

*The United States-Russia Visa Regime  
A Need for Change?*

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Current visa and travel restrictions set in place by the U.S. Government toward Russia are a major hindrance to the current and the future development of bilateral economic and trade relations. The United States has implemented stringent requirements that are impeding the efforts of legitimate businesses, both in Russia and in the United States, to effectively create successful business partnerships. This study argues that historically and today, low levels of trade and investment are in part correlated to U.S. travel restrictions that act as a barrier to commercial development. Restrictions are worsening and could potentially choke off meaningful economic development between both countries.

U.S. travel and commercial travel policy toward Russia has not changed since the Cold War. The policy that was created more than 50 years ago, and that is still in use, was constructed and implemented with the notion that travels between the U.S. and Russia would lead to espionage and public endangerment.

The purpose of this paper is to examine the current visa policy that controls travel between the two countries and the effect that an apparent bias toward Russian travelers has on trade and investment levels. We will look at how the U.S. relationship with ‘friendly’ countries can heavily impact the trade and travel levels with those countries.

An interesting side note in this paper will be to compare Russia and China. What does it mean in terms of trade levels to enjoy the status of permanent normal trade relations versus not to have that status, and what effect a simple title can have on trade.

### **History of Travel Restrictions**

In May of 1921, the first quota act passed the United States Congress<sup>1</sup>. Its purpose was to enable the U.S. to regain some control over the nearly unmanageable number of immigrants who were entering Ellis Island every year. It placed a blanket quota restriction upon all immigrants no matter what nation they were from. While this seemed to be an all-encompassing Act, it was directed against ‘subversives’ – those people that could be considered communists or sympathizers to the Bolshevik government that was formed in 1914. In the early 20<sup>th</sup> century, the U.S. government labeled many of the subversives to be anarchists, in 1918 the Anarchists Act of October 16<sup>2</sup> of that same year was passed and excluded entirely all suspected anarchists. The Act of June 5, 1920<sup>3</sup> followed with the hope of providing more of a safeguard against anarchists who attempted travel to the United States.

Then, in the years of 1931 and 1932, more than eight bills were introduced to impose more restrictions and punishments for suspected anarchists who tried to enter the United States, whose title was now being replaced with the word Communist. This focus was shifted from the threat that anarchists posed to the safety and security of the United

States to the proposed rising threat that Communists would pose in the future.<sup>4</sup> This is important to understand because these actions were implemented during or after the Great Red Scare.

The next wave of legislation that restricted communist travel to and from the United States was the Act of May 25, 1948. This law restricted travel of suspected subversives by giving them their own classification<sup>5</sup>. This Act seemed to be other attempt for general exclusion, however it was really directed at the potential for espionage, and related activities to be conducted by suspected subversives.<sup>6</sup> The onslaught of new legislation did not end there. One month after the passage of this Act, the Displaced Persons Act was passed on June 25, of 1948<sup>7</sup>. In section 13, it states that “no visas shall be issued under the provisions of this act to any person who is or has been a member of, or participated in, any movement which is or has been hostile to the United States or the form of government of the United States.”<sup>8</sup> While this statement can be applied to many groups and should not be inferred as only excluding communists, it was later amended to deny entry explicitly to those of the “Communist Persuasion”.<sup>9</sup>

The U.S. believed that the measures acted in its national interests and gains, the Acts of this time were necessary to safeguard democracy against foreign ideologies and movements. It was directed in the 1920’s and 1930’s mainly against Soviet Russia, then after World War II the focus comes upon the communist bloc, including Red China.

To the detriment of our trade relations with Russia, the restrictions directed towards an unfriendly or ‘enemy’ state, the Soviet Union, has not been replaced with a more positive view of Russia as a friendly nation enjoying more lenient travel privileges. It can be argued relatively effectively that while these restrictions may have been necessary at the time, they are now completely unnecessary.

