the largest nonimmigrant class of admission to the United States. A B-2 nonimmigrant may not engage in any employment in the United States.

Many visitors, however, enter the United States without nonimmigrant visas through the Visa Waiver Program. This provision of the INA allows the Attorney General to waive the visa documentary requirements for aliens coming as visitors from 28 countries (e.g., Australia, France, Germany, Italy, Japan, New Zealand, Switzerland, and the United Kingdom).⁷

Multinational Corporate Executives and International Investors. Intracompany transferees who are executive, managerial, and have specialized knowledge and who are continuing employment with an international firm or corporation are admitted on the L visas. Aliens who are treaty traders enter as E-1 while those who are treaty investors use E-2 visas.⁸

Temporary Workers. The major nonimmigrant category for temporary workers is the H visa. Professional specialty workers (H-1B), nurses (H-1C) agricultural workers (H-2A) and unskilled temporary workers (H-2B) are included.⁹ Persons with extraordinary ability in the sciences, arts, education, business, or athletics are admitted on O visas, while internationally recognized athletes or members of an internationally recognized entertainment group come on P visas. Aliens working in religious vocations enter on R visas. Temporary professional workers from Canada and Mexico may enter according to terms set by the North American Free Trade Agreement (NAFTA) on TN visas.

⁷ See CRS Report RL32221, *Visa Waiver Program*, by Alison Siskin, hereafter cited as *Visa Waiver Program*.

⁸ See CRS Report RL33844, *Foreign Investor Visas: Policies and Issues*, by Chad C. Haddal, and CRS Report RL32030, *Immigration Policy for Intracompany Transfers (L Visa): Issues and Legislation*, by Ruth Ellen Wasem.

⁹ See CRS Report RL30498, *Immigration: Legislative Issues on Nonimmigrant Professional Specialty (H-1B) Workers*, hereafter cited as *Immigration: Legislative Issues on Nonimmigrant Professional Specialty (H-1B) Workers*, and CRS Report RL32044, *Immigration: Policy Considerations Related to Guest Worker Programs*, by Andorra Bruno, hereafter cited as *Immigration: Policy Considerations Related to Guest Worker Programs*.

Cultural Exchange. The broadest category for cultural exchange is the J visa. The J visa includes professors and research scholars, students, foreign medical graduates, teachers, camp counselors and au pairs who are participating in an approved exchange visitor program. Participants in special international cultural exchange programs from the former Soviet Union and Eastern bloc countries enter on Q-1 visas. Q-2 visas are for Irish young adults from the border counties who participate in approved cultural exchange programs.

Foreign Students. The most common visa for foreign students is the F-1 visa. It is tailored for international students pursuing a full-time academic education. Those students who wish to pursue a non-academic (e.g., vocational) course of study apply for an M visa. Foreign students are just one of many types of aliens who may enter the United States on a J-1 visa for cultural exchange.¹⁰

Family-Related. Fiances and fiancées of U.S. citizens come in on K visas. The 106th Congress added a transitional nonimmigrant visa — the V visa — for immediate relatives (spouse and children) of LPRs who have had petitions to also become LPRs pending for three years.

Law Enforcement-Related. The law enforcement-related visas are among the most recently created. The S visa is used by informants in criminal and terrorist investigations.¹¹ Victims of human trafficking who participate in the prosecution of those responsible may get a T visa. Victims of other criminal activities, notably domestic abuse, who cooperate with the prosecution are eligible for the U visa.

Aliens in Transit and Crew Members. Two miscellaneous nonimmigrant categories are some of the earliest nonimmigrant categories enacted. The C visa is for aliens traveling through the United States en route to another destination, and the D visa is for alien crew members on vessels or aircraft.

Exclusion and Removal

Inadmissibility. Both DOS consular officers (when the alien is petitioning abroad) and DHS inspectors (when the alien is entering the United States) must confirm that the alien is not ineligible for a visa under the so-called “grounds for inadmissibility” of the INA.¹² These criteria categories are:

- health-related grounds;
- criminal history;
- security and terrorist concerns;
- public charge (e.g., indigence);

¹⁰ For further discussion and analysis, see CRS Report RL31146, *Foreign Students in the United States: Policies and Legislation*, by Chad C. Haddal, hereafter cited as *Foreign Students in the United States: Policies and Legislation*.

¹¹ For more information, see CRS Report RS21043, *Immigration: S Visas for Criminal and Terrorist Informants*, by Karma Ester.

¹² §212(b) of INA.

- seeking to work without proper labor certification;
- illegal entrants and immigration law violations;
- lacking proper documents;
- ineligible for citizenship; and
- aliens previously removed.¹³

The law provides waiver authority of these grounds (except for most of the security and terrorist-related grounds) for nonimmigrants on a case-by-case basis.¹⁴

Termination of Status. Consistent with the grounds of inadmissibility, the legal status of a nonimmigrant in the United States may be terminated based upon the nonimmigrant's behavior in the United States. Specifically, the regulations list national security, public safety and diplomatic reasons for termination. If a nonimmigrant who is not authorized to work does so, that employment constitutes a failure to maintain a lawful status. A crime of violence that has a sentence of more than one year also terminates nonimmigrant status.¹⁵

Periods of Admission

Length of Stay. Congress has enacted amendments and the executive branch has promulgated regulations governing areas such as the length and extensions of stay. For example, A-1 ambassadors are allowed to remain in the United States for the duration of their service, F-1 students to complete their studies, R-1 religious workers for up to three years, and D crew members for 29 days. Many categories of nonimmigrants are required to have a residence in their home country that they intend to return to as a stipulation of obtaining the visa. The law actually requires J-1 cultural exchange visa holders to go home for two years prior to returning to the United States (with some exceptions).

Duration of Visa. Separate from the length of stay authorized for the various nonimmigrant visas is the validity period of the visa issued by DOS consular officers. These time periods are negotiated country-by-country and category-by-category, generally reflecting reciprocal relationships for U.S. travelers to these countries. For example, a B-1 and B-2 visitor visa from Germany is valid for 10 years while B-1 and B-2 visas from Indonesia are valid for five years. The D crew member visa is valid for five years for Egyptians, but only one year for Hungarians.

Employment Authorization

Permission to Work. With the obvious exception of the nonimmigrants who are temporary workers or the executives of multinational corporations, most nonimmigrants are not allowed to work in the United States. Exceptions to this

¹³ For a fuller analysis, see CRS Report RL32480, *Immigration Consequences of Criminal Activity*, by Michael John Garcia; and CRS Report RL32564, *Immigration: Terrorist Grounds for Exclusion of Aliens*, by Michael John Garcia and Ruth Ellen Wasem.

¹⁴ §212(d)(3) and (4) of INA.

¹⁵ §214.1 of 8 CFR.

policy are noted in **Table 2**, which follows at the end of this report. As stated above, working without authorization is a violation of law and results in loss of nonimmigrant status.

Labor Market Tests. The H-2 visas require that employers conduct an affirmative search for available U.S. workers and that the U.S. Department of Labor (DOL) determine that admitting alien workers will not adversely affect the wages and working conditions of similarly employed U.S. workers. Under this process — known as labor certification — employers must apply to the DOL for certification that unemployed domestic workers are not available and that there will not be an adverse effect from the alien workers' entry.

The labor market test required for H-1 workers, known as labor attestation, is less stringent than labor certification. Any employer wishing to bring in an H-1B nonimmigrant must attest in an application to the DOL that the employer will pay the nonimmigrant the greater of the actual compensation paid to other employees in the same job or the prevailing compensation for that occupation; the employer will provide working conditions for the nonimmigrant that do not cause the working conditions of the other employees to be adversely affected; and, there is no strike or lockout. Employers recruiting H-1C nurses must attest that their employment will not adversely affect the wages and working conditions of similarly employed registered nurses; H-1C nurses will be paid the wage rate paid by the facility to similarly employed U.S. registered nurses; the facility is taking significant steps to recruit and retain sufficient U.S. registered nurses; and the facility is abiding by specified anti-strike and layoff protections.¹⁶

Statistical Trends

In the United States, data are collected on visa issuance and alien admission, both of which have strengths and shortcomings. While the number of visas issued shows the potential number of foreign nationals who may seek admission to the United States, alien admissions depict the actual number of foreign nationals who were permitted entry into the United States. The admissions data, however, simply enumerate port of entry inspections, thus counting frequent travelers multiple times. The lack of an exit registration system in the United States makes an actual count of out-migration impossible.¹⁷ Thus, the level of net migration of nonimmigrants (or the exact number of nonimmigrants in the United States at a given time) is unknown. The subsequent sections presents both admissions and issuance data for analysis of nonimmigrants by geographic region and by category.

