

State of Immigration

How the United States
Stacks Up in the Global
Talent Competition

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Executive Summary

Most Americans agree that the future of the U.S. economy depends on the ability of its businesses to compete globally. One of the key factors that allow U.S. employers to grow their businesses and create new jobs is their ability to recruit and retain talent from other countries. How well does the current U.S. employment-based immigration system support this goal? Business Roundtable conducted this research to answer that question with data and analysis.

Based on a comprehensive examination of 10 advanced economies to identify and evaluate the best immigration policies to promote economic growth, the United States ranked 9th out of 10 competitor countries, ahead of only Japan, a country historically closed to outsiders. This analysis found that America's near-bottom ranking among major advanced economies is due to U.S. laws and regulations that impose unrealistic numerical limits and excessive bureaucratic rules on hiring workers that the country's economy needs.

Business Roundtable selected the evaluated countries based on five criteria:

1. Worldwide university rankings;
2. Per-capita income;
3. Gross domestic product growth rate;
4. Net migration rate; and
5. Research and development investment.

After comparing each advanced economy relative to the five criteria, the top 10 countries (including the United States) were selected for the study: Australia, Canada, France, Germany, Hong Kong, Japan, Singapore, Switzerland and the United Kingdom (U.K.).¹ (See Appendix for more information on selection criteria.) Not coincidentally, these are the countries with which the United States competes most for foreign talent, particularly in science and technology fields.

Given the proven link between economic growth and policies that allow employers to hire needed talent, Business Roundtable then rated each nation's immigration policies in key categories on a scale of 1 to 5 based on their favorability to growth, with 5 being the most and 1 being the least favorable.² Countries received higher scores if they imposed fewer restrictions on immigration in economic or business-related categories, such as visas for high-skilled professionals. The averages of the scores in the individual categories were calculated to give each country its overall rank.

To complete the research for this first-of-its-kind report, Business Roundtable conducted interviews with immigration attorneys who practice in the 10 countries and examined the immigration rules in each country. Business Roundtable focused on the practical reality of hiring workers, sponsoring individuals for permanent residence, transferring skilled employees across borders and allowing international students to work after graduation. The report did not evaluate other immigration policies, such as asylum or family sponsorship.

In hiring skilled foreign nationals (H-1B visa or its equivalent), the United States received an evaluation of just 2.0 since most applications for H-1B visas each year are rejected due to the low statutory quota on these visas. Due to the long waits for employment-based green cards, U.S. policies earned a score of only 2.5 for lawful permanent residence for high-skilled workers, lower than all countries examined except Japan. The United States also scored low (1.5) on policies around hiring lower-skilled workers and attracting entrepreneurs. The United States received a score as high as 3.0 (moderately favorable to economic growth) in only two categories — transferring skilled employees into the country and retaining international students postgraduation — but those scores ranked at or near the bottom when compared to competing nations.

Table 1: Overall Scores

COUNTRY AND RANK	Hiring High-Skilled Foreign Nationals	Lawful Permanent Residence for High-Skilled Workers	Transferring High-Skilled Employees Across Borders	Retention of International Students Postgraduation	Hiring Lower-Skilled Workers	Attracting Foreign Entrepreneurs	TOTAL SCORE (Average of categories)
1 Germany	5.0	4.5	5.0	4.5	3.5	4.0	4.4
2 Australia	4.0	4.5	5.0	4.5	3.5	3.5	4.2
3 Singapore	4.5	3.0	5.0	4.0	4.0	3.5	4.0
4 United Kingdom	4.0	4.0	4.5	3.5	3.5	4.0	3.9
5 France	4.0	4.0	4.5	4.0	3.5	3.0	3.8
5 Hong Kong	4.5	3.5	4.5	4.5	3.0	3.0	3.8
7 Switzerland	3.5	3.5	4.0	4.0	3.5	3.0	3.6
8 Canada	3.5	4.0	3.5	4.0	3.0	2.0	3.3
9 United States	2.0	2.5	3.0	3.0	1.5	1.5	2.3
10 Japan	2.0	1.5	3.0	2.5	1.0	2.5	2.1

Source: Business Roundtable. After evaluating each nation’s policies, a country was rated on a scale of 1 to 5 in each category, with 5 being the most favorable to economic growth and 1 being the least favorable to economic growth.

5 Favorable	An immigration category or system that is “favorable” to economic growth has few if any significant impediments to employers hiring needed workers.
4 Mostly favorable	An immigration category or system that is “mostly favorable” to economic growth contains rules or quotas that sometimes impede an employer’s ability to hire needed workers.
3 Moderately favorable	An immigration category or system that is “moderately favorable” to economic growth contains significant rules or quotas that impede an employer’s ability to hire needed workers.
2 Mostly unfavorable	An immigration category or system that is “mostly unfavorable” to economic growth contains enough rules or significant quotas that more often than not an employer is unable to hire needed workers.
1 Unfavorable	An immigration category or system that is “unfavorable” to economic growth prevents or prohibits the immigration or hiring of needed workers.

The same scoring scale was used for “transferring high-skilled employees across borders” by substituting “transferring” in place of “hiring.” The 1 to 5 scoring scale was used for “attracting foreign entrepreneurs” by evaluating policies on whether foreign entrepreneurs could enter a country and start and grow a new business.

Among the key findings in the research:

- ▶ **Germany is No. 1.** Based on this analysis, Germany has the best business immigration policies to foster economic growth — with no quotas, a light regulatory touch, and high approval rates for skilled foreign nationals and intracompany transferees. In addition, Germany maintains strong policies for retaining international students and sponsoring high-skilled workers for permanent residence.
- ▶ **America ranks 9th out of 10 advanced economies.** Other nations are well ahead of the United States in establishing reliable ways to hire high-skilled foreign nationals. All European Union (EU) countries, except for the U.K., Ireland and Denmark, issue Blue Cards. These temporary work permits are available to non-EU citizens with a college degree who receive a job offer that pays at least 1.5 times the gross average annual salary in the country of intended employment. There are no quotas on Blue Cards, which means that, unlike the H-1B visa in the United States, employers have a good deal of certainty that individuals they wish to hire can start working for them in a timely manner. Spouses of Blue Card holders are eligible to work.
- ▶ **U.S. denial rates are out of line with other countries.** Denial rates of only 2 to 3 percent or less for high-skilled visa applications are typical in Germany, France and other countries, while the denial rate for similar applications (intracompany transferees) exceed 30 percent in the United States, and the majority of H-1B petitions for skilled foreign nationals are rejected in the United States due to low quotas under U.S. law.
- ▶ **Most of America’s competitors make obtaining permanent residence easier for highly skilled individuals.** In contrast to the six to 10 years (or even longer) gaining permanent residence can take under the U.S. immigration system, under the new Express Entry system Canadian officials aim to grant permanent residence within a year of filing for qualified high-skilled foreign nationals. If the government achieves that standard, Canada would have a significant competitive advantage over the United States in attracting skilled immigrants. This example is just one way countries have modified their policies to give their employers a competitive edge.
- ▶ **EU policies attract entrepreneurs while also filling niches in the labor market.** Because Germany is a member of the EU, its labor market for entrepreneurs and high- and lower-skilled workers is open to the 500 million citizens of EU nations, who can move and work freely across national boundaries as long as they are in another EU country. That is also the case for France, the U.K. and more than 20 other countries in the EU as well as Switzerland, which currently participates in the same system even though it is not an EU member.
- ▶ **Points-based systems are overrated and misunderstood.** In the immigration systems of other countries, points-based systems are mostly unimportant for employers. In Australia, employers sponsor workers outside the points-based system. In Canada, the points-based system has shifted toward workers valued by employers and away from those without a connection to employment in the country. For example, Canada’s Express Entry system, launched in 2015, gives priority to individuals with job offers or work experience in Canada on temporary visas.
- ▶ **U.K. and Swiss controversies mask business-friendly immigration policies.** Despite recent high-level criticism of EU policies, petitioning for a high-skilled foreign national is easier in the U.K. than in the United States and is likely to remain so in the future. Switzerland’s referendum and Prime Minister Cameron’s criticism of EU immigration policies have not fundamentally altered the countries’ basic openness to foreign talent and maintaining business-friendly policies on immigration.

- ▶ **As a percentage of its population, Australia admits three times more immigrants than America.** Australia has no quotas on high-skilled temporary visas and regular approvals for intracompany transferees, and it allows talented professionals and researchers to transition from temporary status to permanent residence within two years. The Australian government also has proposed a new type of visa to allow high-skilled foreign nationals to work in the country for up to one year with minimal bureaucracy for employers.

State of Immigration reveals that America's economic competitors for talent have done a better job establishing policies in nearly all aspects of business immigration, particularly in facilitating the hiring of high-skilled individuals on temporary visas. Without legislative changes to the U.S. immigration system that address key problems, America will continue to lose ground in the battle for talent taking place across the globe.

I. Summary of Country Scores

Maintaining favorable and flexible immigration policies provides important economic benefits to a country and enables a nation's companies to compete effectively in the global marketplace. According to the Congressional Budget Office (CBO), immigration reform could increase America's real gross domestic product (GDP) by 5.4 percent by 2033.³ Over a 20-year period, immigration reform would increase wages and U.S. productivity, while reducing federal deficits by nearly \$1.2 trillion, according to estimates by CBO and the Bipartisan Policy Center.⁴

The United States has benefitted from foreign-born scientists and engineers. Research by economists Giovanni Peri, Kevin Shih and Chad Sparber concluded that high-skilled foreign nationals on H-1B visas contributed "between 10 and 25 percent of the aggregate productivity growth ... that took place in the United States from 1990 to 2010."⁵ Moreover, the economists found, "An increase in foreign STEM [science, technology, engineering and mathematics] workers of 1 percent of total employment increased the wage of native college educated workers (both STEM and non-STEM) over the period 1990-2000 by 4 to 6 percent."⁶

Unfortunately, shortsighted immigration policies can be costly. Due to insufficient quotas, the U.S. government each year rejects many applications to hire highly educated foreign nationals on H-1B visas. When the quota is reached, approved applications for H-1B visas are distributed by lottery, and the other applications are rejected, meaning companies are unable to hire the individuals to work on the visa in the United States. The price for U.S. workers and the economy is high: "The rejection of 178,000 H-1B visa applications in computer related fields in the 2007 and 2008 H-1B visa lotteries caused U.S. metropolitan areas to miss out on creating as many as 231,224 often highly-sought after tech jobs for U.S.-born workers in the two years that followed," according to a study by the Partnership for a New American Economy.⁷

Research by Peri, Shih, Sparber and Angie Marek Zeitlin found that "the U.S. tech industry would have grown substantially faster in the years immediately after the recession if not for the large number of visas that didn't make it through the 2007 and 2008 H-1B visa lotteries. ... The number of jobs for U.S.-born workers in computer-related industries would have grown at least 55 percent faster between 2005-2006 and 2009-2010, if not for the denial of so many applications in the recent H-1B visa lotteries." The authors estimated computer firms could have added more than three times as many additional jobs for U.S.-born workers if the H-1B applications had not been rejected due to the insufficient quota.⁸

Immigration's effect on population growth tends to benefit the entire country. "To the extent that larger economies and larger markets increase productivity, larger countries should be richer," noted economists Alberto Alesina and Enrico Spolaore. The economists noted an important benefit of a larger population is the ability to spread out the costs of public goods, such as national defense or the judicial system, across more people. "The per capita costs of public goods are lower in large countries, where more taxpayers are available to pay for them. ... Defense is a public good, and the per capita costs of defense decrease with country size."⁹

The 10 countries evaluated, including the United States, are the advanced economies (as defined by the International Monetary Fund) that met Business Roundtable's economic selection criteria (i.e., GDP growth rate, per-capita income, etc.). Criteria were added associated with general attractiveness to foreign workers (i.e., net migration rate).¹⁰

Australia, Canada, France, Germany, Hong Kong, Japan, Singapore, Switzerland and the United Kingdom (U.K.) are the countries upon which information was gathered using a variety of methods, including conducting interviews with attorneys who practice in these countries, the relevant laws and regulations in the countries, and immigration data. The nine countries compete with the United States for talented foreign-born individuals.¹¹

After evaluating each nation's policies, a country was rated on a scale of 1 to 5 in each category, with 5 being the most favorable to economic growth and 1 being the least favorable to economic growth.