While I can continue to provide many examples of initiatives to exclude communists from the United States, it is more important to note that the last major piece of legislation that dealt with the issue of travel of nationals from communist country was the McCarran Walter Act of 1952.<sup>10</sup>

Most of the laws that were enacted during a time of uncertainty and a power struggle still exist today even though the world today is completely different from what it once was. These policies must be changed, if not for economic reasons, then for the fact that they were written and enacted more than 50 years ago, and now do hardly anything to protect the U.S. from danger, but instead accomplishes a lot in the ability to hinder commercial and tourist growth between the United States and Russia.

## Current Visa Rules

As we have seen, laws that were enacted more than 50 years ago are still actively working to keep out undesirables. Even though visas, which act as pre-approved permission to travel from the State Department, are currently given out to travelers from many nations the process has become difficult and temperamental. The following is a quote taken from the State Department explaining why visas are necessary:

*“The United States is an open society. Unlike many other countries, the United States does not impose internal controls on its visitors, such as registration with local authorities. In order to enjoy the privilege of unencumbered travel in the United States, aliens have a responsibility to prove they are going to return abroad before a visitor or student visa is issued. Our immigration laws require consular offices to view every visa applicant as an intending immigrant until the applicant proves otherwise.”<sup>11</sup>*

This is why any “citizen of a foreign country who wishes to enter the United States must first obtain a visa”<sup>12</sup>. However, the process for acquiring that visa is a multi-dimensional process, which many can never complete due to no fault of their own, especially when the applicant happens to be from Russia.

The requirements<sup>13</sup> from the State Department are that the intended visitor must complete and present at the embassy or consulate in their country: an application form, DS-156, which collects various general information, such as your name, address, and date of birth. Also, in most circumstances a “Supplemental Nonimmigrant Application Form” is also needed in order to process an individual’s request. This form known as the DS-157 provides additional information to the State Department concerning travel plans, and intended purpose of the travel into the United States. While this form is additional and not required for all nonimmigrant visa applicants, it is required for all males ages 16-45 from all nations and from all applicants of seven states that are designated as states that sponsor terrorism including: North Korea, Cuba, Syria, Sudan, Iran, Iraq, and Libya. In addition, a passport that is valid for travel with validity for at least six months after the intended return home is needed, along with two passport size photographs of the individual that is requesting travel to the United States. The State Department also requires a fee of one hundred U.S. dollars to process the application of the intended traveler and an additional fee is imposed if a visa is ultimately issued to that individual. With all of this required documentation, it is a baffling concept to think that the U.S. State Department may need more information from an intended travel than what is already required of them. These requirements are not in question in this report, what is in question is why the system seems to be plagued with inadequacy and subjective variation.

The ‘un-required’ or suggested supplemental documentation that is requested<sup>14</sup> in order to prove that a traveler under a visitor visa will not try to immigrate once here seems to be out of control. These requirements pose equal if not

more of a hindrance to travelers to the United States than the required documentation. Since the burden of proof is on the intended traveler, it can be inferred that by not providing any of the documentation that you are asked for is a cause for immediate visa denial.

Intended travelers must present evidence of the purpose of the trip, including their intent to depart the United States after the scheduled trip has concluded, and any and all arrangements that were made to cover the cost of the trip. Additionally, if an individual does not have the funds to support themselves during their travels in the United States evidence must be provided of the person who is financially supporting the travel. Furthermore, it is also a possibility that individuals may be required to produce more documents in addition to the documents that are already listed at the discretion of the State Department. With all of the information that is provided by the potential traveler it would not seem that, visas were denied very often if all of the requirements were submitted.

Disappointingly, the State Department does not make public the number of visa denials per year, so it is impossible for us to know. However an article that was published in USA Today states that in 2001 “the State Department issued 7.5 million visas and refused 2.8 million”.<sup>15</sup> It would be useful for information of this nature to be made public in regards to how many of those visa refusals were from applications presented by Russian Nationals. With all of this documentation needed for a non-immigrant visa, it is clear that the process of obtaining a visa is a hindrance to many who wish to come to the United States especially those whose goals is to conduct business with American Companies. The restrictions and regulations for a country such as Russia are detrimental to a favorable development of U.S.-Russian relations.

