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AMERICAN BUSINESS IN CHINA 美国企业在中国

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Visa Policy

Introduction

China's rapid growth, shifting demographics, and aging population have opened new opportunities for economic immigration from developed as well as developing countries, underscoring the need for China to modernize its regulatory framework and enhance administrative capacity.

In Washington, continued divisive rhetoric and congressional deadlock over immigration reform has left American employers frustrated. AmCham China urges Congress and the president to cooperate to enact common-sense legislation freeing employers to innovate and create jobs.

Recent Developments: Chinese Visas

New National Policy for Foreign Work Permit Applications

To attract foreign talent to China, unify the application process, and improve data sharing on foreigners working in China, the State Administration for Foreign Experts Affairs (SAFEA) released the "Pilot Implementation Plans for Foreigners' Work Authorization Policy," which entered into effect in October 2016 in 10 pilot provincial-level jurisdictions (i.e., Beijing, Shanghai, Tianjin, Hebei, Anhui, Shandong, Sichuan, Guangdong, Yunnan, and Ningxia), and will take effect nationwide on April 1, 2017.

Integrating Two Permits into One

Under the new policy, the employment permit and expert permit are to be combined into a single work permit. Foreigners who still hold a valid employment permit or expert permit may change to a work permit. AmCham China welcomes this streamlining of bureaucratic requirements, which simplifies the process for foreigners to work in China.

Categorization of Expats

Under the new policy, foreign individuals working in China will be categorized into three categories, namely A, B and C.

Category A: "High-end talent," including scientists, technical

experts, international entrepreneurs, and other specialists.

Category B: Foreign professionals, who qualify under a score assessment, are under the age of 60, hold at least a bachelor's degree, and have two years of relevant work experience. Certain requirements may be relaxed if necessary.

Category C: Foreign employees, who engage in temporary, seasonal, non-technical, or service-related work.

Category A foreigners are encouraged to work in China, and thus will not be subject to a numerical restriction. However, quotas on category B foreigners will be subject to market demand, whereas category C foreigners will be subject to an unspecified quota.

Score-Based Assessment

Pursuant to the new policy, a score-based assessment will be conducted for foreign applicants. Applicants may be graded on their educational background, work experience, salary provided by the sponsoring entity, Mandarin proficiency, working location in China, age, etc.

Local authorities may at their discretion set special standards to solicit foreign talent based on local requirements. To this end, extra points will be awarded to qualified applicants. Applicants with a total score below 60 will fall into category C, 60 and over into category B, and 85 and over into category A.

Application Requirements for Each Category

Category A foreigners ("high-end talent") will be provided with a "green channel," meaning:

- No limitation on individuals' age and work experience;
- The employer may guarantee the individual has a clean criminal record instead of providing a certificate of no criminal conviction from the individual's home country government;
- The individual may apply for a work permit after the employment license application (no need to conduct the offshore Z visa application) and then directly convert a valid Chinese visa (i.e., L or F visa) into a residence permit in China; and
- The timeline of the new work permit application will be

签证政策

引言

中国经济的快速增长、人口结构变化和人口老龄化都为发达国家与发展中国家的经济移民带来了新机遇。在这种形势下，中国迫切需要通过实现监管框架的现代化，并加强其行政能力。

在华盛顿，分裂言论不绝于耳，加之美国国会在移民改革方面陷入僵局，令美国雇主深感不安。中国美国商会（商会）敦促美国国会与总统合作，制定合理法律，鼓励雇主创新并创造新的就业机会。

最新进展：中国签证

有关外国工作许可申请程序的最新全国性政策

为了吸引外国人才来华工作，统一申请流程，完善在华工作外国人的数据共享体系，国家外国专家局（外专局）发布了《外国人来华工作许可制度试点实施方案》，该方案于2016年10月起在北京、上海、天津、河北、安徽、山东、四川、广东、云南、宁夏等10个省市试点实施，并将于2017年4月1日起在全国范围内实施。

将两种许可合二为一

根据新政策，外国人就业证和外国专家证将合并为外国人工作许可证。持有效外国人就业证和外国专家证的外国人可以改为外国人工作许可证。商会欢迎这一精简行政手续的政策，因为它有助于简化外国人在华工作流程。