- ▶ **5 — Favorable:** An immigration category or system that is “favorable” to economic growth has few if any significant impediments to employers hiring needed workers.
- ▶ **4 — Mostly favorable:** An immigration category or system that is “mostly favorable” to economic growth contains rules or quotas that sometimes impede an employer's ability to hire needed workers.
- ▶ **3 — Moderately favorable:** An immigration category or system that is “moderately favorable” to economic growth contains significant rules or quotas that impede an employer's ability to hire needed workers.
- ▶ **2 — Mostly unfavorable:** An immigration category or system that is “mostly unfavorable” to economic growth contains enough rules or significant quotas that more often than not an employer is unable to hire needed workers.
- ▶ **1 — Unfavorable:** An immigration category or system that is “unfavorable” to economic growth prevents or prohibits the immigration or hiring of needed workers.¹²

The analysis focused on both temporary visas and permanent residence. Temporary visas, such as an H-1B for high-skilled foreign nationals or F-1 for international students, permit an individual to stay in a country for a limited duration. Temporary visa holders are technically called “nonimmigrants.” Permanent residence or immigrant visas, on the other hand, often known in America as obtaining a green card, allow individuals to live in the United States indefinitely and apply for citizenship (usually after five years). The most common immigrant visas in the United States are family sponsored and employer sponsored.

In sections that follow, the individual country scores and key facets and problems of the U.S. immigration system are discussed, and the policies of each nation are compared to America's system. The report also contains profiles of each country.



CATEGORY		SCORE
Hiring High-Skilled Foreign Nationals		5.0
Reason for Score	Applications for high-skilled people are rarely turned down, there is no annual quota and Germany's membership in the European Union (EU) provides access to 500 million people who can work without any immigration processing. The process is clear enough that some employers do not need attorneys to apply. The EU Blue Card provides an easy option for hiring non-EU skilled professionals, including no labor market test.	
Lawful Permanent Residence for High-Skilled Workers		4.5
Reason for Score	There is no annual quota. Permanent residence is possible after 33 months (or in some cases after 21 months) for individuals on an EU Blue Card. Typically after five years of working in Germany an individual can become a permanent resident but must demonstrate proficiency in the German language and knowledge of country's "legal and social order."	
Transferring High-Skilled Employees Across Borders		5.0
Reason for Score	EU citizens can transfer into Germany without immigration processing. A new EU process in 2016 will make transferring even easier for non-EU international workers. Denials are considered rare, and employers must pay a wage that is comparable to that of a German in similar position.	
Retention of International Students Postgraduation		4.5
Reason for Score	German employers can convert an international student on an internship to an employment visa. A "job seeker" visa provides a six-month window to find employment postgraduation. EU students can stay after graduation and work without immigration processing.	
Hiring Lower-Skilled Workers		3.5
Reason for Score	Germany's membership in the EU provides access to 500 million people who can work without any immigration processing and provides much of its lower-skilled labor needs. Seasonal visas are also available for up to six months in agriculture, catering and the hotel industry. There are no year-round visas for non-EU lower-skilled workers.	
Attracting Foreign Entrepreneurs		4.0
Reason for Score	Entrepreneurs from the EU can set up a business without immigration processing. A non-EU citizen can submit plans to gain a temporary visa as an entrepreneur.	
TOTAL SCORE <i>(Average of categories)</i>		4.4
Reason for Score	No quotas on high-skilled temporary visas (including the EU Blue Card); easy policies on transferring personnel; the ability for individuals to gain permanent residence in a reasonable time; strong policies on retaining international students and entrepreneurs; and most important, access to up to 500 million EU residents who can work without immigration processing make Germany's immigration policies among the world's most favorable for economic growth.	

Source: Business Roundtable. After evaluating each nation's policies, a country was rated on a scale of 1 to 5 in each category, with 5 being the most favorable to economic growth and 1 being the least favorable to economic growth. See pages 7-8 for more information about scoring.



AUSTRALIA

OVERALL RANK

2

CATEGORY	SCORE
Hiring High-Skilled Foreign Nationals	4.0
Reason for Score	There are no quotas on temporary visas for high-skilled foreign nationals. There are market wage requirements and a labor market test for a number of positions (but exemptions exist and advertising could be for just one day). Most employers meet the training requirement.
Lawful Permanent Residence for High-Skilled Workers	4.5
Reason for Score	After working for two years, individuals on temporary visas can receive streamlined permanent residence via the Employer Nomination Scheme. It is also possible for employers to nominate individuals (whether or not they are on temporary visas) via the Employer Nomination Scheme under the skill assessment option or executive salary option. It also is possible to gain permanent residence if nominated by an employer in one of Australia's regions. Quotas exist for immigration categories in Australia but for skilled categories are rarely met.
Transferring High-Skilled Employees Across Borders	5.0
Reason for Score	There are few denials, and the process is considered easy; a company does not need to maintain a presence to transfer an employee into Australia.
Retention of International Students Postgraduation	4.5
Reason for Score	Australia gives an advantage to international students who apply for temporary visas. A Temporary Graduate visa allows students to stay and seek employment in Australia. The lack of quotas on temporary visas provides opportunities for international students sought by employers.
Hiring Lower-Skilled Workers	3.5
Reason for Score	Working Holiday visas for young adults and 457 visas allow Australian employers to fill gaps in the labor market. However, 457 visas for lower-skilled workers are subject to labor market testing.
Attracting Foreign Entrepreneurs	3.5
Reason for Score	An existing entity in another country or a substantial investment from a venture capital firm allows temporary status as head of office in Australia.
TOTAL SCORE <i>(Average of categories)</i>	4.2
Reason for Score	No quotas on high-skilled temporary visas, easy policies on transferring personnel, the ability for individuals to gain permanent residence within two years, strong policies on retaining international students, and good policies on hiring lower-skilled workers and attracting entrepreneurs make Australia's immigration policies among the world's most favorable for economic growth.

Source: Business Roundtable. After evaluating each nation's policies, a country was rated on a scale of 1 to 5 in each category, with 5 being the most favorable to economic growth and 1 being the least favorable to economic growth. See pages 7–8 for more information about scoring.



CATEGORY		SCORE
Hiring High-Skilled Foreign Nationals		4.5
Reason for Score	There is no quota, and cases are typically approved for high-skilled foreign nationals. Employers must pay a market wage. A Jobs Bank requirement was recently added, but exemptions exist. Singapore is highly rated for economic freedom.	
Lawful Permanent Residence for High-Skilled Workers		3.0
Reason for Score	There are no explicit quotas, but the standard is unclear; typically an individual's permanent residence must be in the interest of the country.	
Transferring High-Skilled Employees Across Borders		5.0
Reason for Score	Approvals are expected, and the process is considered easy.	
Retention of International Students Postgraduation		4.0
Reason for Score	There are no special provisions, but international students typically can stay and work if they wish and their skills are sought.	
Hiring Lower-Skilled Workers		4.0
Reason for Score	Singapore makes it possible for foreign nationals to hold a variety of lower-skilled jobs. In place of bureaucratic rules, the government has established a "foreign worker levy" as a "pricing mechanism to regulate the number of foreign workers in Singapore" and also maintains quotas, which are fairly generous, on the number of lower-skilled foreign workers companies can employ.	
Attracting Foreign Entrepreneurs		3.5
Reason for Score	Entrepreneurs can obtain temporary visas, but obtaining a "general employment pass" to run a company is often easier.	
TOTAL SCORE <i>(Average of categories)</i>		4.0
Reason for Score	Employer-friendly practices on approvals for high-skilled and lower-skilled visas and liberal rules on intracompany transfers, international students and (to a lesser extent) permanent residence make Singapore's immigration policies "mostly favorable" to economic growth.	

Source: Business Roundtable. After evaluating each nation's policies, a country was rated on a scale of 1 to 5 in each category, with 5 being the most favorable to economic growth and 1 being the least favorable to economic growth. See pages 7–8 for more information about scoring.



UNITED KINGDOM

OVERALL RANK

4

CATEGORY		SCORE
Hiring High-Skilled Foreign Nationals		4.0
Reason for Score	The monthly quota on high-skilled foreign nationals has never been reached and causes only minor delays. Employers must pay the market wage and conduct a labor market test (but exemptions exist). Since the United Kingdom (U.K.) is a member of the European Union (EU), employers have access to 500 million citizens to hire without immigration processing.	
Lawful Permanent Residence for High-Skilled Workers		4.0
Reason for Score	There is no quota. Individuals on temporary visas and EU nationals can become permanent residents after five years. They must pass a test on knowledge of life in the U.K. and can apply to become British citizens one year after attaining permanent residence.	
Transferring High-Skilled Employees Across Borders		4.5
Reason for Score	EU citizens can transfer into the U.K. without immigration processing. Denials are considered rare if the U.K. government recognizes a position as highly skilled, which is sometimes an issue.	
Retention of International Students Postgraduation		3.5
Reason for Score	Employers can obtain work visas to hire international students without a Resident Labor Market Test. Also, international students from EU countries can work in the U.K. without immigration processing. International students are granted four months to find employment postgraduation, down from two years pre-2012. A controversial policy proposal to require international students to apply for work visas outside the country was shot down by Tory political leadership.	
Hiring Lower-Skilled Workers		3.5
Reason for Score	The U.K.'s membership in the EU provides access to 500 million people who can work without any immigration processing and provides much of its lower-skilled labor needs. In practice, there are no temporary visas for non-EU lower-skilled workers, although Tier 5 allows access to interns.	
Attracting Foreign Entrepreneurs		4.0
Reason for Score	Entrepreneurs from the EU can set up businesses without immigration processing. Non-EU citizens, including international students, can submit plans to gain temporary visas as entrepreneurs provided they can show evidence of sufficient funds to invest in the new businesses.	
TOTAL SCORE <i>(Average of categories)</i>		3.9
Reason for Score	Despite controversies over asylum seekers, immigration and EU membership, the U.K. maintains immigration policies that are "mostly favorable" to economic growth. That will remain the case if the U.K. stays in the EU and keeps good policies toward high-skilled foreign nationals, permanent residence, attracting foreign entrepreneurs and transferring employees into the country.	