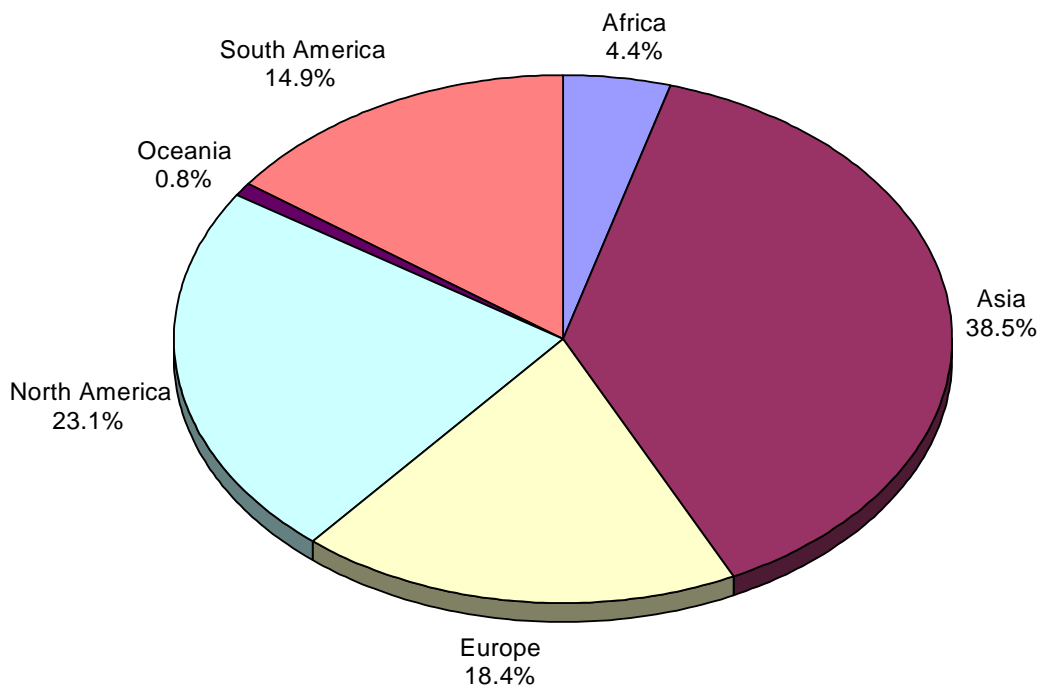
¹⁶ For a more complete analysis, see CRS Report RL33977, *Immigration of Foreign Workers: Labor Market Tests and Protections*, by Ruth Ellen Wasem.

¹⁷ The law actually requires that all aliens be recorded into the entry-exit system, but the current system — US-VISIT — records only entry into the United States. For background on US-VISIT and the provisions requiring exit data, see CRS Report RL32234, *U.S. Visitor and Immigrant Status Indicator Technology Program (US-VISIT)*, by Lisa M. Seghetti and Stephen Viña, hereafter cited as *U.S. Visitor and Immigrant Status Indicator Technology Program (US-VISIT)*.

Nonimmigrants by Region

Temporary Visas Issued. As **Figure 1** shows, there was a larger percentage of visas issued to foreign nationals from Asia than to any other region, accounting for 38.5% of the roughly 5.8 million nonimmigrant visas the DOS issued in FY2006. North American nonimmigrants (which included nationals of countries in Central America and the Caribbean) accounted for the next largest group of visa issuances at 23.1%, or approximately 1.34 million individuals. Europe and South America accounted for the third and fourth largest groups with 18.4% and 14.9% of the nonimmigrant visa issuances, respectively. Africa tallied 4.4% of the visas, while visa issuances for Oceania accounted for 0.8% of the total visa issuances in FY2006.

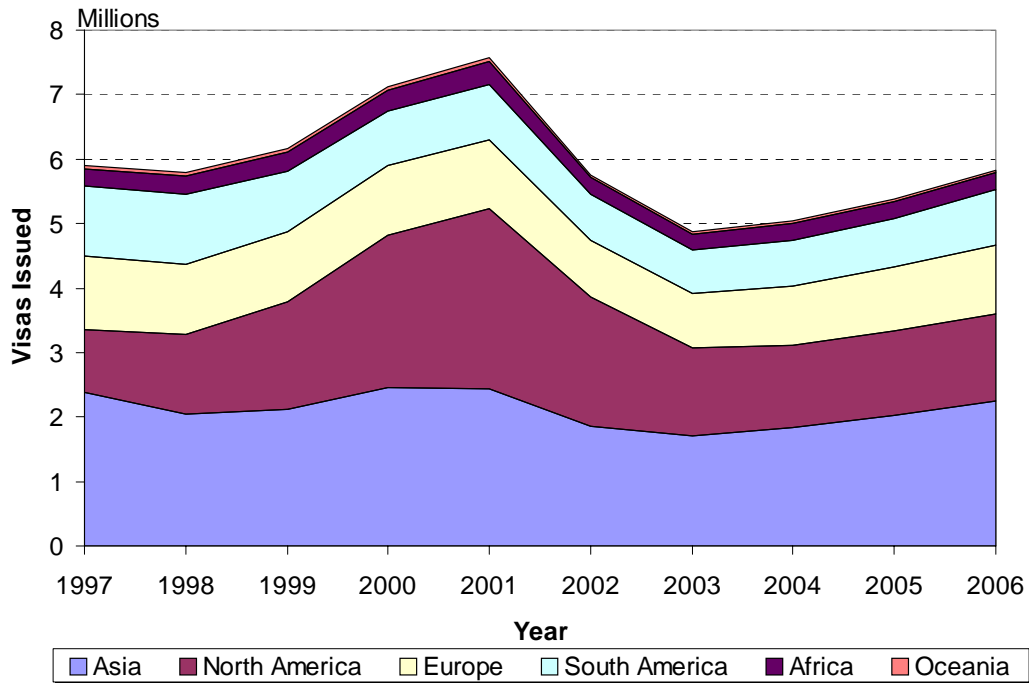
Figure 1. Nonimmigrant Visas Issued by Region, FY2006



Source: CRS presentation of DOS Bureau of Consular Affairs data.

Note: N=5,836,718.

When analyzing the longitudinal data for visa issuances as depicted in **Figure 2** below, the number of visas issued by DOS in FY2006 was similar to the issuance level of the mid-1990s. However, the issuance level is 24.7% lower than the highest levels of the past decade. Visa issuances have declined from their FY2001 peak of 7.6 million visas to the FY2006 level of 5.8 million visas issued. Many attribute this decline to more stringent criteria for visa issuances and a greater burden of qualification placed upon the nonimmigrant visa applicant that have resulted from security concerns after the terrorist attacks of September 11, 2001.

Figure 2. Nonimmigrant Visas Issued by Region, FY1997-FY2006

Source: CRS presentation of DOS Bureau of Consular Affairs data.

Notes: In FY1997, there were 46,377 visas issued to individuals with no nationality. In FY2006, there were 2,534 visas issued to this same category of applicants. The number of visas issued to individuals with no nationality decreased steadily over the course of the past decade.

The decline in these levels was largely due to the reduction of North American visas issued, as its levels in FY2006 constitute half of its levels in FY2001. The growth in the late 1990s has been largely attributable to two time-limited policies — the upgrade from border crossing cards to laser visas for residents of Mexico¹⁸ and the increased ceiling on temporary foreign worker visas.¹⁹ Visa issuance levels for other regions remained approximately the same as they were in FY2001. The only other notable changes in the longitudinal data for the given time span were a slight decrease in visas for European nationals, a slight increase in visas for Asian nationals, and a decrease in the visas granted to nationals from countries in the Oceanic region.

Temporary Admissions. The alternative method of measuring temporary migrations to the United States is with the nonimmigrant admissions data, and it comes with two important caveats. First, nonimmigrants are required to fill out I-94

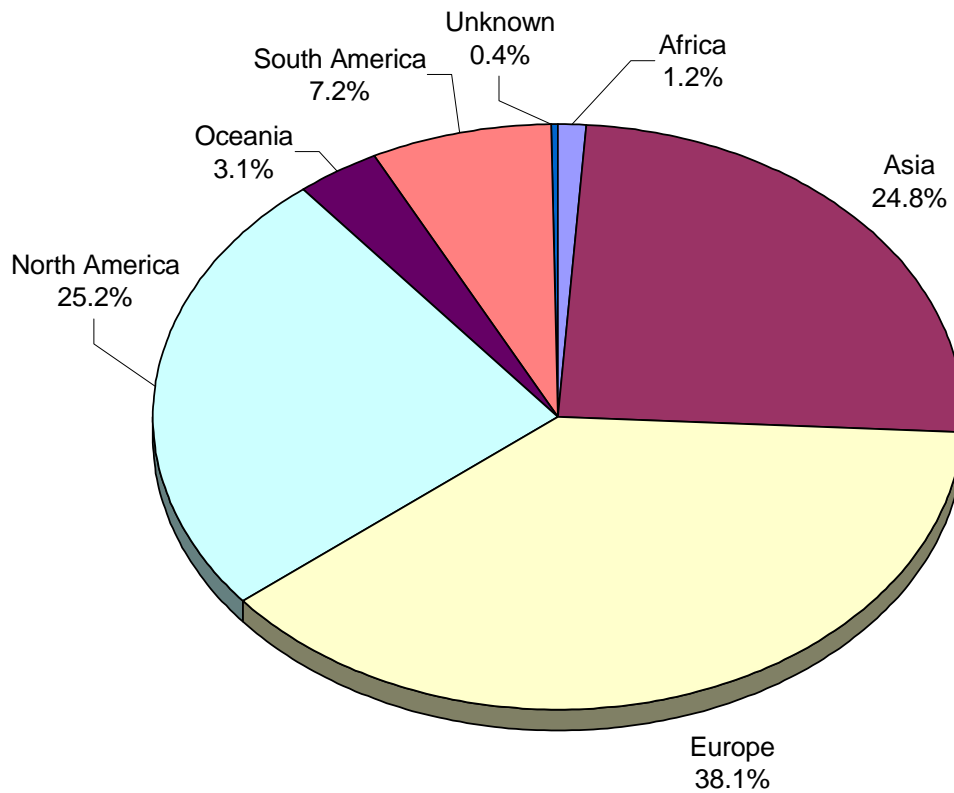
¹⁸ Section 104 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 added to the definition of “border crossing identification card” a requirement that the regulations pertaining to the BCC include a requirement for the BCC to contain a machine-readable biometric identifier.