外籍人士分类

根据新政策，在中国工作的外国人将分为A、B、C三类。

A类：“高端人才”，包括科学家、技术专家、国际企业家和其他专家。

B类：符合特定评分标准的外国专业人士，年龄不满

60岁，拥有学士及以上学位，具有两年相关工作经验。如有必要，可放宽特定要求。

C类：从事临时、季节性、非技术性或服务相关工作的外国员工。

中国鼓励A类外国人在华工作，此类人士不受人数限制。而B类外国人的数量配额受市场需求的限制，C类外国人受未指定配额的限制。

以分数为标准的评估系统

新政策根据分数评估外国签证申请人。根据申请人教育背景、工作经验、赞助单位提供的薪水、普通话水平、在华工作地点、年龄等对申请人进行评分。

地方当局可酌情制定特殊标准，根据当地需求吸引外国人才。为此，合格申请人可获得加分。总分低于60分的申请人被划分为C类，60分及以上属于B类，85分以上属于A类。

各个类别的申请要求

A类外国人（“高端人才”）可获得“绿色通道”，即：

- 不受个人年龄和工作经验的限制；
 - 雇主承诺担保申请人没有犯罪记录，无需申请人所在国政府出具的无犯罪记录纸质件；
 - 申请人可在申请外国人工作许可通知之后申请外国人工作许可证（无需办理离岸Z字签证申请），然后将有效中国签证（即L字或F字签证）直接转换为中国居留许可；
 - 新外国人工作许可证的申请时间短于当前流程。
- B类外国人（“专业人员”）必须符合以下要求：
- 拥有学士或以上学位，拥有至少两年相关工作经验；
 - 申请工作许可时必须提交申请人已公证认证的文凭副

shorter than the current process.

Category B foreigners (“professional personnel”) must meet the following requirements:

- Possess a bachelor’s or higher degree and at least two years of relevant work experience;
- The work permit application must be accompanied by notarized copies of the applicant’s diploma and certificate of no criminal conviction authenticated by the relevant embassy or consulate.

Category C foreigners are subject to a quota—further information has yet to be published by SAFEA.

AmCham China is concerned that these provisions will restrict the ability of US-invested companies to staff their businesses. Moreover, requirements for work permit applicants to submit notarized and authenticated copies of documents create unnecessary administrative burdens for both applicants and diplomatic staff. We urge labor authorities nationwide to provide applicants the option of submitting original documents instead of notarized and authenticated copies of documents in order to reduce administrative burdens and accelerate the hiring process for bringing needed foreign talent to China.

We further urge transparency in the national and local criteria for the score-based assessment system. AmCham China urges the Chinese government to ensure that otherwise qualified individuals are not prevented from working in China because of overly rigid requirements in the score-based assessment system and arbitrarily-set work permit quotas for different categories of foreign talent.

Online Application System

AmCham China welcomes the new SAFEA online application system, which is intended to make work permit policy and processing timelines more uniform and transparent nationwide. Companies may now create their online accounts and then submit foreign employee applications online.

Applicants will be able to download forms from the internet and submit them electronically. A permanent code will be assigned to each application that will enable the tracking of individual applications. The modified application procedure is intended to reduce the amount of required documentation and processing time.

Five-Year Work Permit Pilot Program

A new pilot program announced by the Ministry of Public Security (MPS) on March 9, 2017 will allow foreigners who have worked in China for at least two consecutive years to apply for a five-year work permit. The pilot program will be implemented in nine cities and provinces as well as 11 pilot free trade zones. The current system requires foreigners to reapply for a work permit

every year, even if they sign a multi-year employment contract. AmCham China welcomes this new pilot program, which will reduce the administrative burden on the authorities and help attract global talent to China. We urge the MPS to expand the five-year work permit pilot nationwide as soon as possible.

Permanent Residence

The MPS has issued new immigration policies and regulations to support the establishment of Shanghai as a global science and innovation center and to sustain the development of innovation in Beijing. The new policies clarify the standards for obtaining permanent residence.

Under the new regulation for Beijing, individuals who meet the following criteria will be eligible for permanent residence, so long as they are sponsored by their employers:

- The individual has worked in Beijing for more than four consecutive years and resided in China for at least six months in each of those years; and
- The individual has earned a gross salary of at least RMB 500,000 and paid tax of more than RMB 100,000 each year (these thresholds may be adjusted annually).

Simplified Temporary Residence Permit Application Procedures

Short-term visitors under certain circumstances are required to obtain a work permit and work visa. Foreigners residing overseas can apply for a temporary residence permit (normally valid for less than three months) with the Beijing exit-entry authorities provided they hold an appropriate alien employment license and can apply for their work and residence permits within the visa validity period in Beijing.