### **Preferential Treatment?**

For comparison sake and to show the unregulated and varying requirements that the State Department asks for let's look how requirements for Russian travelers compares to those of travelers from The Peoples Republic of China. The U.S. Embassy-Beijing website<sup>16</sup> explains the requirements for all individuals that are applying for non-immigrant visas are: both DS-156, and DS-157, two passport photos, a passport that fits the previous detailed requirement, and an advisory that documents are presented that establish social, economic, and other ties that would “compel departure” from the United States.

The differences in requirements seems not to be officially different, however when the Embassy Websites are compared there are measurable differences in the type of information needed by the indented traveler.

According to the United States Embassy in Moscow<sup>17</sup> a passport, along with two passport photos are required. The completed application form, DS-156, and evidence that you plan to depart the United States after your intended stay. The following are ‘suggestions’ that the State Department has provided for Russian nationals.

- Evidence of income, and a letter from the employer is also recommended.
- A way to present evidence of immediate family ties that exist in Russia,
- Evidence of property ownership in Russia,
- Proof of on-going studies or on-going projects from students and those in the entertainment field.
- If applicable, an old passport that has previous visa stamps and the date in which you travel to the United States.

In contrast to the many suggested documents requested by the U.S. Embassy in Moscow, the U.S. Embassy in Beijing simply asks for a generalized document that can provide social and economic ties. It is interesting to note that while the burden of proof is on the intended travelers, that burden seems to be bigger for Russians than it is for the Chinese.

#### **No Visas Required for ‘Friendly’ Countries**

The tight restrictions and regulations that are presented by the U.S. State Department are rigid and fierce, but not every country in the world needs to oblige them. The Visa Waiver Countries are exempt, all 26 of them. The Visa Waiver Program is an initiative that was created to encourage trade and travel between the United States and foreign countries in 1985.<sup>18</sup> In the year 2000, this pilot program was made permanent.<sup>19</sup> The countries that are part of this program are lavished with accessibility to the United States. This accessibility to the United States is especially important for businesses travelers who wish to enter the country for a short time to attend a conference or business meeting. As a national of a Visa Waiver Country, you are immediately and continuously granted admission into the United States for up to 90 days without having to obtain a visa prior to entry. The Current Visa Waiver Countries are

listed below:

Andorra	Luxembourg
Austria	Monaco
Australia	Netherlands
Belgium	New Zealand
Denmark	Norway
Finland	Portugal
France	San Marino
Germany	Singapore
Iceland	Slovenia
Ireland	Spain
Italy	Sweden
Japan	Switzerland
Liechtenstein	United Kingdom

*Information gathered from the DHS Press Office, January 2004<sup>20</sup>*

The advantage that Visa Waiver Countries have over other countries that do not hold such a coveted status is well known. While this list is of current Visa Waiver Countries there is opportunity for new countries to be granted the status of Visa Waiver. The process is long and consists of rigid requirements. The way that countries can obtain this status is by meeting various regulations as laid out in Section 1187, Title 8, and Chapter 12 of U.S. Code.<sup>21</sup>

Currently, Russia is categorized with a host of widely varying countries that require visas for all of their visitors, and these are nations that are considered unfriendly, rogue, unstable, undesirable, or otherwise not of a high priority to the United States. These include Afghanistan, Iran, North Korea, Saudi Arabia, Sudan, Syria, Vietnam, Yemen, and others. The United States prides itself on being a free and liberal society, and knowing that we have some of the same travel requirements as our adversaries needs to be addressed. For the complete list of nations that require visas for all of these visitors see below.