Source: Business Roundtable. After evaluating each nation's policies, a country was rated on a scale of 1 to 5 in each category, with 5 being the most favorable to economic growth and 1 being the least favorable to economic growth. See pages 7-8 for more information about scoring.



CATEGORY		SCORE
Hiring High-Skilled Foreign Nationals		4.0
Reason for Score	Applications for high-skilled people are rarely turned down. There is no annual quota, and France's membership in the European Union (EU) provides access to 500 million people who can work without any immigration processing. The EU Blue Card provides an easy option for hiring non-EU skilled professionals. Strict French labor rules apply to foreign nationals, adding layers of bureaucracy for employers.	
Lawful Permanent Residence for High-Skilled Workers		4.0
Reason for Score	There is no quota. Individuals on temporary visas and EU nationals can become permanent residents after five years.	
Transferring High-Skilled Employees Across Borders		4.5
Reason for Score	EU citizens can transfer into France without immigration processing. A new EU process in 2016 will make transferring even easier for non-EU international workers. Transferees can stay three years or six years if placed on French payroll and paid at least 1.5 times the state minimum salary (about \$30,000 a year). French labor rules are stringent.	
Retention of International Students Postgraduation		4.0
Reason for Score	Students with the equivalent of a U.S. master's degree can change status to lawful workers without other requirements. The job must pay 1.5 times the state minimum salary (about \$30,000 a year).	
Hiring Lower-Skilled Workers		3.5
Reason for Score	France's membership in the EU provides access to 500 million people who can work without any immigration processing and provides much of its lower-skilled labor needs. No year-round visas are available for non-EU lower-skilled workers, but seasonal visas are available.	
Attracting Foreign Entrepreneurs		3.0
Reason for Score	Entrepreneurs from the EU can set up businesses without immigration processing. Non-EU citizens have a difficult time.	
TOTAL SCORE <i>(Average of categories)</i>		3.8
Reason for Score	Despite labor policies that are burdensome for employers, France's membership in the EU and access to 500 million residents as well as good rules on hiring high-skilled foreign nationals (including the EU Blue Card), transferring employees and permanent residence make the country's immigration policies "moderate to mostly favorable" to economic growth.	

Source: Business Roundtable. After evaluating each nation's policies, a country was rated on a scale of 1 to 5 in each category, with 5 being the most favorable to economic growth and 1 being the least favorable to economic growth. See pages 7–8 for more information about scoring.



CATEGORY		SCORE
Hiring High-Skilled Foreign Nationals		4.5
Reason for Score	There are no quotas on high-skilled foreign nationals. There are low denial rates, few bureaucratic rules and a general guideline of salary “commensurate with market wage.” Hong Kong is highly rated for economic freedom.	
Lawful Permanent Residence for High-Skilled Workers		3.5
Reason for Score	There is no annual quota. After seven years of continuous residence, applicants can apply for a Right of Abode (similar to a U.S. green card). There are few denials if the applicant has been working and meets the seven years of continuous residence requirement. The seven-year requirement before granting permanent residence is longer than in most advanced economies.	
Transferring High-Skilled Employees Across Borders		4.5
Reason for Score	Denials are rare for intracompany transferees, but there has been increased scrutiny in the past year.	
Retention of International Students Postgraduation		4.5
Reason for Score	After filing as “nonlocal graduates,” international students are given a year after graduation to seek employment. They can work for any employer without additional visa requirements.	
Hiring Lower-Skilled Workers		3.0
Reason for Score	Hiring lower-skilled foreign workers is possible in Hong Kong but is more difficult than hiring high-skilled workers due to additional bureaucratic requirements, including local advertising. In the past year, the government has opened the door to allow elder care centers to bring in foreign workers to care for Hong Kong’s aging population.	
Attracting Foreign Entrepreneurs		3.0
Reason for Score	It is possible to gain a renewable visa as an entrepreneur with reasonable investment minimums on the basis that there is a benefit to the Hong Kong economy.	
TOTAL SCORE <i>(Average of categories)</i>		3.8
Reason for Score	Hong Kong’s immigration policies match its reputation as a place of economic freedom. Although it is less easy to hire lower-skilled workers or to be granted a visa if one is a foreign-born entrepreneur, Hong Kong maintains no quotas on hiring high-skilled foreign nationals and maintains clear policies on lawful permanent residence (Right of Abode), intracompany transfers and retaining international students postgraduation.	

Source: Business Roundtable. After evaluating each nation’s policies, a country was rated on a scale of 1 to 5 in each category, with 5 being the most favorable to economic growth and 1 being the least favorable to economic growth. See pages 7–8 for more information about scoring.



CATEGORY		SCORE
Hiring High-Skilled Foreign Nationals		3.5
Reason for Score	Applications for high-skilled people are rarely turned down. However, employers must pay a market wage and conduct a labor market test. Although not reached in 2014, quotas exist for non-European Union (EU) workers. Switzerland’s agreement with the EU provides access to 500 million people who can work without any immigration processing. That will remain the case unless the government imposes quotas on immigration from the EU due to the 2014 referendum.	
Lawful Permanent Residence for High-Skilled Workers		3.5
Reason for Score	EU nationals can become permanent residents in five years; non-EU nationals must live in country for 10 years to become permanent residents, which is longer than in most advanced economies. Currently there are no annual quotas on grants of permanent residence.	
Transferring High-Skilled Employees Across Borders		4.0
Reason for Score	EU nationals currently can transfer into Switzerland to work on local employment contracts without immigration processing or checks on salary; EU nationals on assignment must be paid a comparable Swiss salary. Employers must pay non-EU employees at comparable Swiss salary levels.	
Retention of International Students Postgraduation		4.0
Reason for Score	EU students can stay and work postgraduation without immigration processing. Non-EU students can stay for six months postgraduation to seek employment. Once employment is found, work permit approval for non-EU students is subject to quotas and labor market tests (the labor market test is exempted for work considered of high scientific or economic value).	
Hiring Lower-Skilled Workers		3.5
Reason for Score	Switzerland’s agreement with the EU provides access to 500 million people who can work without any immigration processing and provides much of its lower-skilled labor needs. In practice, no work permits are granted for lower-skilled work by non-EU nationals entering the country.	
Attracting Foreign Entrepreneurs		3.0
Reason for Score	Entrepreneurs from the EU can set up businesses without immigration processing. Non-EU citizens can submit plans to gain temporary visas as entrepreneurs, although the process is not easy.	
TOTAL SCORE <i>(Average of categories)</i>		3.6
Reason for Score	Switzerland maintains pro-growth policies on high-skilled foreign nationals, intracompany transfers and retaining international students postgraduation, with applications for high-skilled work permits and transfers rarely denied. The country’s agreement with the EU provides access to its 500 million residents as a source of labor. The potential for quotas on the admission of EU citizens starting in 2017, due to the 2014 referendum, creates uncertainty until resolved, but it should not affect policies in 2015 or 2016.	

Source: Business Roundtable. After evaluating each nation’s policies, a country was rated on a scale of 1 to 5 in each category, with 5 being the most favorable to economic growth and 1 being the least favorable to economic growth. See pages 7–8 for more information about scoring.



CATEGORY		SCORE
Hiring High-Skilled Foreign Nationals		3.5
Reason for Score	There is no annual quota for hiring high-skilled foreign nationals. Employers must pay a market wage; recent requirements for employers to test the labor market have made the process much more difficult for employers.	
Lawful Permanent Residence for High-Skilled Workers		4.0
Reason for Score	Canada allows employers to sponsor both high-skilled and lower-skilled foreign nationals for permanent residence either directly or via immigration programs in Canadian provinces. In 2015, the government started the Express Entry system, which aims at permanent residence within one year, with an emphasis on employer sponsorship and job offers. Some are concerned the new system could shut out some skilled immigrants who would have gained permanent residence in the past.	
Transferring High-Skilled Employees Across Borders		3.5
Reason for Score	Rules on intracompany transferees, including for those with specialized knowledge, have been tightened in the past two years, but transferring employees is still considered easier than in the United States.	
Retention of International Students Postgraduation		4.0
Reason for Score	Canada provides “open” work permits allowing international students to work postgraduation for up to three years. Many students can transition to permanent residence during this time period without leaving the country. The new Express Entry system could prevent some international students from gaining permanent residence.	
Hiring Lower-Skilled Workers		3.0
Reason for Score	Canada has retreated from its more employer-friendly policies on lower-skilled workers, adding large fees and limits (10 percent) on the number of foreign “low-wage” workers per company worksite. Even with the new restrictions, Canada remains far more open to lower-skilled workers than the United States, including by giving caregivers the chance to gain temporary and permanent status. The Provincial Nominee Program, which allows provinces with different needs to sponsor lower-skilled workers (today in more limited numbers), is a model the United States might examine.	
Attracting Foreign Entrepreneurs		2.0
Reason for Score	At the federal level, the Canadian government has experimented with entrepreneur visa programs without success. A number of Canadian provinces maintain programs that have brought in a small number of foreign entrepreneurs.	
TOTAL SCORE <i>(Average of categories)</i>		3.3
Reason for Score	As a percentage of its population, Canada admits twice as many immigrants annually as the United States, and its new Express Entry system shows the country wants to continue to attract immigrants, particularly those with job offers from an employer. Retaining international students postgraduation remains important to the country, and giving a role to provinces is innovative. However, taking into account recent government restrictions on temporary visas for high-skilled and lower-skilled workers makes Canada’s immigration policies “moderately favorable” to economic growth.	

Source: Business Roundtable. After evaluating each nation’s policies, a country was rated on a scale of 1 to 5 in each category, with 5 being the most favorable to economic growth and 1 being the least favorable to economic growth. See pages 7–8 for more information about scoring.



CATEGORY		SCORE
Hiring High-Skilled Foreign Nationals		2.0
Reason for Score	More than half of applicants for H-1B visas each year are denied the opportunity to work due to the low H-1B quota.	
Lawful Permanent Residence for High-Skilled Workers		2.5
Reason for Score	Low quotas and country limits on sponsoring employment-based immigrants for permanent residence (green cards) lead to waits of six to 10 years or longer and great uncertainty for many applicants. Employer costs to sponsor an individual can exceed \$50,000.	
Transferring High-Skilled Employees Across Borders		3.0
Reason for Score	Over the past five years transferring high-skilled employees from abroad into the United States has become more difficult, especially transferring those with "specialized knowledge." Denial rates reached 34 percent in FY 2013.	
Retention of International Students Postgraduation		3.0
Reason for Score	Optional Practical Training provides an opportunity for international students to work short term postgraduation, particularly for those in science, technology, engineering and mathematics (STEM) fields. However, the lack of H-1B visas and long waits for employment-based green cards limit the opportunities for international students to make their careers in the United States.	
Hiring Lower-Skilled Workers		1.5
Reason for Score	No temporary visa category exists for full-year jobs for lower-skilled workers. The seasonal work visa for agriculture (H-2A) is considered bureaucratic, and the seasonal visa for nonagricultural work (H-2B) is considered bureaucratic and carries a low annual quota.	
Attracting Foreign Entrepreneurs		1.5
Reason for Score	No genuine immigration category exists for entrepreneurs. Immigrants start businesses in the United States typically only after years of waiting to become family- or employer-sponsored immigrants, not through a visa designed for foreign entrepreneurs. This lack of a visa encourages foreigners with ideas and the ability to attract capital to pursue startup opportunities in other nations when possible.	
TOTAL SCORE <i>(Average of categories)</i>		2.3
Reason for Score	The low annual limits on temporary visas (H-1B) and employment-based green cards for high-skilled foreign nationals, along with high denial rates for intracompany transfers and the lack of visas for both immigrant entrepreneurs and year-round lower-skilled workers, make U.S. immigration policies "mostly unfavorable" to economic growth when compared to other advanced economies.	