E-Channel at Ports of Entry

The Automated Passenger Clearance System, or “e-channel,” allows entry to China through an automated station and without completing an entry-exit form. Effective August 19, 2016, permanent residents and foreigners who are in possession of a long-term work visa (usually one year or longer) in China can use the e-channel. Registration is required at the airport, but upon approval, an individual can use e-channels nationwide. AmCham China welcomes this measure to facilitate international travel for foreigners who reside in China long term.

Ongoing Regulatory Challenges: Chinese Visas

Visa on Arrival

While allowed for some nationalities, US passport holders have always been denied the right to obtain a visa on arrival (VOA) at a port of entry in China. Recently, ports like

本以及经大使馆或领事馆认证的无犯罪记录证明。

C类外国人受配额限制——详细信息尚待外专局发布。

商会担心这些规定将限制美资公司为企业配置工作人员的能力。此外，要求工作许可申请人提交经过公证和认证的文件副本，也为申请人和外交人员带来了不必要的行政负担。我们敦促国家相关劳动管理部门允许申请人提供原件而非经过公证和认证的文件副本，以减少行政负担，加快招聘流程，为中国提供必要的外国人才。

我们进一步敦促国家和地方当局提高分数评估系统的透明度。商会敦促中国为不同类别的外国人才确定工作许可配额，制定分数评估制度要求，以避免符合要求的外国人无法在华工作。

在线申请系统

商会欢迎国家外专局采用新的在线申请系统，该系统旨在统一全国工作许可政策与受理时间，并提高透明度。现在，公司可以创建在线帐户，在线提交外国员工申请。

申请人可以通过互联网下载表格，并以电子方式提交申请表。系统为每份申请人分配永久代码，可用于跟踪该申请人的情况。修改后的申请程序旨在减少申请需要的文件数量和受理时间。

五年工作许可试点计划

公安部于 2017 年 3 月 9 日公布的新试点方案将允许连续两年在中国工作的外国人申请五年工作许可证。试点方案将在九个省市及 11 个自由贸易区实施。根据目前的制度要求，外籍人士即使签订了多年劳动合同，他们仍需每年重新申请工作许可证。商会欢迎这个新的试点方案，以减轻政府的行政负担，帮助中国吸引全球人才。因此，我们敦促公安部尽快扩大全国五年工作许可证试点工作。

永久居留

为支持将上海建设成为全球科技创新中心，继续推动北京的创新发 展，公安部颁布了新的移民政策法规。新政策明确了申请人获得永久居留权的标准。

根据北京的新规定，在雇主支持下，满足以下标准的人士将有资格获得永久居留权：

- 申请人在北京连续工作四年以上，每年在中国居住至少六个月；以及

- 申请人每年取得的工资总额至少为 50 万人民币，且缴纳税款超过 10 万人民币（此标准可以每年调整）。

简化后的临时居留许可申请程序

已持有有效中国签证的外国人在取得相应的外国人工作许可通知一个月内可凭外国人工作许可通知及有效期内的中国签证（商务或旅游签证）向北京出入境管理局申请临时居留许可（通常有效期不超过三个月），无需出境办理 Z 签证。获得临时居留许可后可继续在境内办理外国人工作许可证及居留许可证。

入境港电子通道

自动乘客清关系统，也称为“电子通道”，允许乘客通过自动化工作站入境中国，无需填写出入境表格。自 2016 年 8 月 19 日起，在中国持有长期工作签证（有效期通常为一年或以上）的永久居民和外国人都可使用电子通道。用户需要在机场注册，获批后即可在全国范围内使用电子通道。商会欢迎这项措施，帮助长期居住在中国的外国人更方便地进行国际旅行。

现存监管问题：中国签证

落地签证

中国允许部分国籍人士获得落地签证，但美国护照持有人常常在中国入境口岸申请落地签证（VOA）时被拒绝。近期，上海等口岸推出了更多种可以在入境口岸获取的签证（如 L、F、M 和 Z 字签证）。在面临紧急事项，又无法在中国境外获得签证的情况下，落地签证显得尤为重要。商会建议允许美国公民在华获取落地签，至少在特定紧急情形下允许获得落地签。

“超龄”员工和新毕业生

临近或超过中国官方退休年龄（即男性超过 60 岁，女性超过 55 岁）的外国公民申请工作许可时往往要面临更长的受理时间，提交更多的材料，最终还可能因为年龄而被拒绝。尽管中国放宽了对 A 类申请人的年龄要求，但 B 类和 C 类申请人仍面临年龄限制。很多年龄较大的申请人往往掌握着企业所需要的重要技能和丰富经验。中国目前也面临老龄化问题，因此我们建议至少应放宽对 B 类申请人的年龄限制。

Shanghai have started including more visa types (e.g., L, F, M, and Z visas) that can be obtained at the port of entry. VOA is particularly valuable in urgent situations when obtaining a visa outside China is not possible. AmCham China recommends that US nationals be allowed to obtain VOA in China, at least in certain urgent situations.