Abu Dhabi	Dubai	Nepal
Afghanistan	Egypt	Niger
Algeria	El Salvador	Nigeria
Angola	Equatorial Guinea	Norfolk Islands
Armenia	Eritrea	Pakistan
Australia	Ethiopia	Palau
Azerbaijan	Gabon	Papua New Guinea
Bahrain	Gambia	Qatar
Bali	Georgia	Russia
Bangladesh	Ghana	Sao Tome and Principe
Barbados	Guinea	Saudi Arabia
Belarus	Guinea-Bissau	Serbia
Benin	India	Sierra Leone
Bolivia	Iran	Sudan
Borneo	Jordan	Swaziland
Brazil	Kazakhstan	Syria
Bulgaria	Kenya	Tajikistan
Burkina Faso	Kiribati	Tanzania
Burma	Korea—North	Togo
Burundi	Kuwait	Turkey
Cambodia	Kyrgyzstan	Turkmenistan
Cape Verde	Laos	Uganda
Central African Republic	Lebanon	Ukraine
Chad	Macedonia	United Arab Emirates
China	Madagascar	Uzbekistan
Christmas Island	Mali	Vietnam
Cocas Island	Mauritania	Yemen
Congo Republic	Moldova	Yugoslavia
Congo Democratic	Mongolia	Zambia
Cook Islands	Montenegro	Zanzibar
Czech Republic	Mozambique	Zimbabwe
Djibouti	Myanmar	

*Complete Travel and Visa Center of New York*

## **Could Russia Become a Visa Waiver Country?**

What are the required criteria to become a Visa Waiver Country? I provide a brief overview of how to become a Visa Waiver Country. Program countries must have an exceptionally low number of non-immigrant visa refusal rates, less than 2.0% during the previous two fiscal years and the refusal rate for nationals during the previous fiscal year was less than 3.0%. Also, that country must be able to have machine-readable passports for its nationals by the preset deadline of October 1, 2003.

The program country must also reflect positively on the status of the United States in the eyes of the Secretary of State and the Director of Homeland Security. In simpler terms, that program country would not affect the interests of the United States, and that the reasons for the determined opinions be submitted in writing to four specific Congressional Committees. The two committees in the House are the Committees on the Judiciary, and on International relations. In the Senate, the reports would go to the Committee on the Judiciary and on Foreign Relations. Finally, the program countries currently have a system in place for rapidly reporting theft of blank passports to the United States<sup>22</sup>.

What all of this information means for this report is that even if the country that is applying for Visa Waiver status believes that all of these criteria are met, the decision is still left up to the United States. When we look at the possibility of Russia applying for this status we can see that it would be almost impossible for Russia to be designated a program country. One of the reasons is that the United States would have to stop denying numerous visa applications, and would have to make public the number of applications that are currently being denied so that the Russian government could have an idea of what they are up against. The idea of adding Russia to the list of Visa Waiver Countries with the current regulations and standing American laws at times seems highly unlikely.

## **Are These Numbers Right?**

The United States Embassy in Moscow is one of the busiest in the world<sup>23</sup> and comes in second only the United States Embassy in London, England. However, is that any reason for denying what seems to be almost half of all visa applications? This may seem to be vague statement but until the State Department releases denial information, this hypothesis can easily be inferred from the information that was gathered for this report. According to the Embassy website it “receives approximately 125,000 visa applications annually.”<sup>24</sup> According to data that was obtained from the State Department in 2003, 51,665 visas were issued to Russian nationals for short-term travel to the United States. In the year 2000, however that number was larger at 62,169<sup>25</sup> visas issued. Some of the reason for the decrease can be

placed on the terrorist attacks in the year 2001; however, there is still a big differentiation for being a country that supports the fight against terrorism.

This information may be new to some however; it is not new to President Bush or to President Putin. In a press conference that was given at Camp David in September of 2003, a reporter raised the issue of the United States' visa policies. President Bush responded to this question by stating that the reason for the process is to make sure that the visitors to the United States are "reasonable people."<sup>26</sup> President Bush's definition of what a reasonable person is holds requirements that are more restrictive for Russians.