¹⁹ *Immigration: Legislative Issues on Nonimmigrant Professional Specialty (H-1B) Workers*; and *Immigration: Policy Considerations Related to Guest Worker Programs*.

forms²⁰ for entry into the United States, and these I-94 entries constitute a total of approximately 33.7 million admissions in FY2006. Mexican nationals with Border Crossing Cards and Canadian nationals traveling for business or tourist purposes are not counted in these admission totals. These two latter groups accounted for the vast majority of admissions to the United States in FY2006, with approximately 141.0 million admissions.²¹ Thus, the total number of admissions to the United States in FY2006 was approximately 174.7 million. Second, as previously mentioned, these data are tallies of admissions and not of individuals. Since many individuals depart and re-enter the United States during the same year, individuals may have multiple admissions in the DHS admissions data.

²⁰ A Form I-94 is an Arrival-Departure Record issued by CBP at a port of entry that shows the date you arrived in the United States and the “Admitted Until” date, the date when your authorized period of stay expires.

²¹ U.S. Department of Homeland Security, Office of Immigration Statistics, *Temporary Admissions of Nonimmigrants to the United States: 2006*, July 2007, pp. 1-2.

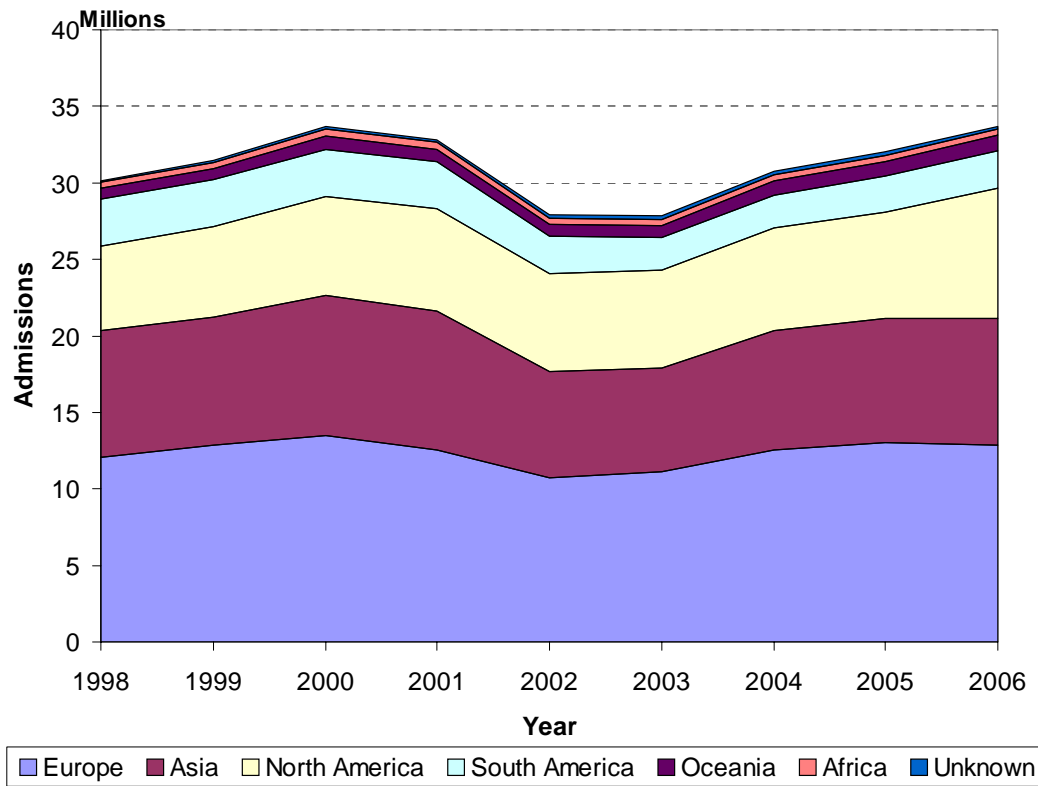
Figure 3. Nonimmigrant Admissions by Region, FY2006

Source: CRS presentation of DHS Office of Immigration Statistics data.

Note: N=33,667,328.

Figure 3 shows the plurality of foreign nationals admitted into the United States in FY2006 were nationals of European states, which represented 38.1% of admissions. The second largest category of admitted individuals were foreign nationals from North American countries, with 25.2% of the admissions total. Foreign nationals from Asian countries, which constituted the largest visa issuance category, were the third-largest regional admission group and accounted for 24.8% of admissions into the United States — a discrepancy most likely attributable to the higher number of visa waiver countries in Europe. These Asian admissions constituted 8.3 million entries into the United States, while by comparison the European entries accounted for 12.8 million admissions. The fact that 24 of the 27 countries participating in the Visa Waiver Program were European,²² in conjunction with the majority of all admissions being visitors, a plurality of European admissions was to be expected. South American entries accounted for 7.2% of FY2006 entries, or approximately 2.4 million persons, while the remaining categories of nationals from African and Oceanic regions (and individuals of “unknown” classification) constituted 1.6 million persons with 4.7% of the admissions total.

²² The exceptions being Singapore, Japan, and Brunei.

Figure 4. Nonimmigrant Admissions by Region, FY1998-FY2006

Source: CRS presentation of DHS Office of Immigration Statistics data.

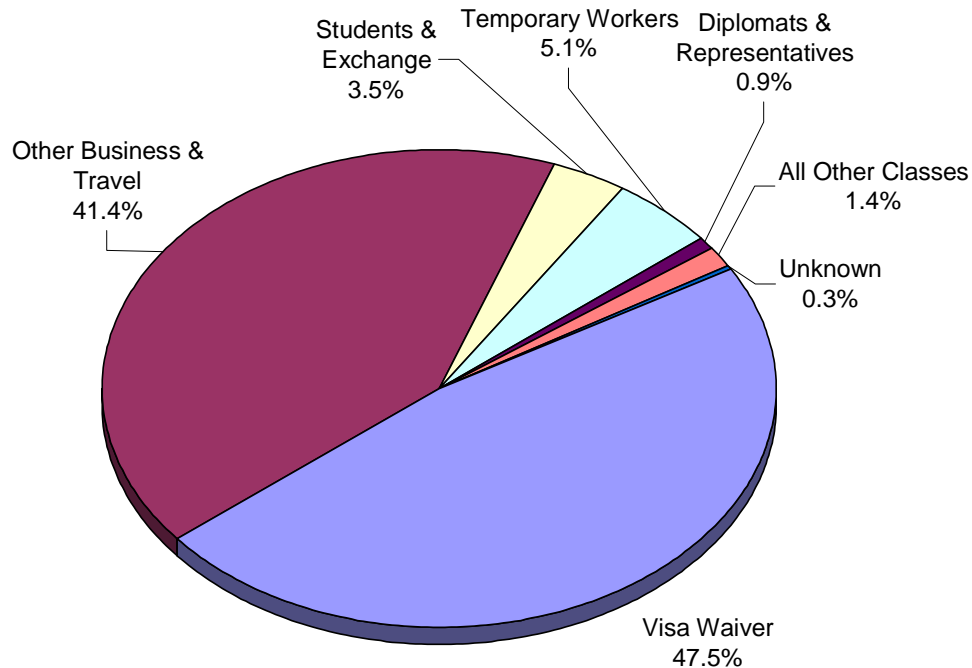
Figure 4 depicts the nonimmigrant admissions into the United States between FY1998-FY2006. The admissions data provided two periods of upward movement that increased the number of admissions of nonimmigrants by approximately 11.6% over the course of eight years. In FY1998, the number of nonimmigrants admitted at a U.S. port of entry was approximately 30.2 million, but by FY2005 this number had increased to 33.7 million admissions. The most significant sources of the trend were increasing numbers of nonimmigrants from the European and North American region. Whereas other regions witnessed lesser increases in their admission levels, the North American-based increased from 5.5 million in FY1998 to 8.5 million in FY2006, an increase of 3.4 million nonimmigrants.²³ Furthermore, the European-based admissions nonimmigrant admissions increased from a level of 12.1 million in FY1998 to 12.8 million in FY2006. This change constituted an increase of roughly 750,000 annual admissions or a percentage increase of 6.2% over the course of the past eight years.

²³ Although this increase in North American-based nonimmigrant admissions was partly attributable to the new rule structure under the North American Free Trade Agreement (NAFTA), it is worth noting that the more significant upward trends in North American-based admissions occurred in the late 1990s, several years after NAFTA's implementation. For more information, see CRS Report RL32982, *Immigration Issues in Trade Agreements*, by Ruth Ellen Wasem.