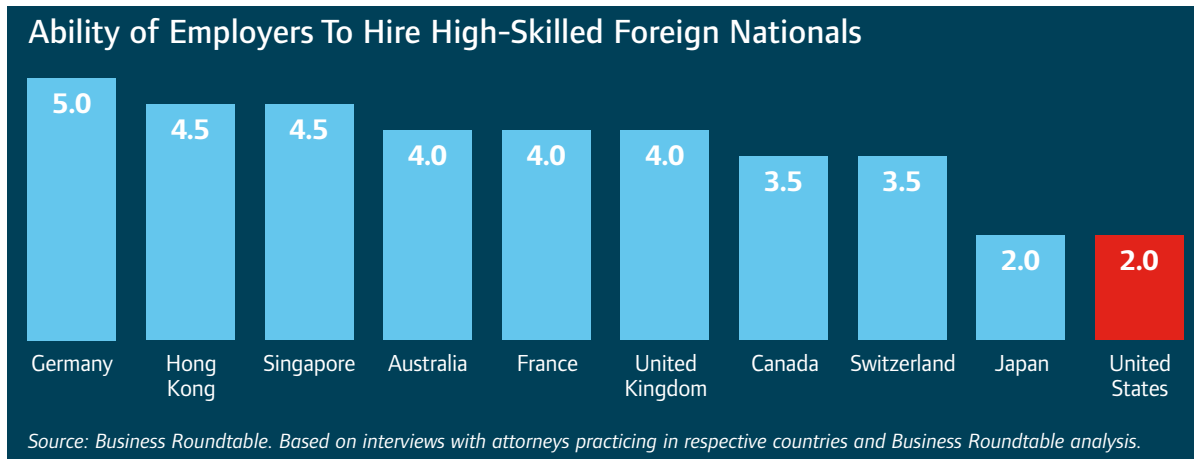
Source: Business Roundtable. After evaluating each nation's policies, a country was rated on a scale of 1 to 5 in each category, with 5 being the most favorable to economic growth and 1 being the least favorable to economic growth. See pages 7–8 for more information about scoring.



CATEGORY		SCORE
Hiring High-Skilled Foreign Nationals		2.0
Reason for Score	There is no annual quota on hiring high-skilled foreign nationals. The lack of a good system for permanent residence, as well as language and cultural issues, limits Japan’s ability to hire high-skilled foreign nationals on temporary visas.	
Lawful Permanent Residence for High-Skilled Workers		1.5
Reason for Score	Most foreign nationals must be in lawful status in Japan for 10 years before they can gain permanent residence (three years if they enter via the points-based system). To become citizens, individuals must relinquish citizenship rights in other countries (no dual citizenship). The 10-year requirement before granting permanent residence is longer than in most advanced economies.	
Transferring High-Skilled Employees Across Borders		3.0
Reason for Score	Transferred individuals must be paid a salary equivalent to Japanese professionals; there is scrutiny as to whether a company in Japan is a true subsidiary of a company abroad.	
Retention of International Students Postgraduation		2.5
Reason for Score	Students are allowed six months after graduation to find work, but there is a 10-year wait before permanent residence can be granted (a three-year wait for permanent residence if eligible to use the points-based system). Cultural issues and not allowing dual citizenship for naturalization limit attractiveness for long-term stays.	
Hiring Lower-Skilled Workers		1.0
Reason for Score	Japan does not have a category for lower-skilled workers.	
Attracting Foreign Entrepreneurs		2.5
Reason for Score	It is possible to qualify for the equivalent of an entrepreneur visa in Japan, but denial rates are high.	
TOTAL SCORE <i>(Average of categories)</i>		2.1
Reason for Score	Rules and cultural practices aimed at preventing Japan from becoming an “immigrant” nation make the country’s overall immigration policies “mostly unfavorable” to economic growth.	

Source: Business Roundtable. After evaluating each nation’s policies, a country was rated on a scale of 1 to 5 in each category, with 5 being the most favorable to economic growth and 1 being the least favorable to economic growth. See pages 7–8 for more information about scoring.

II. Hiring High-Skilled Foreign Nationals



The ability to hire high-skilled foreign nationals allows employers to access skills not readily available domestically (a knowledge of other markets, for example) and to combine the skills with those of native-born workers. In the United States, generally the only practical way to hire a high-skilled foreign national long term is on an H-1B visa. The shortcomings of the H-1B category have concerned U.S. employers for years.

The low quota on H-1B visas is considered a significant obstacle to attracting and retaining highly educated workers in the United States, including international students who graduate from U.S. universities. In every year since FY 2004, employers have exhausted the annual quota on H-1B visas before the fiscal year has ended (both the 65,000 annual standard quota and the 20,000 exemption from the quota for graduate students from U.S. universities). In April 2014, employers sent the U.S. Citizenship and Immigration Services (USCIS) 172,500 H-1B applications — nearly 90,000 more than the quota and exemption — for workers who would start jobs on October 1, 2014, the start of FY 2015.¹³ Those unable to gain an H-1B visa generally could work only for a U.S. company outside of the United States or for a foreign competitor overseas.¹⁴ Absent a legislative fix, U.S. employers who are prevented from hiring these skilled professionals and researchers due to the low annual quotas will no doubt remain frustrated.

Germany

Other nations have better policies for attracting and retaining high-skilled foreign nationals. Because Germany is a member of the European Union (EU), its labor market is open to the approximately 500 million EU citizens who can work in Germany at lower-skilled or high-skilled jobs without the need for any immigration paperwork. That distinction is important when comparing Germany's immigration system to those of other nations not in the EU.

"The way to understand the EU is that Europe is like the states of the United States," said French immigration attorney Karl Waheed. "Within the EU there are no border controls, and no work permits are needed for any citizen of an EU nation to work in another EU nation."¹⁵ The right of free movement is a cornerstone of the EU, and its policies are clearly stated: "As an EU national, you're entitled to work — for an employer or as a self-employed person — in any EU country without needing a work permit."¹⁶ Family has a right to live with the EU national in that new country as long as he or she works there. In addition, "If you have lived legally in another EU country for five years continuously — as an employee, a pensioner or a self-employed person — you automatically acquire the right of permanent residence there."¹⁷

The equivalent of the H-1B visa category in Germany for high-skilled foreign nationals is the D visa, which has no numerical limit and thereby avoids the key problem plaguing the H-1B visas in the United States. “Very seldom do we see a denial,” said Lucy Jacobs, an associate at Palladium Mobility Group in Dresden. “If someone is denied it is likely they have either fake credentials or authorities consider them a national security threat. Highly skilled people are very rarely turned down for work visas in Germany. The country needs highly qualified people.”¹⁸ According to Jacobs the process is sufficiently clear that some employers do not even use attorneys when filing cases, although most still do. All applications and accompanying materials can be filed online.¹⁹

An individual may also be eligible for a Blue Card issued by the EU, which greatly facilitates the process. The Blue Card has the advantage of avoiding the need to file with German immigration authorities. An individual earning a sufficient salary level (at least 1.5 times the country’s average salary) with a German university degree (or one recognized in Germany) and a local work contract may be eligible for a Blue Card. France and more than 20 other EU nations issue Blue Cards. (The U.K. and Switzerland do not issue Blue Cards.)

Hong Kong

Hong Kong is known for its laissez-faire economic policies, and its immigration policies are consistent with that reputation. No annual quota exists for employers hiring skilled foreign nationals on temporary visas in Hong Kong, and only about 2 to 3 percent of cases are denied, according to immigration attorneys. Employers are not required to advertise or pay a specific salary when petitioning for a skilled foreign national under the General Employment Policy. However, in practice, a case could be denied if the individual does not possess the relevant education or experience or if, in the eyes of the Immigration Department, the position is not sufficiently specialized or the salary is not “broadly commensurate with the prevailing market rate of Hong Kong.”²⁰ In such cases, advertising prior to filing may be a good idea to show the Hong Kong labor market is unable to fill the relevant vacancy, according to Christopher Hooley, partner at Oldham, Li & Nie.²¹

An additional way Hong Kong admits foreign nationals is via a points-based system, within a quota, aimed at attracting high-skilled, talented people from Mainland China or overseas. The system is not directly tied to employers since successful applicants are not required to secure employment before taking up residence in Hong Kong.



Where Immigration Is “A Win for Us All”



The German government has made a conscious effort to attract immigrants to the country, including by establishing pro-growth policies on high-skilled immigration. In 2012, approximately 400,000 people immigrated to Germany, more than 100,000 higher than the number in 2011.²²

The German economy has performed better than most others in Europe, which has attracted increased immigration from European Union (EU) countries. “But more than the rest of Europe, its healthy economy needs additional workers, especially for jobs requiring high levels of training and education, a problem likely to be exacerbated in the long run by its low birthrate,” reported *The New York Times*. “Right now Germany is trying to fill 117,000 jobs in science, technology and engineering, a gap that may widen to as many as one million by 2020, according to the Cologne Institute for Economic Research.”²³

Germany has established policies that make it easy to attract those workers, both for employers and for new or transferred foreign-born employees. “Highly skilled people are very rarely turned down for work visas in Germany. The country needs highly qualified people,” said Lucy Jacobs, associate, Palladium Mobility Group in Dresden. Jacobs pointed out that denials usually happen only in the case of fraud or security threats.²⁴

The EU Blue Card, which has no annual quota, is a key part of the country’s openness to high-skilled professionals. As a member of the EU, Germany already has access to any EU citizen who wished to travel to the country and start working — without the need for immigration processing. Starting in 2012, the EU Blue Card made it easy for skilled

workers outside the EU to work in Germany (and most other EU countries). The temporary work permits for mostly professional positions must pay at least 1.5 times the gross average annual salary, which is about \$58,000 a year in Germany.²⁵

Individuals can gain permanent residence after 33 months (or even 21 months) on a Blue Card in Germany. If a non-EU national is not a Blue Card holder, then typically he or she can acquire permanent residence after working in the country no more than five years. Germany has a “job seeker” visa that gives recent graduates six months to find work. Lower-skilled positions are generally filled domestically or via access to the approximately 500 million people in the EU who can work in Germany without the need for immigration approvals. Seasonal visas are also available.