President Putin indicated the need for growth between the two countries and the inability of the United States to let that happen. "People expect from us constantly some kind of revolutions. Now, just positive development in the relationship is no longer sufficient."<sup>27</sup> President Putin's statement is valid for the purpose of this report. The past must be left in the past and if the United States has difficulty with this then trade and growth between our two countries can never happen.

### **Trade Impact of Restrictions**

Russia is not a Visa Waiver country, nor does it have permanent normal trade relations as China does and the impact of this can be seen in the levels of trade turnover between the two countries. I have located data from the United States Census Bureau, which publishes trade levels between the United States and most of the countries in the world. The countries that I looked at for this report all have a respective identity to the United States government. Whether it is Canada or Mexico who are our neighbors and border countries, to China who has most favored nation status this information provides indisputable information on the impact that accessibility to the United States has on trade levels.

#### **Trade Turnover in Billions U.S. Dollars**

	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>
Russia	\$ 7.6	\$ 9.2	\$ 8	\$ 9.6	\$ 8.9
China	75.3	85.3	94.8	116	121.3
Canada	319.9	328.8	365.3	409.7	379.6
Mexico	157.2	173.3	196.6	247.2	232.5
Hungary	1.48	1.98	2.3	3.27	3.58
Poland	1.8	1.7	1.6	1.7	1.7
Germany	67.5	76.4	82	87.9	88

*Information gathered from U.S. Census Bureau. Statistical Abstract of the United States 2002.*

In examining this chart, we can see large differences between the various countries. The trade turnover between Mexico and Canada and the U.S. is enormous in comparison with these other countries, but that is to be expected because they are border countries and the travel restrictions between the U.S. and them are drastically different and much less restrictive than for other countries. We can also see that Germany, as a Visa Waiver country has a larger level of trade with the United States. This could be partly because of the fact that Germany is a Visa Waiver Country and short-term business travel between these two countries is open and free flowing. Then we look at China, which is not a border country or a Visa Waiver country and we see that they have ranked third for the most trade turnover of all the countries listed here. The only realistic explanation for this is that China has been granted permanent normal trade relations and therefore it is easier for Chinese businesses to create and complete business with the United States.

We are now left with Russia, Hungary, and Poland. None of these countries are Visa Waiver countries or have been granted most favored nation status and it is apparent in these numbers. Naturally, there are many factors which can explain the low levels of trade, but this study focuses only on the travel policy as a major role in creating and maintained trade barriers. It is important to note the role of travel restrictions on trade relations, an often-overlooked dimension. This study aims to show that travel restrictions have a direct correlation with trade relations.

[CHART TO BE INSERTED]

*]Chart created from data from U.S. Census Bureau. Statistical Abstract of the United States 2002.*

Numbers do not always spark the reaction that is needed to induce change, but I believe that this chart is something that can remedy that complacency. The inequality between the countries is severe. We can see that Russia, Hungary, and Poland are literally left in the dust of the other countries. Countries with a high level of trade turnover have been given favorable treatment by the United States government.

### **The China Factor**

Chinese trade turnover with the United States is significant, and in large part, it is because of the Permanent Most Favored Nation Status that they hold. In the year 2000, China's most favored nation status was made permanent by the United States Congress and with this permanence came the destruction of trade barriers<sup>28</sup>. China has held Most Favored Nation status since the early 1980's<sup>29</sup> and since that time the trade between the United States and China has flourished.

“United States exports to China had the potential to reach \$3.5 billion in 1985, and imports could reach as high as \$1.5 billion”.<sup>30</sup> This is an example of the power that permanent normal trade relations can have on selected countries. These numbers are from U.S. Commerce Department projections that factored in the importance of Most Favored Nation status being given to China. In the past twenty years U.S. exports have grown to over \$14 billion each year<sup>31</sup> and there is no indication that those numbers will likely decrease.