Finally, the admission levels of nationals from North American countries was largely unchanged following the September 11 attacks, as **Figure 4** shows. This finding not only contrasted the visa issuances in **Figure 2**, but the admissions levels of nationals based out of other regions. Every other region experienced some reduction of admissions of their nationals in FY2002, but recovered to near FY2001 levels in FY2006.

Temporary Visitors by Category

Temporary Admissions. An alternative way of analyzing nonimmigrant data is to group nonimmigrants by visa category. **Figure 5** below shows that for FY2006, 88.9% of the foreign nationals admitted into the United States were classified into the visitor categories of visas (including the “Visa Waiver Program” and “other business and travel”). This figure depicts roughly 33.7 million persons admitted at various ports of entry in FY2006. The only other category of admissions which constituted more than 5% of the admissions total were those of temporary workers, which when combined accounted for 5.1% of admissions, or approximately 1.7 million temporary worker admissions. Students and exchange admissions was the third largest category with 1.2 million arrivals, and accounted for 3.5% of the total. The remaining categories of nonimmigrant admissions cumulatively represented 2.3% of foreign nationals admitted. Thus, foreign nationals categorized into any remaining categories (including unknown category) accounted for roughly 750,000 admissions into the United States.

Figure 5. Nonimmigrant Admissions by Category, FY2006

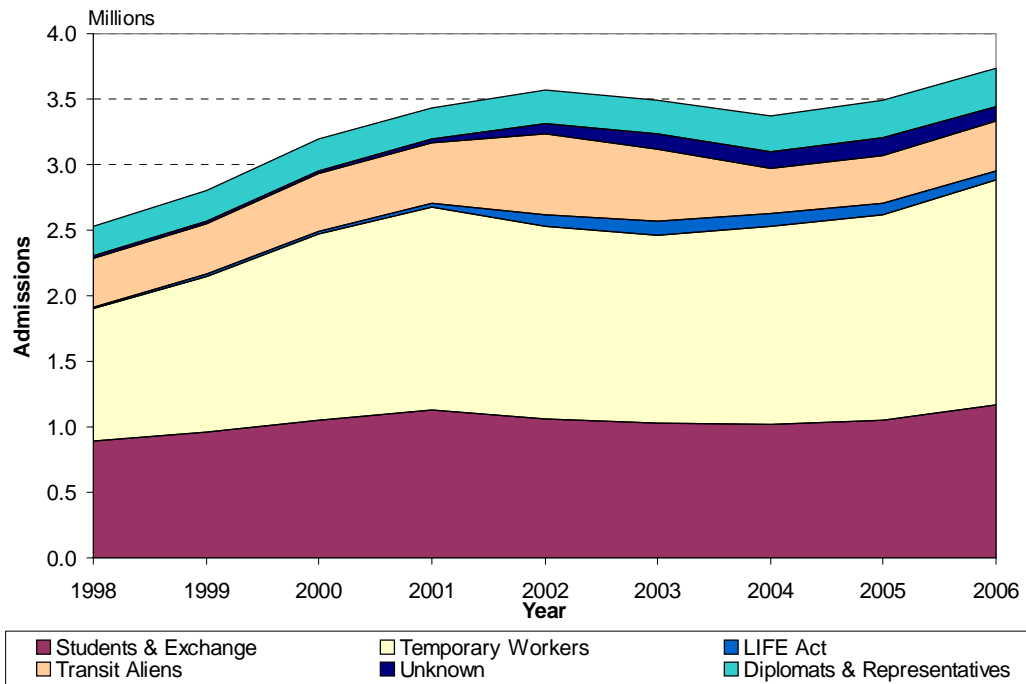
Source: CRS presentation of DHS Office of Immigration Statistics data.

Note: N=33,667,328.

The data on temporary visitors are the dominant category in both the admissions and issuance data. Thus, to more effectively analyze trends over time, the temporary visitors category is analyzed separately from other categories. As **Figure 6** below illustrates, the largest absolute growth of nonimmigrants other than visitors has come in the category of temporary workers. In FY2006, temporary workers accounted for 1,709,953 admissions into the United States (excluding admissions on laser visas), which constitutes a 69.2% increase over FY1998. Notably, admissions of foreign students in FY2006 recovered to FY2001 levels, and the growth rate for FY2005-FY2006 paralleled the trend for FY1998-FY2001. The number of admissions for students, exchange visitors, and their families in FY2006 was 1,168,020. The other notable development since FY2001 has been the recent decline of admissions classified as unknown or that qualify for admission through the LIFE Act visa categories.²⁴ After peaking in FY2003 with 109,089 admissions, LIFE Act admissions have declined to 76,726 admissions in FY2006, a drop of 29.7%. Moreover, admissions classified as unknown dropped from a 10-year high of 137,585 in FY2005 to 110,829 in FY2006, a decline of 19.5%. However, this level is still more than five times higher than the 10-year low from FY1999 of 20,273.

²⁴ The Legal Immigration Family Equity (LIFE) Act of 2000 (Title XI of P.L. 106-553) provides for the K and V nonimmigrant visa categories. These categories are set aside for fiancées (K-1) and children of fiancées (K-2) of U.S. citizens, spouses (K-3) and children of spouses (K-4) of U.S. citizens with visas pending, and spouses (V-1), children (V-2), and dependents (V-3) of legal permanent residents with visas pending.

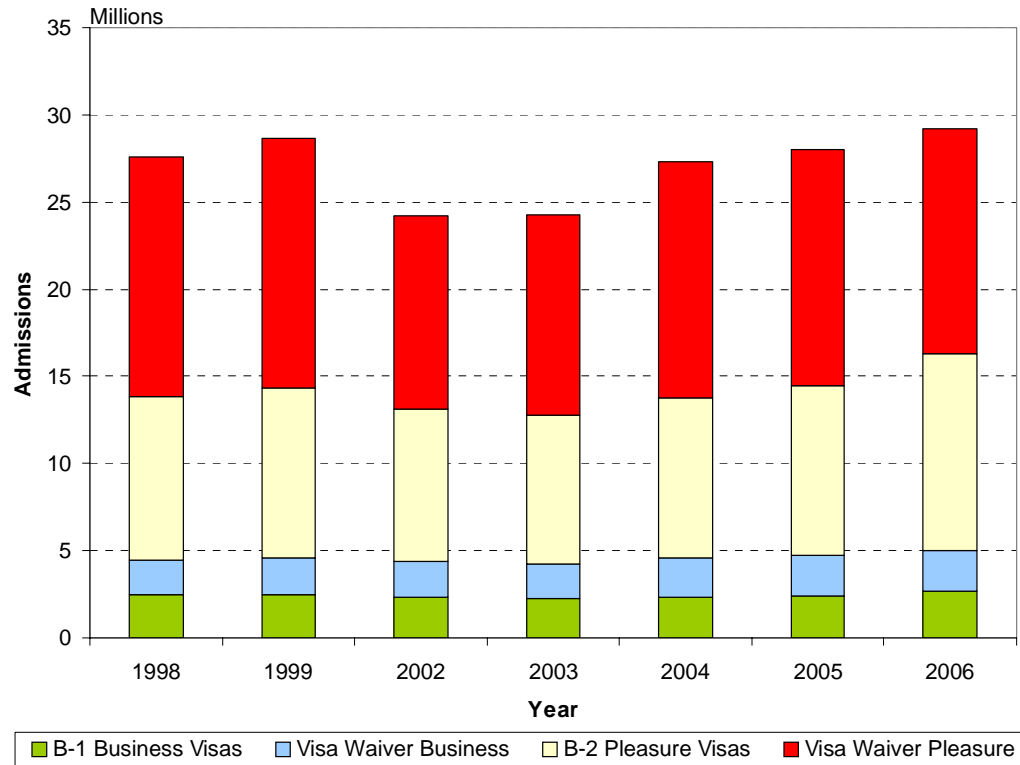
Figure 6. Admissions of Nonimmigrants Other Than Visitors, FY1998-FY2006



Source: CRS presentation of DHS Office of Immigration Statistics data.

Note: Laser visas are not included in the data depicted.

Analysis of admissions data for nonimmigrant temporary visitors in **Figure 7** reveals that a large majority of such nonimmigrants are admitted for tourism (or “pleasure”) purposes. In FY2006, of the roughly 29.9 million nonimmigrant temporary visitors, 83.2%, or nearly 24.9 million, constituted tourists. Within this group, 12.9 million came on regular visa waiver travel, 700,000 came on Guam visa waivers, and 11.3 million were admitted on B-2 visas. Although the overall proportion of tourists to business travelers has seen little change since FY1998, there has been a small shift within the tourist category. Whereas 40.4% of FY1998 tourist admissions were on B-2 visas, the corresponding measure for FY2006 was 45.3%. As for temporary visitors for business, this group accounted for 5.0 million admissions in FY2006, or roughly 16.8% of the nonimmigrant temporary visitors. Among the temporary business visitors in FY2006, almost 2.7 million entered on B-1 visas, roughly 2.4 million were admitted on general visa waivers, and 2,226 business visa waivers from Guam. Since FY1998, temporary business admissions have grown by 14.2%.