Demographic concerns play a role in Germany’s immigration policies. In a Pew Research survey, 55 percent of Germans said the growing number of older people in the country is a “major problem.”²⁶ More than one-third of the population of Germany will be 65 or older by the year 2050, and the overall population of the country is expected to decline without large increases in immigration.²⁷

In December 2014, protestors marched against the rising number of asylum seekers in Germany, particularly those from Muslim countries. German Chancellor Angela Merkel defended the country’s immigration policies and said that, overall, immigration is “a win for us all,” arguing Germany needs more workers to thrive economically.²⁸

Australia

Australia has no numerical quotas for the 457 visa, the country's equivalent of an H-1B visa. Employers must pay the market wage for the position, as in the United States, but they must also conduct a labor market test for some workers.²⁹ "Generally, occupations that require an associate or bachelor's degree are exempted from the test," said Noah Klug, formerly a senior lawyer with Nevett Ford in Melbourne (now a senior associate with Berry Appleman & Leiden). "However, there are some exceptions to that rule, such as engineers. Meeting the requirement usually is not difficult. The sponsor simply must provide evidence that they advertised locally for the role for at least one day in the last 12 months. Even job ads through social media can suffice." Overall, the process for petitioning for skilled professionals is considered fairly easy for employers, according to Klug.³⁰

In December 2014, the Australian government proposed a new type of visa that would create minimal bureaucracy for employers. The visa would allow high-skilled foreign nationals to work in the country for up to one year. Employers would not need to engage in labor market testing or skills or language requirements. "A visa such as the proposed short-term mobility visa would assist the Australian economy to remain competitive and assist to create economic growth," according to Tim Denney with Berry Appleman & Leiden in Australia.³¹

"Having practiced both U.S. and Australian immigration law, I have found there are many ways in which the Australian immigration system is more advanced," said Noah Klug. He points to a list of qualifying occupations for the 457 work visa. "That makes the process infinitely simpler and clearer for employers as compared to the U.S. system, where you are always worried about whether the immigration service will consider your employee's role to be a 'specialty occupation' as required for the visa." He said the U.S. problem is even worse on L-1 visas for intracompany transferees since "USCIS is constantly moving the goal posts" on interpreting various terms. "Another example: Australian work visas have been filed and processed electronically for a number of years now. The paper filing system used by USCIS is simply an embarrassment for the United States from the perspective of its global neighbors. It is so archaic."³²

Singapore

In comparing countries, Klug believes Singapore is better than Australia for obtaining temporary visas, but Australia is much easier for permanent residence.³³ One change in Singapore in 2014 required employers seeking foreign nationals first to post a position in a government-run job bank with the related expectation to interview qualified Singaporeans. Individuals exempt from the Jobs Bank requirement include intracompany transferees, those hired by companies with 25 or fewer employees, existing employees, and those earning the equivalent of 12,000 Singapore dollars a month (about \$9,000). Since the unemployment rate in Singapore hovers around 2 percent, few skilled professionals are available. Given Singapore's traditional openness toward immigration, the new policies do not overly concern the country's immigration professionals. "Companies are still likely to get the person they want," said Mark Chowdhry, managing associate at Magrath Global in Singapore.³⁴

The U.K.

The equivalent of an H-1B visa in the U.K. also works much better for employers and those sponsored than its American counterpart. "Across the board, the denial rates for employment visas are exceptionally low in the U.K.," said attorney Emily King, the EMEA regional director at Berry Appleman & Leiden's London office.³⁵ Under a Tier 2 general "unrestricted" visa there is no quota and no labor market testing required if the position pays 153,500 British pounds (about \$250,000) a year or the skills required are considered in short supply by the Migrant Advisory Committee. Although there is a monthly quota under Tier 2 for skilled workers, it has never been reached.

Excluding Workers Who Would Contribute to the American Economy



Given the competitive nature of business and the globalization of markets in finance, technology, services and manufacturing, access to high-skilled talent has never been more vital. Unfortunately, the United States of America, dubbed “A Nation of Immigrants” by President John F. Kennedy, has developed immigration policies that make it difficult both for businesses — and the talented individuals they seek to employ — to thrive.

America has a litany of immigration problems that affect economic competition:

- ▶ The supply of H-1B visas for high-skilled foreign nationals has been exhausted every year for more than a decade due to low annual quotas, which prevent employers from hiring individuals that can help them grow and innovate inside the United States.
- ▶ Long waits for employment-based green cards — six to 10 years or longer for many high-skilled immigrants — discourage outstanding individuals, including international students who have graduated from

U.S. universities, from building successful careers in America.

- ▶ High denial rates for intracompany transferees, something not witnessed by employers in other advanced economies, make completing projects and building product and service teams more difficult in the United States.
- ▶ The lack of legal visas for year-round, lower-skilled workers prevents employers from accessing a critical workforce.
- ▶ The absence of a true entrepreneur visa encourages foreigners with great ideas and access to venture capital to pursue startup opportunities in other nations.

Policymakers in Washington, D.C., should remove the many obstacles that prevent U.S. companies from attracting talented individuals from around the world.

If the position is not considered in shortage and pays less than 153,500 British pounds, then an employer must undertake a Resident Labor Market test. The employer must advertise for 28 calendar days using two different sources, usually a government job board and a newspaper or website. If an applicant meets the criteria but is not right for the job, then an employer needs to document why the person is not suitable. The process is “self-certified” by employers, but the government conducts audits. The U.K. government has tightened the rules to ensure that a job opening is genuine, but attorneys do not expect it to affect clients, except perhaps some information technology consulting companies and employers in the retail and hospitality industries.³⁶ Although there is nominally a points-based system for temporary work visas in the U.K., Emily King said, “It’s complete nonsense to call it a points system.” The “points-based system” name was added for political purposes, she said, and mirrors what was already required under the law.³⁷

The process generally takes two to three months. That is the biggest complaint from employers, according to Rose Carey, a partner at Speechly Bircham LLP in London.³⁸ Carey concedes that the two to three months of delay for employers in the U.K. is preferable to the 12 months or longer U.S. employers typically experience without even the guarantee of approvals of H-1B visas due to the quota. “If someone has the right skills, the

position is skilled enough and the salary is high enough, then the prospects for approval are good in the U.K.," said Supinder S. Sian, national partner at Squire Patton Boggs in London.³⁹

France

Hiring high-skilled foreign nationals in France is considered simple. No quotas exist, and adjudicators deny few cases (only about 1 percent), according to immigration attorneys. France has three categories that, in combination, overlap the H-1B and L-1 visa categories in the United States — Skills and Talents (for individuals with unusual talent, including athletes and corporate executives), international service provider, and occupations on the skill shortage list. Those who fall outside these three designations are subject to labor market testing, although Raphael Apelbaum, a partner with LexCase in Paris, said that "the market test is very flexible" for high-skilled professionals and normally does not prevent employers from hiring the person they want.⁴⁰

Many potential employees in France might also qualify for the EU Blue Card, which lasts for three years and is renewable, noted Karl Waheed, founder of an immigration firm in Paris.⁴¹ One complication for employers is that all foreign nationals must adhere to French labor regulations, which are more bureaucratic for hiring, firing and other labor rights than in the United States.

Switzerland

Nina Perch, an attorney with Sgier und Partner GmbH in Zurich, estimates a 95 percent approval rate for her clients in Switzerland hiring high-skilled non-EU nationals, primarily in finance and information technology.⁴² Sara Roussele-Ruffieux, an attorney with BCCC Avocats Sàrl in Geneva, concurs that few clients experience denials when the rules are followed.⁴³ A labor market test in Switzerland is needed, and the failure of this test must be documented before a non-EU national from outside the country can be hired. The salary level offered must be as high as that paid to Swiss workers.

Even though Switzerland is not a member of the EU, an EU national retains the ability to work in Switzerland on a local employment contract without the need to go through the immigration process. A referendum in 2014 may result in the country imposing quotas on EU nationals, although it does not affect the hiring of non-EU nationals. However, the Swiss government announced it has reduced the quota in 2015 for high-skilled workers from non-EU countries.⁴⁴

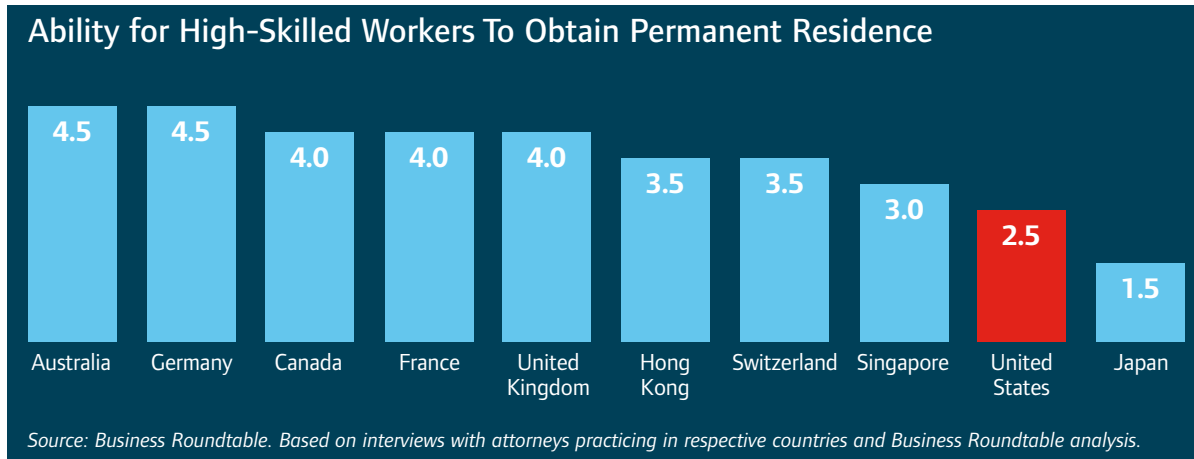
Canada

Canada has no numerical quota for the equivalent of its H-1B visa for skilled foreign professionals. That absence of a quota gives it an edge over the United States. However, it has established a labor market opinion process that has become more onerous in the past year. The process can take three to five months and involves advertising similar in respects to the labor certification process used in the United States for green cards. Attorneys say the process has become "significantly" more difficult due to higher fees; strict advertising rules; and other requirements, including asking companies to produce transition plans to reduce the number of foreign workers in the future.⁴⁵

Japan

Japan does not have a numerical limit, such as the H-1B cap, for skilled foreign nationals. In 2012, it introduced a type of points system for admitting skilled workers that has been considered unsuccessful in attracting workers. One problem in attracting workers to Japan is the language barrier, noted Yoshio Shimoda, an attorney with ILS Shimoda in Tokyo.⁴⁶ In general, an Indian professional would rather work in an English-speaking country, he noted. The lack of a good system to be sponsored for permanent residence is also a problem.

III. Lawful Permanent Residence for High-Skilled Workers



America’s competitors for talent typically do not have quotas and country limits that prevent high-skilled individuals from gaining permanent residence. In most cases, an individual can become a permanent resident after working in a country for a set period of time, typically five years, and passing a test similar to the U.S. naturalization exam. Employers and employees desire predictability, and the immigration systems in other countries offer much clearer paths to the equivalent of the U.S. green card.