Older Workers and New Graduates

Work authorization applications submitted by foreign nationals nearing or above the official employment age limitation (e.g., men over 60 and women over 55 years of age) may be subject to longer processing times, additional requests for documentation, and ultimately be denied because of their age. Although the age-limitation has been lifted for category A applicants, category B and C applicant are still subject to age restrictions. Many of these older applicants hold critical skills and relevant experience needed by companies. As China faces the challenge of an aging population, we recommend that the age limitation also be lifted at least for category B applicants.

Recent graduates also face difficulty in obtaining work authorization as they often lack the required two years of relevant work experience. This requirement not only limits employer discretion in hiring foreign employees, it also disincentivizes foreign students from studying Chinese because it arbitrarily limits their employment prospects in China post-graduation. AmCham China welcomes recent policies that have begun relaxing this requirement. According to the “Notice on Allowing Outstanding Foreign Graduates to Work in China” (Circular No. 3), jointly issued by the Ministry of Human Resources and Social Security, Ministry of Foreign Affairs, and Ministry of Education in January 2017, the requirement for two years of relevant postgraduate work experience can be waived for international graduates with master’s degrees or above from domestic universities or from well-known foreign universities when applying for a work permit within one year after graduation, if certain criteria are met. Circular No. 3 does not specify the definition of “well-known” foreign universities. We recommend that such opportunities be expanded to all recent graduates with a bachelor’s degree or above from both domestic and overseas universities.

Certificates of No Criminal Conviction for Foreigners Who Have Resided in China

Foreigners who have resided in China for work or other purposes may subsequently be required to provide a Chinese certificate of no criminal conviction (CNCC) for purposes such as background checks for employment or immigration to countries such as the US, Canada, Australia, or New Zealand.

While in some cities such as Beijing and Shanghai, the process to apply for a CNCC is fairly straightforward, in many cities, there is no publicly available procedure for how to apply for a CNCC, and the process can be onerous. For

example, cities such as Chengdu require that the applicant return to China in person to apply, meaning an agent with the power of attorney cannot be used. In other cities, if the foreigner has not kept the cards evidencing temporary residence registration with the local police station, it is not possible to obtain a CNCC. In many cities, local authorities are often unaware of any policies regarding CNCCs.

AmCham China recommends the publication of a ministry-level, nationwide rule to streamline the application process for CNCCs. A photocopy of the foreign national’s passport with a Chinese residence permit should constitute sufficient evidence that the foreign national resided in the city where the residence permit was issued. Foreigners should not be required to return to China to apply for a CNCC or to present their old temporary residence registration cards issued by the local police station.

Residence Permit Processing Time

From August 1, 2015, the application period for a residence permit was reduced by the Beijing Public Security Bureau (PSB) from 15 to 10 business days. This reduces the inconvenience to applicants, as passports are held by the PSB while applications are pending. AmCham China encourages further reduction of processing times both in Beijing and nationwide to five business days, as is the current practice in Shanghai.

Visa Conversion

Under the Entry-Exit Law, it is no longer possible to convert an L or F visa to a Z visa. The applicant must leave China to obtain a single-entry Z visa, then return to China and apply for a multiple entry residence permit.

AmCham China recommends that the conversion of other types of visas to Z visas within China be resumed to reduce the cost of doing business in China.

Recent Developments: US Visas

Electronic Visa Update System

US Customs and Border Protection (CBP) has created the Electronic Visa Update System (EVUS) to address law enforcement and security concerns regarding certain long-term validity visa holders. Effective November 29, 2016, online EVUS enrollment is required for those traveling to the US with PRC passports containing B1/B2, B1, or B2 visas valid for 10 years. Enrollment is generally valid for two years, although earlier re-enrollment may be required if, for example, the traveler obtains a new passport or visa.