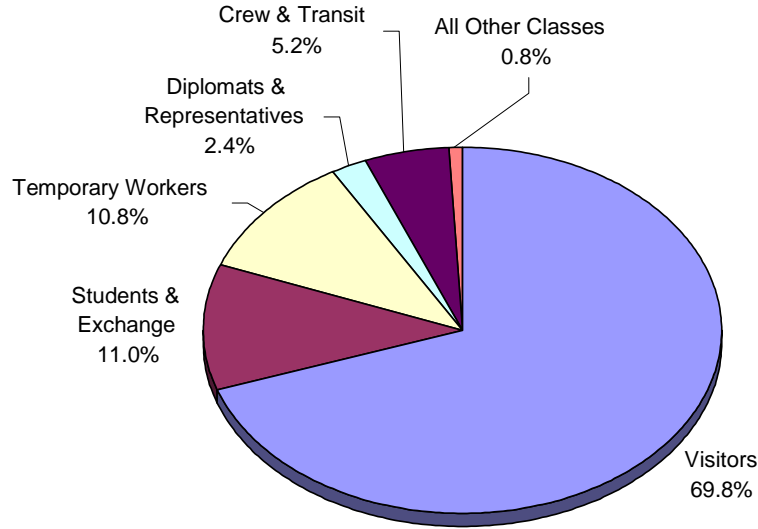
Figure 7. Admissions of Nonimmigrant Visitors, FY1998-FY2006

Source: CRS presentation of DHS Office of Immigration Statistics data.

Note: Category data for nonimmigrant visitors was not available for FY2000-FY2001.

Temporary Visas Issued. Breaking down the visa issuance data for FY2006, **Figure 8** demonstrates that 69.8 % of the visas issued for entry into the United States was to individuals entering on visitor visas. Consequently, the volume of visitors visa was at a rate 6.4 times higher than the next largest category. The subsequent two largest categories of issuances in FY2006 were for student and exchange visitor visas, which accounted for 11.0% of visas issued, and temporary workers, which represented 10.8% of issuances. Additionally, the visas issued for crew members and others in transit accounted for 5.2% of the visa issuances for FY2006. The remaining visas issued constituted 3.2% of the total.

Figure 8. Nonimmigrant Visas Issued by Category, FY2006



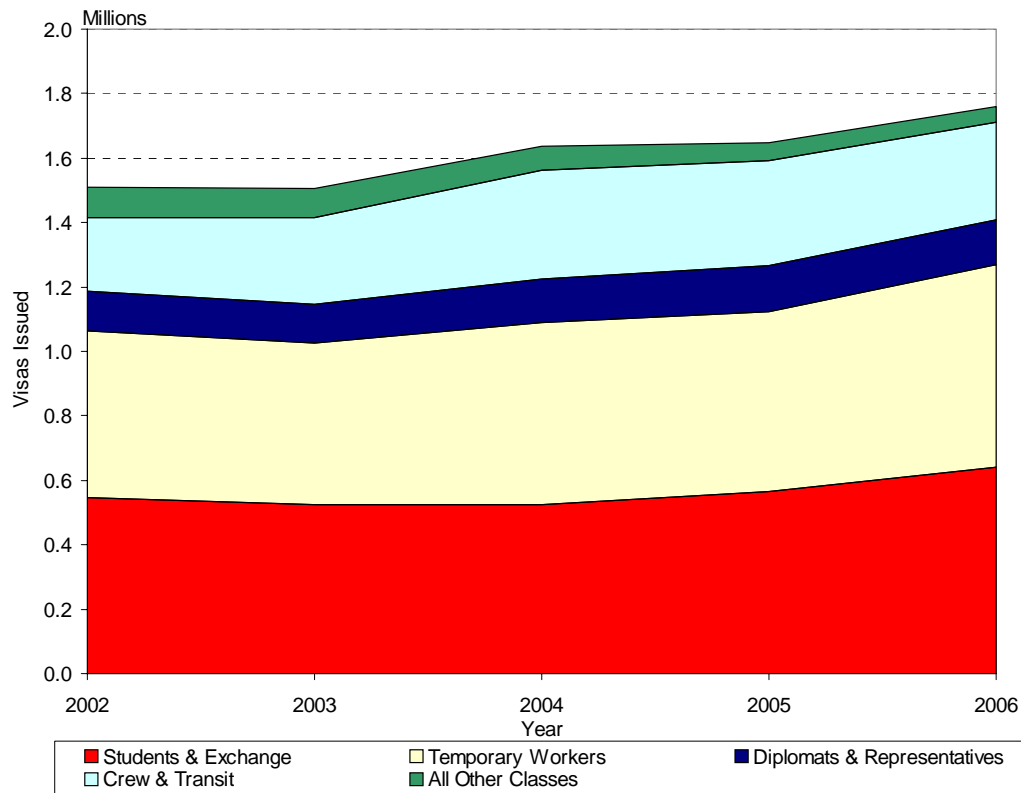
Source: CRS presentation of DOS Bureau of Consular Affairs data.

Note: N=5,836,718.

The graphical depiction of visas issued to nonimmigrants other than temporary visitors provided in **Figure 9**, below, shows the large representation of students and exchange visitors, as well as temporary workers, within issuance categories. Each of these issuance categories has grown between FY2002 and FY2006, with the student category increasing by 17.3% and the temporary worker category increasing by 21.7%.²⁵ The FY2006 level of the former category was 642,097, while the level of the latter category was 628,390. An additional category that experienced a growth in issuance during FY2002-FY2006 was that of crew and transit personnel, which increased by 32.9% during that time period and had an FY2006 level of 302,641 visas issued. Yet, the FY2006 level is 9.9% lower than the five-year peak of 336,005 visas issued in FY2004. The category of Diplomats and representatives saw an issuance increase of 12.2% between FY2002 and FY2006, although the FY2006 level of 137,786 is 2.8% lower than the FY2005 level of 141,707. The remaining category of other classes witnessed a steady decline in its issuance during the five-year period, with a decline of 48.6% from the FY2002 level of 96,460 to the FY2006 level of 49,589. Cumulatively, all the categories of visas other than temporary visitors accounted for 30.2% of the visas issued in FY2006.

²⁵ *Foreign Students in the United States: Policies and Legislation; Immigration: Legislative Issues on Nonimmigrant Professional Specialty (H-1B) Workers; and Immigration: Policy Considerations Related to Guest Worker Programs.*

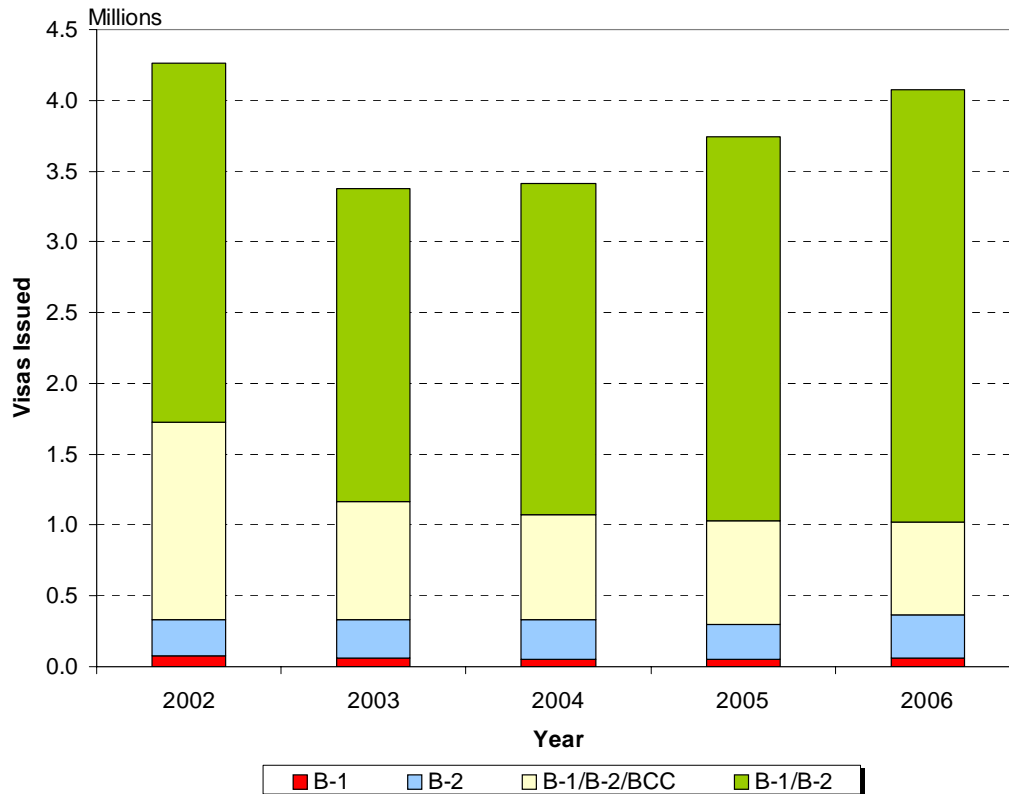
Figure 9. Visas Issued to Nonimmigrants Other Than Visitors, FY2002-FY2006



Source: CRS presentation of DOS Bureau of Consular Affairs data.