China is important to examine because there is no reason that Russia should not have the same status and benefits that China has had in trade relations with the United States. Russia has not been given this same advantage because of the history that the United States has with the former Soviet Union. In 1972, the Nixon White House was hopeful that Most Favored Nation status would be granted to the Soviet Union; however, due to much objection that status was never granted, due to a disagreement on acceptable emigration levels<sup>32</sup> and possibly other political reasons. The granting of that status however would have resulted in greater trade with the Soviet Union with the removal of trade barriers. If the former Soviet Union were granted MFN status in the late 1970’s to early 1980’s as China was, we would definitely see an increase in trade and business transactions between out two countries<sup>33</sup>.

For any of this to happen the first step must be in acknowledging that the current Russian government is not the same as it was in the past. It is imperative that the United States let go of the past opinion of Russia and creates a space for trade and relations to grow in the future.

### **Creating the Desire to Invest**

The United States is seen by some as a generous country that invests large amounts of money in various countries to inspire trade and growth. Unfortunately, due to past assumptions this is not the case when we look at the United States foreign direct investment in Russia. The notion of Russia as a subversive country still seems to have an effect on the United States ability to invest in Russia. When we look at foreign direct investment numbers for the same set of countries that we compared trade turnover with, we are not surprised by the similarities in the outcome of the analysis.

#### **U.S. Direct Investment Abroad in Millions U.S. Dollars**

	<b>1995</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>
Russia	\$ 1,115	\$ 1,334	\$ 1,371	\$ 412	\$ 831	\$ 635
China	2,765	3,848	5,150	6,481	8,058	9,577
Canada	83,498	89,592	96,626	101,871	111,052	12,642
Mexico	16,873	19,351	24,050	28,396	32,262	35,414
Hungary	1,487	1,843	1,168	1,492	1,470	1,040
Poland	946	1,011	1,390	1,694	1,976	2,743
Germany	44,242	41,281	40,726	46,405	50,892	53,610

*Information gathered from the International Direct Investment Statistics Yearbook 2002<sup>34</sup>*

We cannot help but notice the advantage that Canada and Mexico have as being border countries and enjoying easy and free travel and a position that allows for access to conduct business within the United States. Germany also stands out as having an advantage over many other nations because of its status as a Visa Waiver Country, and Chinas Most Favored Nation status explains its high numbers of investment.

We are left with Russia, Hungary, and Poland again in their own separate category. When we look at these countries, Hungary and Poland, we see that the amount of FDI has varied but nothing out of the ordinary, and that investment has been minimal in comparison to the other countries on this chart. Investment levels into Russia have recovered little after 1997, and the consecutive years seem to be sporadic in the levels of investment. To put it another way, the investment levels into Russia will only improve if the United States eases restrictions. When we look at the graph below it seems hardly fair for Russia to be treated in such a marginal and exclusionary way.