Failure to complete enrollment on time results in automatic “provisional revocation” of the traveler’s visa. However, that provisional revocation is automatically reversed upon EVUS enrollment. CBP recommends that travelers enroll at least

新毕业的大学生在申请工作许可方面也面临困境，因为他们普遍缺少所要求的两年相关工作经验。这一要求不仅限制了雇主雇用外国雇员的自由裁量权，也挫伤了外国学生学习中文的积极性，因为这条规定限制了外国学生毕业后在中国的就业前景。近期出台的政策已经放宽了这一要求，对此商会表示欢迎。根据人力资源和社会保障部、外交部和教育部于2017年1月联合发布的《关于允许优秀外籍高校毕业生在华就业有关事项的通知》（第3号通知），如符合特定标准，在国内大学或国外知名大学获得硕士或以上学位的毕业留学生，在毕业后一年内申请工作许可时可以不受到两年以上工作经验要求的限制。第3号通知并没有说明“知名”外国大学的定义。我们建议将此类机遇扩展至所有持学士或以上学位的国内和国外大学毕业生。

在华居住的外国人无犯罪记录证明

对于因工作或其他目的而在中国居住的外国人，如因就业或移民而前往美国、加拿大、澳大利亚或新西兰等国家时，为通过背景检查，可能需要中国提供无犯罪记录证明（CNCC）。

在北京和上海等城市，申请无犯罪记录证明的过程相对简单，但许多其他城市并没有申请无犯罪记录证明的公开程序，而且申请手续可能相当复杂。例如，成都等城市要求申请人本人返回中国申请，不能通过持有委托书的代理人办理。在其他城市，如果外国人没有相关文件证明已在当地警察局进行临时居留登记，则无法获得无犯罪记录证明。在许多城市，地方当局通常并不了解关于无犯罪记录证明的相关政策。

商会建议制定全国性部级规定，以简化无犯罪记录证明的申请程序。申请人提供附有中国居留证的外国护照复印件，即可充分证明当事人居住于发放居留许可证的城市。不应要求当事人返回中国申请无犯罪记录证明，或出示由当地警察局发放的临时居留许可证原件。

居留许可签发时间

从2015年8月1日起，北京市公安局将外国人申请居留许可的签发时间从15个工作日缩短至10个工作日。在申请处理期间，申请人护照需留存在公安局，因此这一规定减少了由此给申请人带来的不便。商会促请北京乃至全国的公安部门继续缩减处理时间，达到上海目前所执行的5个工作日的水平。

签证转换

根据《出入境管理法》，不能将L或F字签证转换为Z字签证。申请人必须离开中国获得单程Z签证，然后返回中国申请多次入境居留许可。

商会建议恢复实施在中国将其他类型的签证转换为Z签证的政策，以降低外国人在中国开展业务的成本。

最新进展：美国签证

签证更新电子系统

美国海关和边境保护局（CBP）建立了签证更新电子系统（EVUS），旨在解决法律实施问题以及特定长期有效签证持有人的安全问题。自2016年11月29日起，持中华人民共和国护照（含有效期为10年的B1/B2、B1或B2签证）前往美国的人士必须在线注册EVUS。注册有效期通常为两年，但如果旅客获得新的护照或签证，则可能需要提前重新注册。

未能按时完成注册将导致旅客签证自动“暂时撤销”。但注册EVUS后，此撤销将自动失效。美国海关和边境保护局建议旅客在旅行前至少72小时完成注册。旅客至少应在登上前往美国的飞机或船只之前，或在陆地入境口岸申请入境之前完成注册。如未能完成注册，旅客将无法获得航班登机牌，或通过陆地口岸入境。

企业家和投资者

对于EB-5移民投资者，美国公民和移民服务局（USCIS）于2016年1月13日公布建议，将目标就业领域的最低合格投资额增加至180万美元（1200万人民币）或135万美元（896万人民币）。

美国公民和移民服务局还公布了2017年7月17日起实施的有关国际企业家人境证的最终规则。“入境证”允许符合要求的企业家在没有签证的情况下进入美国初创公司工作。此类初创公司必须在过去五年内成立，并具有快速增长和创造就业的潜力。此类初创公司必须在过去一年半中获得过美国投资者的最低投资，或政府奖励或津贴。

美国公民和移民服务局行政上诉办公室于2016年12月发布先例决策，帮助企业家更轻松地获得永久居民身份的国家利益豁免。该决策名为“Matter of Dhansar”，采用新的三重标准，包括：❶ 外国国民的拟议工作必须具

72 hours before travel. At minimum, travelers must enroll before boarding an aircraft or vessel destined for the US, or before applying for admission at a land port of entry. Persons who fail to enroll will not be able to obtain a boarding pass for a flight or enter through a land port of entry.

Entrepreneurs and Investors

For EB-5 immigrant investors, US Citizenship and Immigration Services (USCIS) published a January 13, 2016 proposal to increase the minimum qualifying investment amount to US \$1.8 million (RMB 12 million), or US \$1.35 million (RMB 8.96 million) in targeted employment areas.