Employers support policies that allow valued high-skilled employees to stay and work for a company long term. In the United States, employers sponsor individual employees for permanent residence (a green card). That process is marred by bureaucratic procedures, low quotas and per-country limits, leading to long waits and much uncertainty. For most skilled positions employers must obtain from the U.S. Department of Labor “labor certification,” which is considered an artificial test of the labor market that requires advertisements to demonstrate that no similarly qualified U.S. worker is available. Then, an employer files an application for permanent residence on behalf of the foreign national. Legal and government fees, as well as other costs for sponsoring a high-skilled foreign national from H-1B status to permanent residence, could run as high as \$50,000, according to the Council for Global Immigration and the Society for Human Resource Management.⁴⁷

Depending on the category and country of origin, the wait times for high-skilled immigrants in the United States can be significant, due to a 140,000 annual quota (half of which is used by dependents) and annual limits on the number of people per country who can immigrate under an employment category. The result: A high-skilled foreign national from India, for instance, could wait a decade or even longer for a green card. High-skilled immigrants from China have experienced wait times only somewhat shorter than those of Indians, while individuals sponsored by U.S. employers from other countries can expect to wait six years or more in the most common employment-based preference category in the U.S. system. These long wait times create great uncertainty and discourage highly skilled individuals from remaining in the United States to build their careers.

Australia

The process for high-skilled individuals to obtain permanent residence is easier and more straightforward in other advanced countries. In Australia, workers can transition from a 457 temporary visa to permanent residence after two years “in the same occupation with their nominating employer who wants to offer them a permanent position in that occupation.”⁴⁸ That can be done through the Employer Nomination Scheme. In addition, under



At 28 percent, the proportion of Australia's population that is foreign born is approximately twice as high as that of the United States, and its annual flow of immigrants per 1,000 residents is more than three times as high as America's (11 new immigrants per 1,000 residents for Australia versus three per 1,000 residents for the United States).⁴⁹

Australia possesses some of the world's most pro-growth immigration policies. The 457 temporary visa, equivalent to a U.S. H-1B visa, is easy to obtain for high-skilled professionals. Moreover, such professionals can normally transition to permanent residence after two years, in contrast to the six to 10 years or longer it can take for an employment-based green card in the U.S. immigration system. Intracompany transfers into Australia are considered a snap, and working holiday visas help fill gaps in the workforce, along with visas for lower-skilled workers.

Australia possesses a long history of accepting immigrants, starting from its roots as a British penal colony (and later a group of colonies) from 1788 through its transition to the Commonwealth of Australia in 1901. While earlier waves of immigrants came from England, the leading countries of origin today are India and China, with the United Kingdom (U.K.) in third place.⁵⁰

Like in many advanced economies, immigration stories that capture the most media attention concern unauthorized immigrants. In Australia, that has meant asylum seekers attempting to arrive via boat.

While some U.S. policymakers have looked at Australia as a possible model for the United States, aspects of Australia's system make it distinct and potentially challenging to adopt. First, Australia's points-based system is generally not relevant to employers, according to immigration attorneys. "The points system is not at all important for corporate immigration in Australia," said Tim Denney with

Berry Appleman & Leiden in Sydney. "The points system comes into play when an individual seeks to migrate to Australia and does not have a business operating in Australia willing to sponsor him or her upfront for either a temporary work visa or permanent residence."⁵¹

Second, 70 percent of immigrants admitted to Australia each year arrive via a family connection. While about one-third of immigrants come to Australia as family sponsored, an Australian Parliamentary report explained, "It is important to acknowledge that over fifty percent of the Skill Stream is in fact comprised of family (secondary visa holders)."⁵² Combining the numbers from the two programs, the report noted, "It may be interpreted that over the past decade the family component has actually accounted for around 70 per cent of the total Migration Program."⁵³ The conclusion: "In this light, family migration still remains at the very heart of Australia's Migration Program," and the report calls family migration a "net gain" that helps attract skilled workers.⁵⁴

Third, in addition to lower-skilled visas, Australia fills niches in its labor market via Working Holiday visas. The visas allow people ages 18–30 from nearly 20 countries, including the U.K., France, Germany and Canada, to work for up to 12 months at any job in Australia (no more than six months with one employer).⁵⁵ In 2012, Australia granted 258,250 working holiday visas.⁵⁶

Fourth, similar to the free movement of labor within the European Union, citizens of New Zealand can enter Australia to work without a visa. In 2012, 41,200 people from New Zealand came to Australia as "permanent settlers under the Trans-Tasman Travel Arrangement."⁵⁷

The Australian government is trying to attract workers who will help companies grow. America could learn a lot from the Land Down Under.

the Regional Sponsored Migration Scheme visa, an individual can receive permanent residence if “nominated by an approved Australian employer for a job in regional Australia.”⁵⁸

While the points-based system in Australia garners attention, it is basically irrelevant for employers, which is important considering some in America advocate that the United States adopt such a system. “The points system is not at all important for corporate immigration in Australia,” said Tim Denney with Berry Appleman & Leiden in Sydney. “The points system comes into play when an individual seeks to migrate to Australia and does not have a business operating in Australia willing to sponsor him or her upfront for either a temporary work visa or permanent residence.”⁵⁹ The Direct Entry stream for those who have not worked before (or have worked only briefly) in Australia and the Skilled Nominated category are permanent residence visas for “points-test skilled workers who want to work and live in Australia.”⁶⁰

Germany

Workers possess options to obtain permanent residence in Germany, noted Stefan Lenz, head of the legal department at ICUnet.AG. If an individual has a Blue Card, then he or she can apply for permanent residence after 33 months or, in some cases, after only 21 months if he or she demonstrates a high-level knowledge of the German language.⁶¹ A second option for permanent residence is for an individual to work in Germany for five years, pay into Germany’s retirement system or a comparable insurance institution, achieve proficiency in the German language, and demonstrate sufficient knowledge of Germany’s “legal and social order.”⁶²

Canada

In Canada, increasing numbers of people are gaining permanent residence by transitioning from a temporary visa. An individual can transition to permanent residence within one to two years of applying, and (according to the Canadian government) the new Express Entry system introduced in January 2015 may shorten that time. The program will target a six-month processing period from the date of filing for eligible applicants in and outside Canada, although it is unclear if that goal can be met.⁶³

Workers can gain permanent residence through work in the Canadian provinces via the Provincial Nominee Programs. “In the last ten years, the Provincial Nominee Programs have become the second largest source of economic immigration to Canada. In 2011, for example, 38,000 provincial nominees (including their spouses and dependents) were admitted to Canada, an almost six-fold increase since 2004,” according to Citizenship and Immigration Canada.⁶⁴ In most cases, the provincial nominees were first admitted based on local employers offering jobs.

The Canadian government introduced the Express Entry system in January 2015 to act as a “filter” that could give priority for permanent residence to individuals employers have already hired (or wish to hire) in Canada, according to David Crawford, an attorney with Fragomen Worldwide in Toronto.⁶⁵ At the federal level, Canada operates three programs for permanent residence related to employment: the Federal Skilled Worker Program, Canadian Experience Class and the Federal Skilled Trade Program. (All the provinces also operate Provincial Nominee Programs.) Individuals seeking permanent residence through one of these categories would express an interest online, and the Canadian government would “invite” the most qualified people to apply within the government’s overall target number.

A 1,200-point scale would be used, but an individual with a job offer or sponsorship, including through the Provincial Nominee Program, would be awarded half the points and be given priority over other people. As *The Economist* explained, “Those with the highest scores will be quickly invited to apply for permanent residency

under one of three economic entry programs. The rest remain in a pool from which the government and eventually employers can pick.”⁶⁶

Legal experts caution it may be too early to determine the impact of the new Express Entry program. “We hope that the Express Entry program is going to change things for the better,” said Audrea Golding, partner at Fragomen Worldwide in Canada.⁶⁷ Peter Rekai, an attorney with Rekai LLP in Toronto, warns that to prevent the federal government from exceeding its “target number,” people who would have qualified under the existing immigration programs and gained permanent residence will now have to compete against each other in Express Entry.⁶⁸ Importantly, those who fail to gain permanent residence in a given year would have to start the process over again the following year, rather than be placed on a waiting list as in the past.

The U.K.

In the U.K., most employees on temporary visas, except for intracompany transferees, are eligible to attain permanent residence after five years of residing and working in the country. After meeting the residency requirement, individuals must pass a test demonstrating knowledge of life in the U.K. A year later, an individual can apply to become a British citizen.

France

Lawful permanent residence in France can be obtained after residing in the country for five years, such as while working on an EU Blue Card or as a high-skilled foreign national, although intracompany transferees are not eligible to change their status directly to permanent residence. Individuals must show they have paid their bills and taxes and do not risk becoming a public charge.

Hong Kong

The system for obtaining permanent residence in Hong Kong is also straightforward. There is no annual numerical limit on permanent residence in Hong Kong. After seven years of “continuous residence” an individual can apply for Right of Abode, similar to green card status in the United States. There were 64,804 such applications approved in 2012 and 68,802 in 2013.⁶⁹ A person is likely to be rejected only if there is doubt over the “continuous” nature of the residence through, for example, physical absences from Hong Kong, note attorneys.

Singapore

Permanent residence has become more difficult to obtain in Singapore due to new policies. One can apply for permanent residence within a month of entering; however, individuals must prove why their permanent residence would benefit Singapore. Immigration firms advise residing in the country at least two years prior to filing. According to Christina Karl, managing director of Asia, Berry Appleman & Leiden, Singapore does not publish explicit quotas for permanent residence. Attorneys believe approvals, which can take up to 18 months, now hinge on the government addressing the balance of nationalities and the specific skills an individual can bring to Singapore. The lack of transparency on permanent residence in Singapore would concern Americans and others used to clearly stated criteria.

Switzerland

A foreigner in Switzerland who is an EU national can obtain permanent residence after residing in the country for five years. Non-EU nationals can become permanent residents after living in Switzerland for 10 years. After 12 years of residence (total), one can usually obtain Swiss citizenship.

An Appointment with Demographic Destiny



Japan has maintained, at best, an ambivalent attitude toward immigration. Because of low fertility rates and a sparse flow of immigrants, the population of Japan is expected to drop by 19 million people — about 15 percent — by the year 2050, falling from 127 million to 108 million.⁷⁰ Exacerbating the situation is the fact that more than half of its population will be age 50 or older.⁷¹ The Japanese public is well aware of the demographic dilemma. In a Pew Research Center poll, 87 percent of Japanese said the growing number of older people in the country is a “major problem,” the highest of any nation surveyed.⁷²

Projections that Japan’s population will plummet without a commitment to increased immigration have not changed the country’s policies. “The basic mindset in Japan is it’s not a country that accepts immigrants,” said James Dougherty, an attorney at Hikari Sogoh in Tokyo and a life-long resident of Japan with American-born parents. “Even with the concerns about population reduction, that has not changed.”⁷³

The American occupying force after World War II established the basic structure of Japan’s immigration system. A 1989 law enacted reforms, and a 2012 law and recent revisions have sought to open the door wider to highly skilled foreign nationals, while maintaining restrictive policies toward lower-skilled workers and immigration more generally.

“Japanese society does not have a tradition like in America of Chinese-Japanese or Indian-Japanese,” said James Dougherty. “Here you are told to lose your previous identity.”⁷⁴ But without increased immigration there will be fewer people to tell others to lose their identity — or to fill lower-skilled jobs and support government programs for the elderly.