Note: In FY1997, there were 46,377 visas issued to individuals with no nationality. In FY2006, there were 2,534 visas issued to this same category of applicants. The number of visas issued to individuals with no nationality decreased steadily over the course of the past decade.

Finally, as depicted in **Figure 10**, below, the visas issued to nonimmigrant visitors constitute a large majority of visas issued, cumulatively accounting for 69.8% of the total FY2006 visa issuances. Although visa issuances to temporary visitors have grown every year since FY2003, they have not reached the level of their five-year peak in FY2002. Yet, from FY2003 to FY2006, the visa issuance to this category increased by 20.7% to roughly 4.1 million. The issuance of combination B-1/B-2 and Border Crossing Cards (BCCs) dropped markedly over the five-year period, down by 52.8% from FY2002 when the demand for laser visa BCCs peaked. During the same time period, the issuance of B-1/B-2 visas for business and pleasure increased by 20.8% to the FY2006 level of 3,053,656. This subcategory of the visitor visa category represented 74.9% of all FY2006 visas issued to nonimmigrant visitors. By contrast, the smallest visitor issuance category of B-1 business visitor visas represented only a fraction of this proportion, with an issuance level of 56,432 in FY2006 — a level that saw relatively little change during the given time period. And while the FY2006 visa issuance level of 305,645 for B-2 tourist visas was 5.4 times higher than its business counterpart, the B-1 and B-2 combined accounted for 8.9% of the visitor issuance total. Like its B-1 counterpart, the B-2 visa issuance experienced little relative change in this time period compared with the other subcategories.

Figure 10. Visas Issued to Nonimmigrant Visitors, FY2002-FY2006

Source: CRS presentation of DOS Bureau of Consular Affairs data.

Current Issues

Achieving an optimal balance among major policy priorities, such as ensuring national security, facilitating trade and commerce, protecting public health and safety, and fostering international cooperation, remains a challenge. Efforts to establish a comprehensive automated system that tracks the arrival and departure of nonimmigrants (US-VISIT) is well underway but remains incomplete.²⁶ Requirements for individuals entering into the United States (including U.S. citizens and visitors from Canada and other Western Hemisphere countries) to bear passports or other documents sufficient to denote citizenship and identity are now going into effect. All the while, legislative revisions to specific temporary visa categories continue to arise incrementally.²⁷

This section of the report highlights several of the specific temporary visa concerns that are of legislative interest to Congress: temporary workers, foreign medical graduates, foreign investors, and foreign students.

²⁶ *U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) Program.*

²⁷ *Immigration Legislation and Issues in the 110th Congress.*

Temporary Workers

Temporary Skilled and Professional Workers.²⁸ Many business people have expressed concern that a scarcity of labor in certain sectors may curtail the pace of economic growth. A leading legislative response to skills mismatches and labor shortages has been to increase the supply of temporary foreign workers. Proponents of raising the H-1B levels assert that H-1B workers are essential if the United States is to remain globally competitive. Some proponents argue that employers should be free to hire the best people for the jobs, maintaining that market forces should regulate H-1B visas, not an arbitrary ceiling.

Those opposing any further increases or easing of admissions requirements assert that there is no compelling evidence of a labor shortage in these professional areas that cannot be met by newly graduating students and retraining the existing U.S. work force. They argue further that the education of U.S. students and training of U.S. workers should be prioritized instead of fostering a reliance on foreign workers.

Guest Workers.²⁹ There is ongoing pressure to increase unskilled temporary foreign workers, commonly referred to as guest workers. The admission of H-2B visas are numerically limited, and the ceiling has been exceeded the past few years as more sectors of the economy vie for the visas. The current discussion of guest worker programs takes place against a backdrop of historically high levels of unauthorized migration to the United States. Supporters of a large-scale temporary worker program argue that such a program would help reduce unauthorized immigration by providing a legal alternative for prospective foreign workers.

Critics reject this reasoning and instead maintain that a new guest worker program would likely exacerbate the problem of illegal migration. Some allege that employers prefer guest workers because they are less demanding in terms of wages and working conditions, and that expanding guest worker visas would have a deleterious effect on U.S. workers.

Foreign Medical Graduates³⁰

The J cultural exchange visa has become a gateway for foreign medical graduates (FMGs) to gain admission to the United States as nonimmigrants for the purpose of graduate medical education and training. As exchange visitors, FMGs can remain in the United States on a J visa until the completion of their training, typically for a maximum of seven years. After that time, they are required to return home for at least two years before they can apply to change to another nonimmigrant status or LPR status.

²⁸ *Immigration: Legislative Issues on Nonimmigrant Professional Specialty (H-1B) Workers.*

²⁹ *Immigration: Policy Considerations Related to Guest Worker Programs.*

³⁰ CRS Report RL31460, *Immigration: Foreign Physicians and the J-1 Visa Waiver Program*, by Karma Ester, and CRS Report RS22584, *Foreign Medical Graduates: A Brief Overview of the J-1 Visa Waiver Program*, by Karma Ester.

The authority to issue a waiver of the foreign residence requirement to a FMG based on the request of a state public health department currently applies to J-visa holders through June 1, 2008. More specifically, these J-visa holders do not have to leave the United States at the conclusion of their residencies if they agree to practice medicine for three years in an area designated by the Secretary of Health and Human Services as having a shortage of health care professionals.

The original intent underlying the foreign residency requirement for FMG is to encourage American-trained foreign doctors to return home to improve health conditions and advance the medical profession in their native countries. Some now argue that the J-1 visa waiver for FMGs should be made permanent or extended for a number of years to allow an evaluation of the use of foreign physicians to meet healthcare shortages and their impact on American physicians.

Foreign Investors³¹

There are currently two categories of nonimmigrant investor visas: E-1 for treaty traders; and the E-2 for treaty investors. According to DHS statistics, there were 215,025 E-1 and E-2 nonimmigrant visa arrivals in the United States in FY2006.³²

The investor visas offered by the United States operate on the principal that foreign direct investment into the United States should spur economic growth in the United States. According to the classical theory, if these investments are properly targeted towards the U.S. labor force's skill sets, it should reduce the migration pressures on U.S. workers. To attract such investors, research indicates that temporary migrants are motivated most significantly by employment and wage prospects, while permanent migrants are motivated by professional and social mobility.³³ It is unclear from a theoretical standpoint, however, to what extent potential migration provides additional incentive for investment activity. Investors from developed countries may sometimes lack incentive to settle in the United States since they can achieve foreign direct investment (FDI) and similar standards of living from their home country. However, in cases where foreign investors have been attracted, the economic benefits have been positive and significant.³⁴

³¹ CRS Report RL33844, *Foreign Investor Visas: Policies and Issues*, by Chad C. Haddal.

³² U.S. Department of Homeland Security, Office of Immigration Statistics, *2006 Yearbook of Immigration Statistics*.

³³ Theodora Xenogiani, "Migration Policy and Its Interactions with Aid, Trade and Foreign Direct Investment Policies: A Background Paper," *OECD Development Centre*, Working Paper No. 249, June, 2006, p. 31-33.

³⁴ Based on CRS discussions with Morrie Berez, Chief Adjudications Officer, USCIS Investor and Regional Center Program, November 20, 2006.

Foreign Students³⁵

In the wake of post-September 11 security reforms, the security concerns over foreign student visas are being weighed against competitiveness concerns. Potential foreign students, as well as all aliens, must satisfy Department of State (DOS) consular officers abroad and immigration inspectors upon entry to the United States that they are not ineligible for visas under the so-called “grounds for inadmissibility” of the Immigration and Nationality Act, which include security and terrorist concerns. The consular officers who process visa applicants are required to check the consolidated Terrorist Screening Database (TSDB) before issuing any visa. In part because of these security measures, student visa debates have expanded to include both security and market-based discussions.

Higher education institutions in the United States are concerned over their ability to attract the numbers and quality of foreign students, and whether the post-September 11 security measures impede the entry of potential students into the U.S. education system. The fields of science, technology, engineering and mathematics (STEM) increasingly rely on foreign students, and these fields hold a top priority with most research institutions. Furthermore, the U.S. economy has a high demand for the skill-sets produced in these fields of study, and the STEM students often provide a major link between the academic community and the labor market. Consequently, many groups in higher education and the private sector are seeking to expand pathways for foreign students to emigrate.

Enforcing Current Law

The law and regulations set terms for nonimmigrant lengths of stay in the United States, typically have foreign residency requirements, and often limit what the aliens are permitted to do in the United States (e.g., gain employment or enroll in school). Many observers, however, assert that these policies are not uniformly or rigorously enforced. Some maintain that further legislation is not necessary if the laws currently in place are enforced.