USCIS has also issued a final rule on parole for international entrepreneurs, effective July 17, 2017. “Parole” would allow qualifying entrepreneurs to enter the US and work at startups without visas. The startup must have been created within the last five years and have the potential for rapid growth and job creation. The startup must have received certain minimum investments from US investors, or government awards or grants, within the past 1.5 years.

The USCIS Administrative Appeals Office issued a December 2016 precedent decision which may make it easier for entrepreneurs to obtain national interest waivers for permanent resident status. The decision, *Matter of Dhansar*, creates a new three-pronged test: ❶ the foreign national’s proposed endeavor must have both substantial merit and national importance; ❷ the foreign national must be well positioned to advance the proposed endeavor; and ❸ it must be beneficial to the US to waive the normal requirement that the employer first seek to recruit a US worker for the position.

Ongoing Regulatory Challenges: US Visas

Discriminatory Per-Country Caps on Employment-Based Green Cards

Under current law, there is an annual cap of 140,000 employment-based green cards. Rather than waiting in a single queue together in the order that their applications were received, applicants are required to wait in separate queues based on their nationality. Applicants of one nationality may comprise no more than seven percent of all green cards issued in a given year. This “per-country cap” means that the Estonian queue and the Chinese queue are allotted the same maximum number of green cards—despite the fact that Estonia has 1.3 million people and China has 1.3 billion.

The per-country caps result in a broken system for Chinese applicants resulting in long waits to enter the US and take a job, and effectively penalizes employers for hiring Chinese workers by making them wait longer before hiring. We believe that immigrants, like all other people, should be judged based on their individual merits rather than their nationality or other ascriptive criteria.

These per-country caps serve little purpose and should be abolished by Congress. AmCham China supports the Fairness for High-Skilled Immigrants Act, which would do so.

Inadequate Annual H-1B Visa Cap

The number of H-1B visas permitted annually by Congress is subject to a cap that fails to meet demand by both applicants and the US companies that hire foreign professionals. H-1Bs are temporary work visas available to professionals whose services are sought by a US employer offering at least the prevailing wage. The annual cap of 85,000 visas has been exhausted in each of the past 14 fiscal years. In FY 2017, in just the first week that such visas became available, USCIS received more than 236,000 H-1B petitions. Winners were selected through a random lottery, creating unpredictability for American companies’ hiring processes.

According to a report by the US Chamber of Commerce on foreign students with a science, technology, engineering, and mathematics (STEM) degree hired by American companies, each H-1B employee creates 2.62 additional jobs for American workers. H-1B filing fees also create a significant fund earmarked for the STEM education of US workers.

Increasing the cap would give US companies access to the best talent, spurring competitiveness and productivity. An H-1B cap that is too low, on the other hand, drives skilled workers to competitor nations and drives US employers to consider shifting projects to workers abroad.

Controlling Nonimmigrant Visa Appointment Wait Times in China

AmCham China is pleased that the US Mission in China continues to provide short wait times for appointments for individuals applying for nonimmigrant visas, such as B1/B2 visas for business and tourism, despite a continuing increase in demand. In order to further increase capacity, AmCham China urges the US State Department to begin processing visa applications at the US Consulate in Wuhan as soon as practicable, and to add at least four additional visa-issuing locations in China. Potential locations might include cities with more than two million urban inhabitants and no US Consulate, such as Chongqing, Dalian, and Shenzhen.

User-Friendly Nonimmigrant Visa Application Form

The Form DS-160 Nonimmigrant Visa Application is many Chinese citizens’ first encounter with the US government, and it is often a negative experience. First, the only way to see the questions in Chinese is awkward: the applicant must hover the cursor over the English questions to trigger a Chinese pop-up. Second, during the review stage, the questions cannot be saved or printed in Chinese for review.

有实质性利益，对国家具有重要意义；② 外国国民必须有能力推进该项拟议工作；以及 ③ 美国放弃雇主为该职位优先招聘美国工人的常规规定，但此举必须对美国有利。

现存监管问题：美国签证

按国别分配工作绿卡的歧视性政策

根据现行法规，美国每年最多发放 14 万份工作绿卡。申请人并非按照申请接收顺序统一排队等待，而是根据国籍在不同队列中等待。特定国籍的申请人均不超过当年发放的所有绿卡的 7%。这种“国别分配上限”意味着爱沙尼亚队列和中国队列都具有相同的绿卡数量上限——尽管爱沙尼亚只有 130 万人口，而中国有 13 亿人口。

国别上限导致中国申请系统因拥挤而崩溃，申请人必须等候很长时间才能进入美国工作，也使雇用中国工人的雇主必须面临长时间等待。我们认为，与所有其他人一样，应根据个人优点而非国籍或其它归属性标准评判移民申请者。

