

ADDRESSES: Please submit written comments to the Director, Regulations and Forms Services Division, Immigration and Naturalization Service, 425 I Street, NW., Room 4034, Washington, DC 20536. To ensure proper handling, please reference "RIN 1115-AB93" on your correspondence. Comments may be submitted electronically to the Immigration and Naturalization Service (Service) at insregs@usdoj.gov. Comments submitted electronically should include "RIN 1115-AB93" in the subject heading. Comments are available for public inspection at the above address by calling (202) 514-3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Colleen Manaher, Assistant Chief Inspector, Inspections Division, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536, telephone number: (202) 514-3019.

SUPPLEMENTARY INFORMATION:

What Is the Visa Waiver Program ("VWP")?

The VWP permits nationals from designated countries to apply for admission to the United States for ninety (90) days or less as nonimmigrant visitors for business or pleasure without first obtaining a nonimmigrant visa from a U.S. consular officer abroad, provided that all statutory and regulatory requirements are met. 8 U.S.C. 1187(a). If arriving by air or sea, a VWP traveler must arrive on a carrier that signed an agreement ("signatory carrier") guaranteeing to transport inadmissible or deportable VWP travelers out of the United States at no expense to the United States. 8 U.S.C. 1187(e).

Why Is the Attorney General Issuing This Interim Rule?

The VWP began in 1988 as a pilot program and remained such until October 30, 2000, when the Visa Waiver Permanent Program Act, Pub. L. No. 106-396, 114 Stat. 1637, made the program permanent, with some modifications. The Visa Waiver Permanent Program Act added a new requirement that the Attorney General conduct periodic evaluations of each country participating in the VWP. 8 U.S.C. 1187(c)(5)(A)(i). The evaluations must address the effect of the country's continued designation on the law enforcement and security interests of the United States. 8 U.S.C. 1187(c)(5)(A)(i)(I). The statute also requires the Attorney General, in consultation with the Secretary of State, to determine whether an evaluated

country's designation should be continued or terminated. 8 U.S.C. 1187(c)(5)(A)(i)(II). Additionally, the statute provides that "[n]otwithstanding any other provision of this section, the Attorney General, in consultation with the Secretary of State, may for any reason (including national security) . . . rescind any . . . designation previously granted under this section." 8 U.S.C. 1187(d).

Evaluations of Belgium, Italy, Portugal, and Uruguay were conducted following the attacks of September 11, 2001. Officials from the Immigration and Naturalization Service ("INS") and Department of State participated in the evaluation process, which included visiting each individual country and meeting with representatives of each country's government. Reports summarizing the evaluations were drafted, incorporating comments from law enforcement and security agencies of the United States.

What Is the Attorney General's Determination Regarding Belgium and Why?

Belgium will be allowed to continue participating in the VWP on a provisional basis for one year, with another evaluation to be conducted at that time to determine whether Belgium's continued participation in the VWP is in the law enforcement and security interests of the United States. In addition, after May 15, 2003, citizens of Belgium that wish to travel to the United States under the VWP must present a machine-readable passport issued by the Government of Belgium.

During the course of the evaluation of Belgium, it became apparent that there is cause for concern as to the integrity of nonmachine-readable Belgian passports and to the inadequate reporting of lost or stolen passports by the Belgian government. In March 2001, the Government of Belgium began issuing machine-readable passports that include security features. However, there remain thousands of valid nonmachine-readable Belgian passports in circulation.

In addition, the evaluation team collected data regarding the number of stolen or lost Belgian passports, including blank passports that contain no photograph or identifying information. There is a concern that, in the past, there has not been comprehensive reporting of lost or stolen passports, and that such reporting has not been timely.

For these reasons, pursuant to 8 U.S.C. 1187(d), after May 15, 2003, Belgian citizens seeking to enter the United States must present a machine-

readable passport in order to be admitted under the VWP. Nationals of Belgium who possess a nonmachine-readable passport who intend to travel to the United States after May 15, 2003, for legitimate business or pleasure must acquire a nonimmigrant visa at a U.S. consulate or embassy prior to their arrival in the United States. As stated, under 8 U.S.C. 1187(d), the Attorney General "may refrain from waiving the visa requirement in respect to nationals of any country which may otherwise qualify for designation. * * *" After May 15, 2003, the Attorney General will refrain from waiving the visa requirement for any citizen of Belgium who does not present a machine-readable passport at the time of the application for admission. In addition, after one year, Belgium will again be evaluated for continued participation in the VWP. The Department of State will take appropriate action to inform the Government of Belgium as to the expectations of the Government of the United States during the provisional one-year period.

What Is the Attorney General's Determination Regarding Italy and Why?

Italy will continue to be designated as a VWP country without change. Overall, the efforts of the Government of Italy to advance the law enforcement, security, and extradition interests of the United States were found to be satisfactory. Abuse of the VWP by Italian nationals appears to be minor.

What Is the Attorney General's Determination Regarding Portugal and Why?

Portugal will continue to be designated as a VWP country. It should be noted, however, that the evaluation raised concerns about the timeliness of reporting of lost or stolen passports by the Government of Portugal. The Department of State will take appropriate action to address those concerns with the Government of Portugal.

What Is the Attorney General's Determination Regarding Uruguay and Why?

Effective April 15, 2003, Uruguay will be terminated from the VWP because Uruguay's participation in the VWP is inconsistent with the U.S. interest in enforcing the immigration laws of the United States.

Uruguay's program designation appears to facilitate high-risk travel to the United States. Between 1998 and 2001, Uruguayan nonimmigrant travel to the United States increased