



Visa Policy: How can the U.S. and China improve?

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Introduction

Since 1979 the United States and China have had normalized diplomatic relations. Still today, both countries have not granted each others' citizens the same Visa policies that are enjoyed by the citizens of many other nations. Today China and the U.S. are still negotiating an agreement that would allow longer stays in the U.S., and remove restrictions that limit the number of non-immigrant visas granted to Chinese citizens. This paper will discuss what needs to be done by both the U.S. and China in order to attain a more mutually beneficial visa policy.

What can the U.S. do to improve the visa acquisition process?

Abolish Per-Country Immigrant Caps

The U.S. currently has a policy of only issuing 140,000 employment-based visas per year. This is because in the late 1970's the U.S. Congress passed a bill that created equal per country caps on these types of visas. Even though China has the world's largest population, its citizens receive the same number of employment-based visas as smaller countries, such as Singapore. This can mean that American companies who sponsor employment-based visas for Chinese citizen may have to wait years to get an employee off of the long waiting list, though it may be a quick turnaround for the same visa for citizens of smaller countries.

Remove Numerical Cap on H-1B Temporary Workers

Another recommendation for the U.S. Congress is to lift the restriction which limits H-1B temporary work visas to 65,000 per year. H-1B's are given to professionals sponsored by U.S. companies who are specialists in a particular occupation. Petitions for this type of visa are filed in the year previous to the expected start date of the foreign work. This restriction does not seem to be necessary, as economic conditions tend to dictate how many petitions will be filed for such a visa. April 1st is the first day that petitions can be filed for H-1B visas. Before the current economic downturn, typically over 65,000 petitions would be filed before the end of the first day they were accepted. In 2009, the 65,000 visa limit was not hit until December 21st, which demonstrates that the number of foreign professionals needed by U.S. companies is determined by the strength of the economy. It is also thought that by eliminating this restriction that U.S. companies during economic downturns would have the ability to hire the most competitive job seekers. This in turn would make U.S. firms more productive during poor economic times, which would help speed up recovery, leading to an increase in net jobs available to U.S. citizens. Another downside of the H-1B visa restriction is that it deters the most skilled workers from wanting to work for U.S. companies. These same workers then may decide to go work for enterprises in other countries, which may be

direct competitors of U.S. firms. Additionally, U.S. companies face situations where they have to take projects abroad, in order to find the workers qualified for their specific needs. It is important to note that allowing additional workers into the U.S. on H-1B visas will not drive down overall wages. H-1B visa holders must be paid the prevailing wage for the specific work they are doing. Additionally, companies sponsoring these visas are required to pay a 1500 USD fee, which is sent directly into a fund related to scholarships for U.S. students and training for U.S. workers.

Reduce Unnecessary Visa Processing Delays

Furthermore, to expedite the visa approval process, the U.S. could work to further reduce unnecessary delays associated with Visas Mantis security advisory opinions (SAO). There are at least three different improvements that can help achieve this goal. First, by updating the Technology Alert List (TAL) more frequently, the different government agencies involved in SAO's would have an easier time deciphering which goods, technologies, or sensitive pieces of information need to be protected from exportation through activities such as graduate-level studies, teaching, conducting research, participating in exchange programs, receiving training or employment, etc. Second, the U.S. can create a network for the sharing of visa applicants' information between consular officers. This would make it easier for consular officers to waive certain applicants from processing when those applicants do not fit a higher risk profile. Third, there is a practice of reprocessing clearance for applicants who have in the past already received approval for prior visits. Unless specific facts warrant it, the prior applicants should not be subject to unnecessary additional security checks. Another important improvement in visa processing could come from updating the required DS-160 form. Currently the form is not printed in a translated Chinese version, making it difficult for some applicants to understand. It would also help if the form were available through a web format so that it could be filled out on a computer, and/or submitted through the internet.

How can China improve its Visa approval process?

Avoid Ambiguities and Inconsistencies in Visa Application Process

In order to prevent ambiguities from occurring, the Chinese government will need to make public all of its visa requirements in written form. Ambiguities most frequently occur when dealing with age restrictions, and knowing which specific documents visa applicants must submit. Publishing this kind of information is not just necessary for visa seekers, but it is also essential for Chinese citizens to be able to form a public opinion on the government policy. This would give the Chinese people an opportunity to voice their approval or concern of the immigration policy set forth. Another dilemma visa seekers confront is a lack of uniformity between different Chinese Consulates, and different local immigration authorities. An example of the inconsistency is that local authorities in Beijing asking for an original diploma, as opposed to the authorities in Shanghai who only ask for a certified copy of a diploma. The best solution is for China to allow certified copies of required documentation to suffice in lieu of original documentation, since obtaining original documentation can be cumbersome.

Waive Age Restrictions for Work Permits

Because the age of retirement in China is 65, it becomes very difficult for visa seekers between the ages of 59-64 to obtain or renew a work visa. The best action China can take on this issue would be to waive the restriction on the issuance of work permits for those above the age of 65. Economically this would be a benefit to Chinese businesses, as many experts in their fields are approaching, or beyond the 65 year old threshold. There are times when

work visa holders have children who reach the age 18 before graduating high school. Since China only allows dependent visas to be valid up until the age 18, unnecessary immigration issues can occur. Because of this, sons and daughters of work visa holders should be admitted with dependent visas up to age 21. Most importantly, China should do away with the age limit for sons or daughters with permanent handicaps.

What can the U.S. and China both do to improve?

Include Investor Visa Provision in BIT

The Bilateral Investment Treaty (BIT), which is currently being negotiated, should include an agreement allowing for an investor visa provision. This would be a benefit to the U.S., as it would increase foreign direct investment (FDI) from China, helping to curb the current trade imbalance with between the nations. Furthermore, this type of agreement would allow U.S. firms to take a better managerial position over their investments in China by letting them put the most qualified professionals in charge. In the status quo, receiving visa authorization for the most qualified person can be a huge hurdle to clear for U.S. investors.

Permit Longer Visits with Visa

Both the U.S. and China should come to a reciprocal agreement that allows the issuing of non-immigrant visas valid for longer periods. This would not only make travel more convenient for visa holders, but it would also lessen the burden on consular resources. Under the current U.S. policy, Chinese citizens' B-1 and B-2 visas are valid for only one year, as opposed to ten years given to those of other nationalities. For H-1B visas, Chinese nationals are given three months, when other nationalities receive up to three years. The current immigration agreement between the U.S. and China does not include a provision for the recognition of each others' passports as automatically extended for six months beyond the expiration date shown on the identification page. This becomes a concern because current U.S. regulation will only allow a visa's authorization period to go as far as a date six months prior to the expiration date of a passport. By coming to a consensus on this issue many travelers will not need to acquire new passports before applying for visas or have to cut trips short.

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