Despite a general prohibition on the entry of lower-skilled workers, Japan’s policies are surprisingly open toward high-skilled immigration. Attorneys report low denial rates and no quotas for employers wishing to hire or transfer in high-skilled foreign nationals. Even policies on foreign entrepreneurs are moderately favorable.

The years of little to no economic growth have lessened pressure on the country’s leaders to open Japan’s doors wider to immigration. Japanese businesses are generally not active advocates for pro-growth immigration policies. If the policies of Japanese Prime Minister Shinzo Abe can spur the Japanese economy, then the greater demand for labor and the increase in job openings could encourage businesses to press for more favorable policies on lower-skilled workers and permanent residence.

Japan

“The biggest difference between Japan and the United States is Japan has no system at all for persons to immigrate directly to the country,” said attorney Yoshio Shimoda. “The person must be in lawful status for 10 years in Japan before becoming a permanent resident.”⁷⁵ The time period is three years if married to a Japanese citizen or if entering through the points-based system. A related problem is that Japan does not allow dual nationality, which means to become a citizen in Japan one must relinquish citizenship rights in other countries. “That would discourage a lot of people,” said attorney James Dougherty.⁷⁶ There is also a sense among experts that if immigration were to increase in Japan, then authorities would act to limit it.

IV. Transferring High-Skilled Employees Across Borders



Employers value the ability to transfer employees across borders since it can be crucial to completing projects and delivering products and services to customers. In contrast to the policies in other nations, the United States makes it difficult to transfer these valued workers into the country.

Difficulty in transferring employees into the United States has frustrated multinational corporations, which use L-1 visas to transfer executives and managers and L-1B visas to transfer employees with “specialized knowledge.”⁷⁷

“While as recently as FY 2006 the denial rate for L-1B petitions was 6 percent, the denial rate for L-1B petitions rose to 34 percent in FY 2013, after rising to 30 percent in FY 2012 — a more than five-fold increase in the rate of denials despite no new regulation changing the adjudication standard,” according to the National Foundation for American Policy.⁷⁸ A related problem in the U.S. system is Requests for Evidence (RFEs), in which USCIS adjudicators ask for additional paperwork to justify an application. This request happens in approximately half of all L-1B cases. “RFEs can disrupt business operations and planning and result in delays for product development or client services,” noted the USCIS ombudsman in a 2014 report to Congress.⁷⁹ In response to these concerns, the Obama Administration announced plans to issue additional guidance on international transferees.

Australia

To transfer an employee into Australia is straightforward, and adjudicators deny few cases and rarely issue requests for additional evidence. Tim Denney, managing director of Berry Appleman & Leiden in Sydney, said that, in contrast to the United States, the equivalent of the L-1 visa in Australia is “relatively easy.”⁸⁰ The 457 visa in Australia combines the features of the U.S. L-1 and H-1B visas. An employer needs to demonstrate it will pay the market wage, and there are several ways to do that, according to Denney. The position also must reach a minimum salary threshold. Under Australian immigration law, a multinational corporation does not even need to maintain a presence in Australia to transfer an individual into the country to work. A U.S. entity can send someone to work for it in Australia, and the visa will be approved if the other criteria are met.



Despite political disagreement over integration, illegal immigration and asylum policy, France maintains a pro-growth immigration policy. As a member of the European Union (EU), its doors are open to the 500 million citizens of the EU who can work in France without the need for immigration processing. This compensates for a limited process for lower-skilled visas and complements the country's policies to attract highly skilled foreign nationals.

The EU Blue Card allows non-EU citizens with the equivalent of an associate or bachelor's degree (or five years professional experience) to work in France with a one-year employment contract offer and an annual salary 1.5 times France's gross average annual salary, which is 52,750 euros (about \$59,000 in the United States).⁸¹ There are no quotas on the Blue Card.

Permanent residence for a foreign professional can be obtained after five years of working in France, except for intracompany transferees. However, intracompany transferees have an easy time gaining approval in France, according to immigration attorney Karl Waheed.⁸²

Waheed noted a proposed French law would allow foreign professionals outside the EU to work for up to 90 days in France without immigration processing.⁸³

Immigration from its former colonies has remained a flashpoint in political debates in France, which have often featured controversies over Muslim immigrants and asylum seekers. Algeria, Morocco and Tunisia have been the three

largest source countries of immigrants to France in recent years. The debate has manifested itself less on immigration numbers than on symbolic issues, such as headscarves, stronger citizenship requirements and mandatory singing of the French national anthem in schools.⁸⁴

While opponents of immigration have protested and supported like-minded candidates at the ballot box, stricter enforcement of laws against illegal immigration has also created controversy. In 2013, protests erupted in France after a 15-year-old girl was arrested in front of her classmates on a school field trip and deported with her family back to Kosovo after losing an asylum hearing.⁸⁵

France's rigid labor laws, which have often kept the national unemployment rate above 10 percent, have exacerbated the cultural clashes. Unlike in America, where Muslim immigrants meld into the labor market, including many professionals and business owners, the focus on job protection for incumbents in France limits opportunities for newcomers.

"During the past 20 years the goal has been to establish a secure immigration framework due to the links to France's old colonies in Africa," said Raphael Apelbaum, an attorney with LexCase in Paris. "More recently the goal has been to attract investment and highly skilled people to France. The economy has been globalized, so immigration rules need to follow this globalization."⁸⁶

Singapore

Despite some recent changes, Singapore also remains a much easier place to transfer in employees than the United States. Employees transferred into Singapore do not need their positions tested via the new Jobs Bank, which is now required for some other positions in Singapore. Attorney Mark Chowdhry believes that gaining approval for an intracompany transferee is just as likely in Singapore today as in the past.⁸⁷

Germany, France, the U.K. and Switzerland

In Germany, France, the U.K. and Switzerland (due to a bilateral agreement with the EU), an employer can transfer any EU citizen into another company in the EU without filing any immigration paperwork. In the U.K., employers transferring in non-EU employees experience an “exceptionally low denial rate,” provided the role is “genuine” and recognized as skilled enough by the U.K. government, according to attorney Emily King.⁸⁸

A new EU policy on international transferees, set to take effect in 2016, would allow expedited approval (within 30 days) for managers, specialists and graduate trainees from non-EU countries to be transferred to work in a company’s EU entity. “The directive should do much to facilitate the movement of key workers for multinational companies,” according to experts in Europe.⁸⁹

Today, for a non-EU citizen, an employee transferred into Germany must meet the same qualifications as the D visa, which means the individual generally needs to be in a professional or executive position and be paid comparable to Germans in those jobs. “Nonprivileged” nationals, such as Indian nationals, can stay in the country for three years after transferring as long as they earn a wage comparable to German nationals in the same positions. These workers must possess company-specific knowledge to qualify for the visa.

Until 2004, France had no formal regulations for intracompany transferees and some other aspects of employment-based immigration, with many cases decided based on internal agency memorandums and previous administrative decisions. To improve the situation, the government contracted with Karl Waheed’s law firm, based in Paris, to produce a white paper that recommended specific rules for intracompany transfers, which French authorities adopted. A non-EU employee transferred to work in France can stay for three years if he or she remains on the foreign payroll or up to six years (with a renewal after three years) if placed on the French payroll (and paid at least 1.5 times the state minimum).⁹⁰

If an employer wishes to transfer a non-EU national employee into Switzerland within the same company structure, it can do so with no labor market test, particularly if it can show that the individual is part of the top hierarchy of the company or the entire position is moving to Switzerland. The length of time a work permit is granted depends on whether the employee is “on assignment” or “on a Swiss contract.” Someone working on a Swiss contract must be paid the local Swiss salary and pay taxes like a worker in Switzerland. Assignees from EU countries must also be paid a salary equal to Swiss salary levels.

Hong Kong

Employers applying to transfer high-skilled employees into Hong Kong usually find their applications approved, according to attorneys. Positions outside of banking, asset management and information technology, such as sales, are more difficult for companies. The Immigration Department is more likely to deny a case if it appears the market wage is not being paid and if the employer does not attempt to recruit locally. While rejections are generally rare, employers have experienced increased scrutiny of applications to transfer high-skilled employees into Hong Kong in the past year.

Canada

Although it has tightened its rules in the past two years, Canada also remains an easier place than the United States to transfer in high-skilled employees and managers. Attorneys in Canada do not report the type of large increase in denials on intracompany transferees experienced in the United States. One advantage in Canada’s



A Business-Friendly Approach to Immigration

Located in the center of Europe and sharing borders with five countries, Switzerland has established business-friendly immigration policies and is one of the leading nations for immigration due, in part, to its agreement on free movement with the European Union (EU).

For those in America who argue increased immigration means a higher unemployment rate, Switzerland helps disprove that economic fallacy (which ignores the reality that new workers consume goods and services, creating an increased demand for labor). Switzerland's unemployment rate fell from about 3.8 percent in January 2005 to 3.1 percent in December 2012, while at the same time the annual inflow of immigrants to the country increased by more than 40 percent.⁹¹

The percentage of foreign born in the country is 28 percent (approximately twice the U.S. level), and with a population of approximately 8 million, its annual flow of new immigrants is approximately five times the level of the United States.⁹²

Work permits for intracompany transferees and other high-skilled foreign professionals coming from outside the EU generally are approved, despite the labor market test requirement on certain temporary visas.⁹³ Non-EU international students are provided six months to find

employment. EU citizens can receive permanent residence after five years; individuals from outside the EU can receive it in 10 years.

Although not an EU member, Switzerland and the EU allow free movement across their borders, giving Swiss citizens the right to work in EU countries and EU citizens the right to work in Switzerland. A February 2014 referendum in Switzerland requires the government to place quotas on the entry of EU citizens, although a number was not specified. The Swiss government has not decided on a quota and has until 2017 to implement the referendum to limit the immigration of EU citizens into Switzerland.

"The free movement of people is an important principle for the European Union," said attorney Sara Rousselle-Ruffieux. "If you place a quota, then you limit the principle, and it's unclear how the EU would react to that."⁹⁴ That is the dilemma facing the Swiss government. In November 2014, Swiss voters rejected by a wide margin even tighter immigration restrictions.