国别上限的规定实际上收效甚微，建议国会予以废除。商会支持《高技能移民公平法》(Fairness for High Skilled Immigrants Act)，这部法案未采取国别上限规定。

年度 H-1B 签证限制不足

国会每年批准的 H-1B 签证数量受到限制，既无法满足申请人要求，也不能满足雇用外国专业人员的美国公司的需求。H-1B 为临时工作签证，发放给为美国雇主工作的专业人员，这些专业人员的工资最低为现行工资。在过去 14 个财年中，每年 85000 份签证的年度上限已经用尽。2017 财年，仅在开放签证的第一周，美国公民和移民服务局就收到了超过 23.6 万份 H-1B 签证申请。通过审查者还要接受随机抽取，给美国企业的招聘过程带来不可预测性。

美国商会针对美国公司雇用的科学、技术、工程和数学 (STEM) 专业外国学生的报告表明，每名 H-1B 员工能够为美国员工创造 2.62 个工作岗位。H-1B 申请费也为美国工人的 STEM 教育提供了重要资金。

提高上限将帮助美国公司获得顶级人才，同时促进竞争，提高生产力。另一方面，H-1B 上限过低，会将技术员工推向竞争国家，使美国雇主转而考虑将工作交给驻外员工。

控制中国非移民签证的预约等待时间

商会很高兴地看到，尽管非移民签证申请持续增加，美国驻华使团仍在继续帮助非移民签证申请者缩短等待时间，如 B1/B2 商务与旅游签证。为了进一步提高办理能力，商会敦促美国国务院尽快开始在美国驻武汉领事馆受理签证申请，并在中国增加至少四个签证签发点。可能的办理地点包括尚未开设美国领事馆的二百万以上人口城市，如重庆、大连和深圳。

提供人性化的非移民签证申请表

许多中国公民通过 DS-160 非移民签证申请表第一次接触美国政府，而这种接触往往给中国公民带来负面体验。首先，申请表问题中文版本的查看方式非常笨拙：申请人必须将光标悬停在英语问题上，才能触发中文弹出框。第二，检查过程中申请人不能保存或打印中文问题以备检查。第三，提交申请表后，申请人只有一次机会保存并打印最终表格。

申请表的设计不够人性化，导致众多中国申请人聘请代理为其填写申请表。由于在检查阶段或表格正式提交之后无法打印或保存中文问题，使恶意代理人有机会输入申请人不知情的虚假信息。领事官员对这种情况非常不安，但他们必须拒绝含有虚假信息的申请表及相关申请人。为此，商会建议修改 DS-160 表格。

永久居民在国外就职面临的障碍

美国移民法禁止美国公司招聘有意在美国境外就职的绿卡持有人。

如果绿卡持有人连续居留国外一年，期间不曾返回美国，则该持有人将无法再次进入美国。不过，绿卡持有人（包括希望在美国公司驻外岗位就职的持有人）可以申请在国外逗留最长两年后再次入境的许可证。但申请人必须在美国提交申请，并在申请后一至两个月内在美国接受生物识别验证，这就为申请人增加了往返于美国的额外费用。美国公民和移民服务局的国外办事处已经在开展具有不同用途的生物识别验证。我们敦促美国公民和移民服务局允许再入境许可申请人在其国外办公室（包括北京和广州办事处）接受生物特征识别验证。

美国绿卡持有人在海外工作所面临的另一个障碍是，政府武断地要求申请入籍的特定绿卡持有人在美“连续居留至少一年”，期间不得出国。根据入籍要求，多数绿

Third, after the application has been submitted, the applicant is only given one chance to save and print the final form.

The poorly designed form is a major reason many Chinese applicants hire agents to prepare their applications. The inability to print or save the questions in Chinese at the review stage, or once the form is finalized, increases the opportunity for unscrupulous agents to enter false information, unbeknownst to the applicants. This is frustrating for consular officers, who may feel compelled to deny applications containing false information, as well for the applicants concerned. AmCham China recommends revisions to the DS-160 form.

Barriers to Permanent Residents Taking Assignments Abroad

US immigration laws inhibit American companies from recruiting green card holders who wish to take assignments outside the US.

A green card becomes invalid for re-entry to the US if the holder remains abroad continuously for one year without returning. However, a green card holder—including someone who wishes to take an assignment for a US company abroad—may apply for a re-entry permit valid for stay abroad for up to two years. However, the applicant must file the application in the US and attend a biometrics appointment in the US one to two months later, which imposes an undue expense on applicants who need to return to the US for this appointment. USCIS offices abroad already conduct biometrics appointments for various purposes. We urge the USCIS to allow reentry permit applicants to have their biometrics taken at USCIS offices abroad, including those in Beijing and Guangzhou.