The two tables that follow, among other things, illustrate the complexity and diversity of policy on temporary admissions, and the challenge for policy makers who may seek to revise it. **Table 1** indicates whether the INA or regulations set any limits or requirements on how long nonimmigrants may stay in the United States and whether they must maintain a residence in their home country for each of the 72 visa classifications. **Table 2** details whether there are any labor market tests or any limits on the numbers of aliens who can enter the United States according to each of the 72 visa classifications. **Table 2** also presents DOS data on the number of nonimmigrant visas issued in FY2006. *When a cell in the table is blank, it means the law and regulations are silent on the subject.*

³⁵ *Foreign Students in the United States: Policies and Legislation.*

Table 1. Periods of Stay and Foreign Residency Requirements for Nonimmigrant Visas

| Visa | Class Description | Period of Stay | Renewal Option | Foreign Residence Required |
|-------------|--|---|---------------------------|-----------------------------------|
| A-1 | Ambassador, public minister, career diplomat, consul, and immediate family | Duration of assignment | | |
| A-2 | Other foreign government official or employee, and immediate family | Duration of assignment | | |
| A-3 | Attendant, servant or personal employee of A-1/A-2, and immediate family | Up to three years | Up to two years intervals | |
| B-1 | Visitor for business | Up to one year | Up to six months | Yes |
| B-2 | Visitor for pleasure | Six months to one year | Up to six months | Yes |
| B-1/B-2 | Business and pleasure | Six months to one year | Up to six months | Yes |
| BCC | Border Crossing Cards | 72 hours [unless coupled with B-1 or B-2] proposed extension to 30 days | | Yes |
| C-1 | Alien in transit | Up to 29 days | | |
| C-1/D | Transit/crew member | Up to 29 days | | |
| C-2 | Person in transit to United Nations Headquarters | Up to 29 days | | |
| C-3 | Foreign government official, immediate family, attendant, servant, or personal employee in transit | Up to 29 days | | |
| D | Crew member | Up to 29 days | | |
| E-1 | Treaty trader, spouse and child, and employee | Up to two years | Up to two years | |
| E-2 | Treaty investor, spouse and child, and employee | Same as E-1 | Same as E-1 | |
| F-1 | Foreign student (academic or language training program) | Period of study (one year secondary students) | | Yes |

CRS-23

| Visa | Class Description | Period of Stay | Renewal Option | Foreign Residence Required |
|------|--|------------------------|---|----------------------------|
| F-2 | Spouse or child of F-1 | Same as F-1 | | |
| G-1 | Principal resident representative of recognized foreign member government to international organization, staff, and immediate family | Duration of assignment | | |
| G-2 | Other representative of recognized foreign member government to international organization, staff, and immediate family | Duration of assignment | | |
| G-3 | Representative of non-recognized or nonmember foreign member government to international organization, staff, and immediate family | Duration of assignment | | |
| G-4 | International organization officer or employee, and immediate family | Duration of assignment | | |
| G-5 | Attendant, servant or personal employee of G-1 through G-4, and immediate family | Up to two years | Up to two-year intervals | |
| H-1A | Temporary worker — nurse (statutory authority expired) | Up to three years | Up to two-year intervals; up to five years max | |
| H-1B | Temporary worker — professional specialty occupation | Up to three years | Up to three-year intervals; up to six years max | |
| H-1C | Temporary worker — nurse (new category) | Three years | | |
| H-2A | Temporary worker — agricultural workers | Up to one year | Up to one year; three years total | Yes |
| H-2B | Temporary worker — non-agricultural workers | Up to one year | Up to one year; three years total | Yes |
| H-3 | Temporary worker — trainee | Up to two years | | |
| H-4 | Spouse or child of H-1A/B/C, H-2A/B, or H-3 | Same as Principal | | |
| I | Representative of foreign information media, spouse and child | Duration of employment | | |
| J-1 | Cultural exchange visitor | Period of program | | Yes |

CRS-24

| Visa | Class Description | Period of Stay | Renewal Option | Foreign Residence Required |
|--------|---|---|--|----------------------------|
| J-2 | Spouse or child of J-1 | Same as J-1 | | Yes |
| J-3 | Au Pair | 14 months | | Yes |
| K-1 | Fiancé(e) of U.S. citizen | Valid for 4 month; must marry within 90 days to adjust status | | |
| K-2 | Child of K-1 | Same as K-1 | | |
| K-3 | Spouse of U.S. citizen awaiting LPR visa | | | |
| K-4 | Child of K-3 | | | |
| L-1 | Intracompany transferee (Executive, managerial, and specialized knowledge personnel continuing employment with international firm or corporation) | Up to three years | up to two-year extension: five years max; executives seven years | |
| L-2 | Spouse or child of L-1 | Same as L-1 | | |
| M-1 | Vocational student | Duration of study | | Yes |
| M-2 | Spouse or child of M-1 | Same as M-1 | | Yes |
| M-3 | Border commuter vocational or nonacademic student | Same as M-1 | | Yes |
| NATO-1 | Principal permanent representative of member nations to NATO, high ranking NATO officials, and immediate family members | Tour of duty | | |
| NATO-2 | Other representatives of member states to NATO (including any of its subsidiary bodies), and immediate family members; dependents of member of a force entering in accordance with provisions of NATO agreements; members of such force if issued visas | Tour of duty | | |

CRS-25

| Visa | Class Description | Period of Stay | Renewal Option | Foreign Residence Required |
|--------|--|--|---|----------------------------|
| NATO-3 | Official clerical staff accompanying a representative of a member state to NATO, and immediate family | Tour of duty | | |
| NATO-4 | Officials of NATO (other than those classifiable as NATO-1), and immediate family | Tour of duty | | |
| NATO-5 | Experts, other than NATO-4 officials, employed in missions on behalf of NATO, and their dependents | Tour of duty | | |
| NATO-6 | Civilian employees of a force entering in accordance with the provisions of NATO agreements or attached to NATO headquarters, and immediate family | Tour of duty | | |
| NATO-7 | Attendants, servants, or personal employees of NATO-1 through NATO-6, and immediate family | Up to three years | Two-year intervals | |
| N-8 | Parent of certain special immigrants (pertaining to international organizations) | Up to three years | Up to three-year intervals until child becomes an adult | |
| N-9 | Child of N-8 or of certain special immigrants (pertaining to international organizations) | Up to three years | Up to three-year intervals until child becomes an adult | |
| O-1 | Person with extraordinary ability in the sciences, arts, education, business or athletics | Up to three years | Up to one year | |
| O-2 | Person accompanying and assisting in the artistic or athletic performance by O-1 | Up to three years | Up to one year | Yes |
| O-3 | Spouse or child of O-1 or O-2 | Same as O-1 or O-2 | Up to one year | |
| P-1 | Internationally recognized athlete or member of an internationally recognized entertainment group and essential support | Up to five years individual artist; up to one year group or team | | Yes |
| P-2 | Artist or entertainer in a reciprocal exchange program and essential supports | Up to one year | One-year increments | Yes |
| P-3 | Artist or entertainer in a culturally unique program and essential support | Up to one year | One-year increments | Yes |

CRS-26

| Visa | Class Description | Period of Stay | Renewal Option | Foreign Residence Required |
|------|---|--|--|----------------------------|
| P-4 | Spouse or child of P-1, P-2 or P-3 | Same as P-1, P-2 or P-3 | One year increments | Yes |
| Q-1 | International cultural exchange program participant | Duration of program; up to 15 months | | |
| Q-2 | Irish Peace Process Program participant | Duration of program; up to three years | | |
| Q-3 | Spouse or child of Q-2 | | | |
| R-1 | Religious worker | up to three years | up to two-year intervals; up to five years max | |
| R-2 | Spouse or child of R-1 | same as R-1 | same as R-1 | |
| S-5 | Criminal informant | up to three years | | |
| S-6 | Terrorist informant | up to three years | | |
| S-7 | Spouse or child of S-5 and S-6 | same as S-5 and S-6 | | |
| T-1 | Victim of human trafficking | If T-1 cooperates and is needed in prosecution of traffickers, may lead to adjustment to legal permanent residence | | |
| T-2 | Immediate family of T-1 | | | |
| T-3 | Child of T-1 | | | |
| T-4 | Parent of T-1 | | | |
| T-5 | Unmarried sibling under 18 years of age on date T-1 applied | | | |
| TN | NAFTA professional | one year | one year | |
| TD | Spouse or child of TN | one year | one year | |

CRS-27

| Visa | Class Description | Period of Stay | Renewal Option | Foreign Residence Required |
|------|---|--|----------------|----------------------------|
| U-1 | Victim or informant of criminal activity | May lead to adjustment to legal permanent residence if specified conditions are met. | | |
| U-2 | Spouse or child of U-1 | | | |
| V-1 | Spouse of Legal Permanent Resident (LPR) who has petition pending for three years or longer | Transitional nonimmigrant visa that leads to adjustment to legal permanent residence status when visa become available | | |
| V-2 | Child of LPR who has petition pending for three years or longer | | | |
| V-3 | Child of V-1 or V-2 | | | |

Source: §101(a)(15), §212, and §214 of the Immigration and Nationality Act and §214 of 8 CFR.

Note: When a cell in the table is blank, it means the law and regulations are silent on the subject.