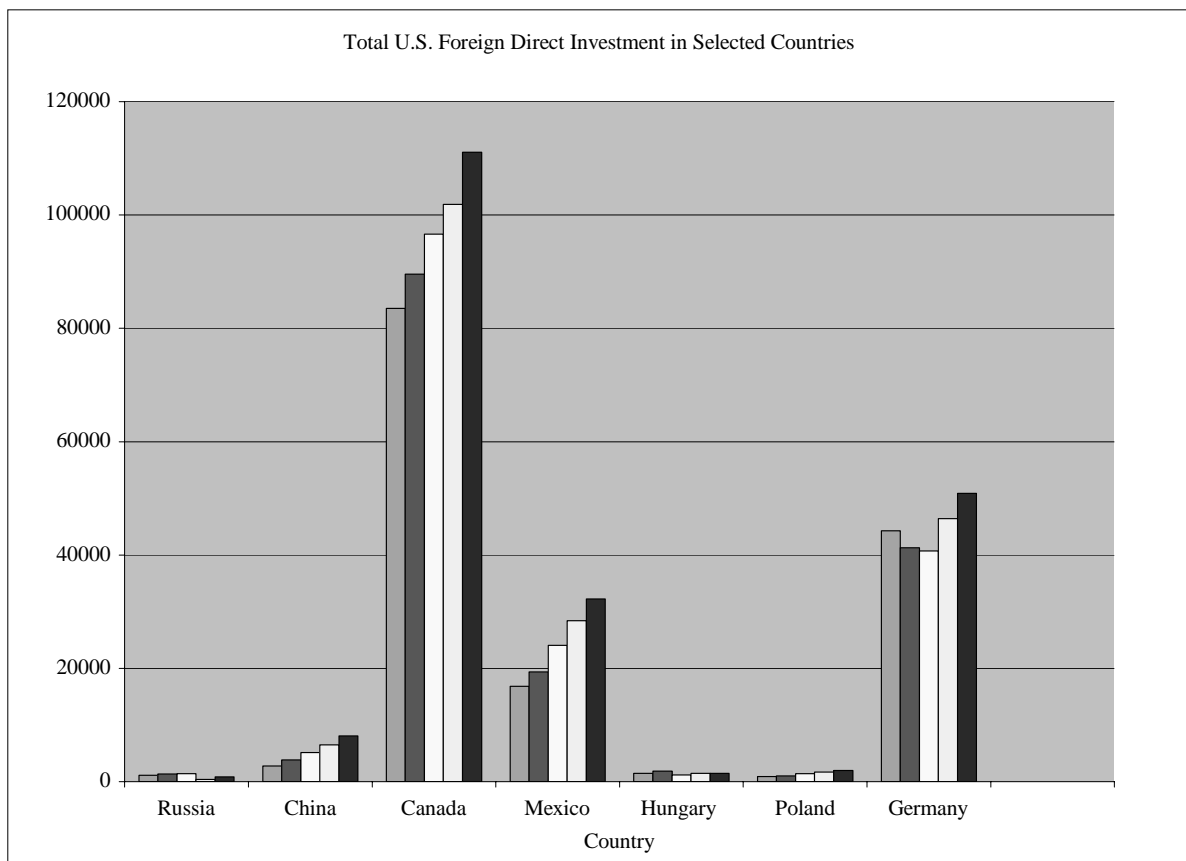


Chart created from data obtained from International Direct Investment Statistics Yearbook 2001

Yet again, we can see that Russia is no more than a minor player on this chart. One way for Russia to become more of a player in the international trade and investment arena is through the lifting of travel restrictions and more proactive efforts to enhance business relations between Russia and the United States.

### **Conclusion**

This report has examined many aspects of the United States' visa regime and we have seen how it affects our current trade and travel situation with Russia. It all comes down to one point. The United States must revise and re-write the laws that are currently inhibiting the growth that is needed between both countries. The data in this report suggests that travel restrictions and the lag to aggressively facilitate this process to provide Russia with permanent normal trading relations is a hindrance to trade and growth.

An increase in trade is desirable. Both governments should be more proactive towards this end. Once this happens, Russia should apply for designation as a Visa Waiver Country. But unless new laws are created, its current status will be impossible to change. The starting point will be to amend certain laws that still provide Russia with an unfortunate stigmatism. Next, the United States should examine its travel restrictions and the variations that occur within it, no matter how insignificant they may seem. The United States should also reevaluate the visa process for Russia and qualifying data that is needed in order to issue a visa. While mindful of conditions in a world under siege from the threat of terrorism, we are putting our energies in the wrong places as we continue to treat Russia based on policies of the past. The policies need to change, with a friendlier attitude towards Russia, similar to that of other visa waiver countries. Although travel restrictions are only a single factor in the stifling low levels of trade and investment, it is a good place to start to induce change to create a more prosperous relationship between the United States and Russia.

## Endnotes

### (Endnotes)

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