Another barrier for US green card holders to work abroad is the arbitrary requirement for certain green card holders applying for naturalization to stay in the US for an “uninterrupted period of at least one year” without travelling abroad. Naturalization requires that most green card holders “reside continuously” in the US for five years. While temporary visits abroad are not a problem, an absence of six months generally breaks continuity of residence. The Immigration and Nationality Act makes an exception for persons employed abroad by a US company engaged in the development of foreign trade. In this case, the green card holder may file a Form N-470 Application to Preserve Residence for Naturalization Purposes requesting that time abroad in such employment not break the continuity of residence. However, the statute arbitrarily requires N-470 applicants to have been physically present in the US for an “uninterrupted period of at least one year.” Foregoing even brief visits abroad hardly proves fitness for citizenship. AmCham China urges Congress to amend the Immigration and Nationality Act to eliminate this arbitrary requirement, which has no place in a modern, interconnected world.

Recommendations

For the Chinese Government:

- **Accept original documents for work permit applications nationwide, instead of requiring notarized and authenticated copies of original documents.**
- Shorten the holding period of passports by the local PSB when processing residence permits to five working days nationwide.
- Allow the conversion of other types of visas to a Z visa within China nationwide.
- Publish a ministry-level, nationwide rule streamlining the process for foreigners who have resided in China to apply for certificates of no criminal conviction.
- Grant visas on arrival to US citizens.
- Eliminate age limitations for the purpose of work authorization in China at least for category B applicants in addition to category A applicants, and eliminate work experience requirements for all applicants with a bachelor’s degree or above.
- Expand the five-year work permit pilot nationwide as soon as possible.

For the US Government:

- **Abolish discriminatory per-country caps on employment-based green cards.**
- Increase the annual cap on H-1B temporary work visas for professionals.
- Begin issuing visas at the US Consulate in Wuhan as soon as practicable, and plan to add at least four additional visa-issuing posts in China.
- Redesign the online Form DS-160 Nonimmigrant Visa Application so that it is easy to read the questions in Chinese, as well as to print or save the questions in Chinese at the review stage and once the form is finalized.
- Reduce barriers to permanent residents taking assignments abroad with US companies by allowing reentry permit applicants to schedule biometrics appointments at USCIS offices abroad and by eliminating the statutory requirement that to file Form N-470 Application to Preserve Residence for Naturalization Purposes, applicants must have an uninterrupted year of physical presence in the US.

卡持有人必须在美国“连续”居留五年。虽然期间可以短暂出国，但出国六个月以上就会破坏居留的连续性。根据《移民和国籍法案》（以下简称《法案》），从事外贸发展工作的美国公司驻外人员可以不受此规定约束。此类绿卡持有人可以提交 N-470《入籍而保留居住状态申请表》，申请其在国外工作时间不破坏其美国居留连续性。不过，法案武断地要求 N-470 申请人必须在美国实际“连续居留至少一年”。即使短期出国也不利于持有人申请公民身份。商会敦促国会修改《法案》，取消这条在现代化的互联世界中显然并不合理的武断要求。

- 减少对永久居民外派工作的障碍，允许回美申请者在美公民和移民局服务的国际办公室和全球美国使领馆进行生物识别指纹录入，取消 N-470 申请人必须在美国实际连续居住一年的要求。

建 议

对中国政府：

- 在全国范围内允许申请工作许可时提交原件，而非提供经过公证和认证的原件副本。
- 在全国范围内将公安部门受理居留许可申请的时间缩短至五个工作日。
- 在全国范围内允许将其它类别的签证转换为 Z 字签证。
- 发布全国性部级规定，为在华外国人申请无犯罪记录证明提供便利。
- 为美国公民签发落地签证。
- 除 A 类申请人外，至少取消对 B 类申请人申请中国工作许可的年龄限制，为具有学士或以上学位的申请人取消工作经验限制。
- 尽快将五年工作许可证试点推广至全国范围。

对美国政府：

- 取消按国别分配工作绿卡的歧视性制度。
- 提高专业人员 H-1B 临时工作签证年度上限。
- 美国驻武汉领事馆应尽快开始发放签证，并计划在中国增加至少四个签证签发点。
- 重新设计在线的 DS-160 非移民签证申请表，便于申请人查看中文问题，在检查期间及填写完毕后打印或保存中文版问题。