Table 2. Employment Authorization, Numerical Limits, and FY2006 Issuances for Nonimmigrant Visas

| Visa | Class Description | Employment Authorization | Labor Market Test | Annual Numerical Limit | FY2006 Issuances |
|-------------|--|---------------------------------|--------------------------|-------------------------------|-------------------------|
| A-1 | Ambassador, public minister, career diplomat, consul, and immediate family | Within scope of official duties | | | 10,159 |
| A-2 | Other foreign government official or employee, and immediate family | Within scope of official duties | | | 81,144 |
| A-3 | Attendant, servant or personal employee of A-1/A-2, and immediate family | Within scope of official duties | | | 1,017 |
| B-1 | Visitor for business | | | | 56,432 |
| B-2 | Visitor for pleasure | No | | | 305,645 |
| B-1/B-2 | Business and pleasure | | | | 3,053,656 |
| BCC | Border Crossing Cards | | | | 660,482 |
| C-1 | Alien in transit | | | | 54,994 |
| C-1/D | Transit/crew member | | | | 214,942 |
| C-2 | Person in transit to United Nations Headquarters | | | | 21 |
| C-3 | Foreign government official, immediate family, attendant, servant, or personal employee in transit | | | | 12,198 |
| D | Crew member of vessel or aircraft | Only as employee of carrier | | | 20,486 |

CRS-29

| Visa | Class Description | Employment Authorization | Labor Market Test | Annual Numerical Limit | FY2006 Issuances |
|------|--|--|-------------------|------------------------|------------------|
| E-1 | Treaty trader, spouse and child, and employee | Within the scope of treaty conditions | | | 8,015 |
| E-2 | Treaty investor, spouse and child, and employee | Within the scope of treaty conditions | | | 29,453 |
| E-3 | Australian specialty occupation professional | Within the scope of treaty conditions | | 10,500 | 1,918 |
| E-3D | Spouse or child of Australian specialty occupation professional | | | | 1,053 |
| F-1 | Foreign student (academic or language training program) | Off campus work is restricted, with limited exceptions | | | 273,870 |
| F-2 | Spouse or child of F-1 | | | | 20,748 |
| F-3 | Border commuter academic or language student | No | | | 19 |
| G-1 | Principal resident representative of recognized foreign member government to international organization, staff, and immediate family | Within scope of official duties | | | 4,894 |
| G-2 | Other representative of recognized foreign member government to international organization, and immediate family | Within scope of official duties | | | 11,946 |
| G-3 | Representative of nonrecognized or nonmember foreign government to international organization, and immediate family | Within scope of official duties | | | 284 |
| G-4 | International organization officer or employee, and immediate family | Within scope of official duties | | | 20,887 |

CRS-30

| Visa | Class Description | Employment Authorization | Labor Market Test | Annual Numerical Limit | FY2006 Issuances |
|--------|---|--------------------------------------|-------------------|--|------------------|
| G-5 | Attendant, servant, or personal employee of G-1 through G-4, and immediate family | Within scope of official duties | | | 940 |
| H-1A | Temporary worker — nurse (statutory authority expired) | Yes | Yes | | - |
| H-1B | Temporary worker — professional speciality occupation | Yes | Yes | 65,000 (with certain exceptions) | 135,421 |
| H-1B-1 | Free trade agreement professional | | No | 1,400 for Chile; 5,400 for Singapore | 440 |
| H-1C | Temporary worker — nurse | Yes | Yes | 500 | 8 |
| H-2A | Temporary worker — agricultural worker | Yes | Yes | | 37,149 |
| H-2B | Temporary worker — non- agricultural worker | Yes | Yes | 66,000 (returning workers had been excepted) | 71,687 |
| H-2R | Returning H2B worker | | | | 50,854 |
| H-3 | Temporary worker — trainee | Yes, as part of the training program | | Some restrictions on special education exchange programs | 2,369 |
| H-4 | Spouse or child of H-1A/B/C, H-2A/B, or H-3 | No | | | 74,326 |

CRS-31

| Visa | Class Description | Employment Authorization | Labor Market Test | Annual Numerical Limit | FY2006 Issuances |
|------|---|---|-------------------|------------------------|------------------|
| I | Representative of foreign information media, spouse and child | Only as employee of foreign media | | | 15,514 |
| J-1 | Cultural exchange visitor | Yes, if program has work component | | | 309,951 |
| J-2 | Spouse or child of J-1 | Only as approved by DHS | | | 30,104 |
| J-3 | Au Pair | | | | NA |
| K-1 | Fiancé(e) of U.S. citizen | | | | 30,575 |
| K-2 | Child of K-1 | | | | 5,013 |
| K-3 | Spouse of U.S. citizen awaiting LPR visa | | | | 10,341 |
| K-4 | Child of K-3 | | | | 2,935 |
| L-1 | Intracompany transferee (executive, managerial, and specialized knowledge personnel continuing employment with international firm or corporation) | Yes | | | 72,613 |
| L-2 | Spouse or child of L-1 | No | | | 61,984 |
| M-1 | Vocational student | Only practical training related to degree | | | 7,227 |
| M-2 | Spouse of child of M-1 | No | | | 178 |
| M-3 | Border commuter vocational or nonacademic student | Only practical training related to degree | | | 0 |

CRS-32

| Visa | Class Description | Employment Authorization | Labor Market Test | Annual Numerical Limit | FY2006 Issuances |
|--------|---|---------------------------------|-------------------|------------------------|------------------|
| NATO-1 | Principal permanent representative of member nations to NATO, high ranking NATO officials, and immediate family | Within scope of official duties | | | 5 |
| NATO-2 | Other representatives of member states to NATO (including any of its subsidiary bodies), and immediate family; dependents of member of a force entering in accordance with provisions of NATO agreements; members of such force if issued visas | Within scope of official duties | | | 5,911 |
| NATO-3 | Official clerical staff accompanying a representative of member state to NATO, and immediate family | Within scope of official duties | | | 0 |
| NATO-4 | Officials of NATO (other than those classifiable as NATO-1), and immediate family | Within scope of official duties | | | 333 |
| NATO-5 | Experts, other than NATO-4 officials, employed in missions on behalf of NATO, and their dependents | Within scope of official duties | | | 88 |
| NATO-6 | Civilian employee of a force entering in accordance with the provisions of NATO agreements or attached to NATO headquarters, and their immediate family | Within scope of official duties | | | 176 |
| NATO-7 | Attendants, servants, or personal employees of NATO-1 through NATO-6, and immediate family | Within scope of official duties | | | 2 |
| N-8 | Parent of certain special immigrants (pertaining to international organizations) | Yes | | | 11 |
| N-9 | Child of N-8 or of certain special immigrants (pertaining to international organizations) | Yes | | | 0 |
| O-1 | Person with extraordinary ability in the sciences, arts, education, business, or athletics | Yes | | | 6,961 |
| O-2 | Person accompanying and assisting in the artistic or athletic performance by O-1 | Yes | | | 3,726 |

CRS-33

| Visa | Class Description | Employment Authorization | Labor Market Test | Annual Numerical Limit | FY2006 Issuances |
|------|---|--|-------------------|------------------------|------------------|
| O-3 | Spouse or child of O-1 or O-2 | Only as approved by DHS | | | 1,912 |
| P-1 | Internationally recognized athlete or member of an internationally recognized entertainment group and essential support | Yes | | | 22,698 |
| P-2 | Artist or entertainer in a reciprocal exchange program and essential support | Yes | | | 91 |
| P-3 | Artist or entertainer in a culturally unique program and essential support | Yes | | | 9,949 |
| P-4 | Spouse or child of P-1, P-2, or P-3 | Only as approved by DHS | | | 1,007 |
| Q-1 | International cultural exchange program participant | Yes, with employer approved by program | | | 1,541 |
| Q-2 | Irish Peace Process Program participant | Yes, with employer approved by program | | | 80 |
| Q-3 | Spouse or child of Q-2 | No | | | 3 |
| R-1 | Religious worker | Yes | | | 8,716 |
| R-2 | Spouse or child of R-1 | No | | | 3,234 |
| S-5 | Criminal informant | Yes | | 200 | NA |
| S-6 | Terrorist informant | Yes | | 50 | NA |
| S-7 | Spouse or child of S-5 or S-6 | | | | NA |
| T-1 | Victim of human trafficking | Yes | | 5,000 | NA |

CRS-34

| Visa | Class Description | Employment Authorization | Labor Market Test | Annual Numerical Limit | FY2006 Issuances |
|--------------------|---|--|-------------------|------------------------|------------------|
| T-2 | Spouse of T-1 | Yes | | | 11 |
| T-3 | Child of T-1 | | | | 43 |
| T-4 | Parent of T-1 | | | | 5 |
| T-5 | Unmarried sibling under 18 years of age on date T-1 applied | | | | 1 |
| TN | NAFTA professional | Yes | | | 2,779 |
| TD | Spouse or child of TN | | | | 2,972 |
| U-1 | Victim or informant of criminal activity | Yes | | 10,000 | NA |
| U-2 | Spouse or child of U-1 | Yes | | | NA |
| V-1 | Spouse of Legal Permanent Resident (LPR) who has petition pending for three years or longer | Yes | | | 163 |
| V-2 | Child of LPR who has petition pending for three years or longer | Yes, assuming they meet age requirements | | | 127 |
| V-3 | Child of V-1 or V-2 | Yes, assuming they meet age requirements | | | 281 |
| Grand Total | | | | | 5,836,718 |

Source: §101(a)(15), §212, and §214 of the Immigration and Nationality Act and §214 of 8 CFR.

Note: When a cell in the table is blank, it means the law and regulations are silent on the subject.