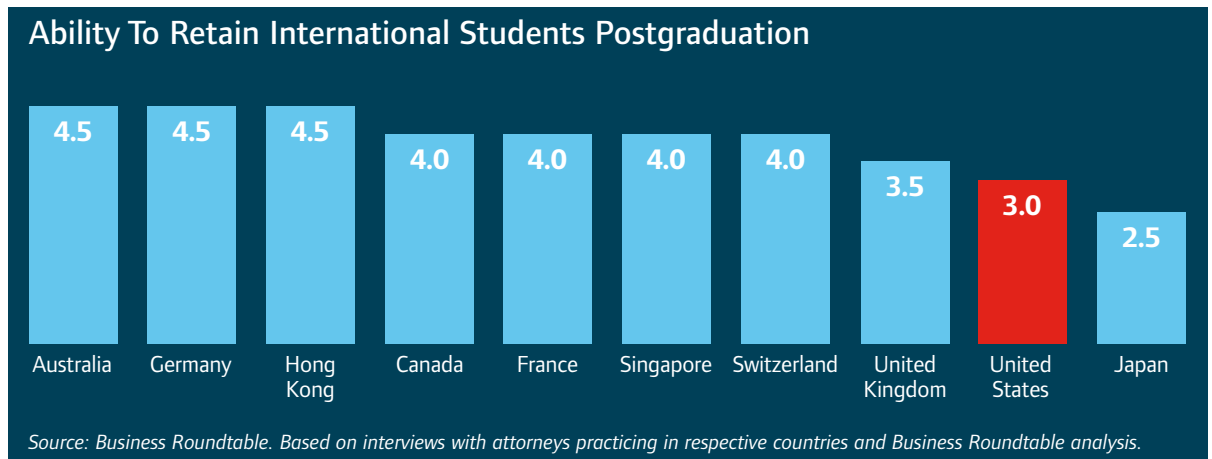
Given its location and low unemployment rates, Switzerland will continue to attract immigrants. Government officials must balance the need to maintain pro-growth policies with the wishes of voters.

favor is that nationals of many countries, including the United States, European nations, the U.K., Japan and Australia, are exempted from requiring a visa to travel to Canada and can therefore apply for intracompany transfer-based work permits at the port of entry.

Japan

Employers transferring high-skilled foreign nationals to work in Japan must pay a salary equivalent to that of a Japanese professional, and the individual must have worked for the company abroad as a specialist or an executive for at least a year. One area of denials for intracompany transferees in Japan is the issue of whether the company in Japan is truly a subsidiary of the company abroad, according to Yoshio Shimoda of ILS Shimoda in Tokyo.⁹⁵

V. Retention of International Students Postgraduation



The United States is behind other countries in permitting international students to find jobs after graduation and put their talents to work in the country that educated them. Policymakers in many nations believe that after educating international students, giving them the opportunity to remain and build careers makes sense. Governments in many advanced economies allow international students a period of time after graduation to find employment and make obtaining a work permit easier.

Unfortunately, low quotas on H-1B temporary visas and the long waits for employment-based green cards can prevent international students from remaining in the United States after graduation. If an international student is unable to secure an H-1B visa, then the only option to remain in the United States is Optional Practical Training (OPT). However, given the low quota on H-1B visas, even if a student obtains OPT status he or she will still be uncertain if the only practical way to work long term in the United States — obtaining an H-1B visa — is feasible.

Under OPT, an international student can work for 12 months for an employer before or after graduation. In addition, “F-1 students who receive science, technology, engineering, and mathematics (STEM) degrees included on the STEM Designated Degree Program List, are employed by employers enrolled in E-Verify [the federal employment eligibility verification system], and who have received an initial grant of post-completion OPT related to such a degree, may apply for a 17-month extension,” according to USCIS. “This extension of the OPT period for STEM degree holders gives U.S. employers two chances to recruit these highly desirable graduates through the H-1B process, as the extension is long enough to allow for H-1B petitions to be filed in two successive fiscal years.”⁹⁶ Still, even the extended time for OPT does not guarantee success in obtaining an H-1B visa. The Obama Administration announced proposed changes to OPT, but the scope and practical impact of any new policies remain unclear.

Canada

In the meantime, other countries maintain policies aimed at encouraging international students to stay and work after graduation. “Canada really facilitates employment for international students,” explained attorney Peter Reikai. “Canadian immigration policies have benefitted the country’s colleges.”⁹⁷ An international student can obtain a temporary work permit while studying and then obtain an “open” work permit for up to three years after graduation from a postsecondary academic program. During this period, many students are able to find skilled

Navigating Its Own Path on Immigration



Hong Kong has been rated the number one place in the world for economic freedom, and it is no surprise that it has adopted economically beneficial immigration policies.⁹⁸

A British colony considered barren and poverty stricken after World War II, Hong Kong rode free market policies established by British administrators to become one of the world's most vibrant economies. One factor in that economic success: opening its doors to immigrants.

Hong Kong's population has risen from less than 2.2 million in 1950 to more than 7 million today.⁹⁹ The percentage of foreign born in Hong Kong is 39 percent, nearly three times as high as the U.S. proportion.¹⁰⁰

Under the 1984 Sino-British Joint Declaration entered into between China and the United Kingdom, Hong Kong was granted a "high degree of autonomy" in domestic affairs when it reverted to China on July 1, 1997.¹⁰¹ Hong Kong, as a Special Administrative Region of the People's Republic of China, still maintains an immigration system separate from Mainland China. While Mainland Chinese are allowed to move to Hong Kong under both the Quality Migrant Admission Scheme and the Admission Scheme for Mainland Talent, the Hong Kong Immigration Department aims to ensure that such opportunities are legitimate.

Employers and foreign-born professionals enjoy a system with no quotas on temporary visas for high-skilled foreign nationals. Under the General Employment Policy,

employers are not required to advertise or pay a specific salary and refusals of application are in the 2 to 3 percent range, according Christopher Hooley, partner at Oldham, Li & Nie.¹⁰² Transferring in skilled employees is also not a problem for employers. Hiring lower-skilled workers is more difficult.

International students are encouraged to stay and can file for Immigration Arrangement for Non-Local Graduates status, which allows them a year to search for a job and to be hired by an employer with no additional immigration paperwork.

After seven years of continuous residence in Hong Kong an individual can apply for permanent residence. No quotas exist for grants of permanent residence in any year.

The Quality Migrant Admission Scheme allocates visas via a points-based system. "The points system is not relevant to most employers in Hong Kong," according to Christopher Hooley. It is mostly used by individuals with unusual or exceptional achievements, such as the recent case of an Olympic diver from Mainland China who wanted to move to Hong Kong after marrying.

As a jurisdiction that values economic freedom, Hong Kong is likely to keep its doors open for the highly skilled immigrants needed to fuel its economy.

work in Canada and become eligible to transition to permanent residence without leaving the country. Canada does not impose per-country limits, as the United States does. That means international students from India or China can envision a shorter path to permanent residence than the potential decade-long (or longer) wait in the United States.

International students will continue to have a very good chance to transition to permanent residence in Canada. However, permanent residence will not be assured anymore because under Express Entry, students will need a job offer subject to a labor market test to maximize points. Offering that job will be challenging for their employers under the new rules for temporary visas because the international students likely would be entry level

and the salary requirements would be higher. However, age, education and language skills should ensure many international students achieve sufficient points to gain permanent residence under the new Express Entry system, according to Rejai.¹⁰³

Australia

Australia provides its international students with an advantage in applying for a temporary work visa. One can obtain a Temporary Graduate visa, which allows students and their families to stay temporarily in Australia and seek employment.

Germany, France, the U.K. and Switzerland

Similarly, being an international student at a German university helps individuals qualify for temporary visas to work in the country. An individual can start an internship with a German company and convert that to an employment visa. In addition, a “job seeker” visa gives a recent graduate six months to find employment after graduating.¹⁰⁴ “This visa is aimed at highly qualified candidates, i.e. non-EU nationals holding a German or otherwise recognized equivalent university degree. The visa enables the holder to remain in Germany for a period of six months in order to find appropriate employment,” according to the Embassy of the Federal Republic of Germany (London).¹⁰⁵

Students from EU countries can stay and work in Germany without additional immigration processing due to EU rules on the freedom of movement for EU citizens. This is also the case for EU nationals graduating from universities in France, the U.K. and Switzerland.

International students who earn a postgraduate degree in France, the equivalent of a master’s degree or higher in the United States, can change their status to lawful workers in the country without labor market testing or other requirements. The student’s job must pay 1.5 times the minimum salary, which would be approximately 2,000 euros a month (about \$30,000 a year).¹⁰⁶

In the U.K., employers can hire students with a British university degree under Tier 2 temporary visas (the primary work visa for high-skilled workers) without conducting a Resident Labor Market test. That provides international students in the U.K. an advantage over other foreign nationals. International students are allowed four months to seek long-term employment, although the time frame was 24 months prior to a change in 2012. In December 2014, British Home Secretary Theresa May announced a new government policy that would have required international students from outside the EU to leave the country to apply for work visas. Business, scientific and university leaders criticized the proposal, and the negative reaction appears to have shelved it.¹⁰⁷ The *Financial Times* reported a Conservative government official as stating: “We have a policy that international students can stay when they graduate if they find a graduate-level job paying £24,000 a year. That remains the policy.”¹⁰⁸

In Switzerland, a non-EU international student can stay for six months after graduation to search for work. During that time he or she can apply for a longer-term status once employment is found. A work permit is needed to change status from student to employee, and it would be granted from an annual quota for work permits for non-EU nationals. Labor market testing is required, except if the position is of high scientific or economic value. As noted earlier, an EU international student can stay and work after graduation without needing to apply through the immigration process. A simple notification of the new status to authorities suffices in such cases, according to Nina Perch.¹⁰⁹

Singapore

Singapore does not provide special rules for international students to stay after graduation in Singapore. But according to Mark Chowdhry, in practice, “an international student pretty much can stay and work if he or she wants to do so.”¹¹⁰

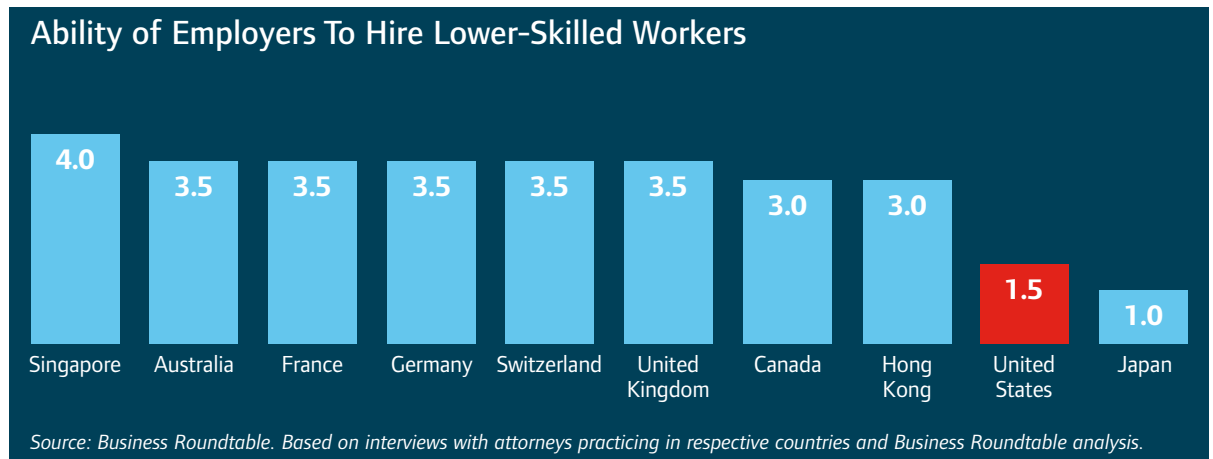
Hong Kong

Hong Kong makes it relatively easy for an international student to remain in Hong Kong to seek employment. This coincides with the government’s policy initiative to make Hong Kong a “regional education hub.” A student can file for Immigration Arrangement for Non-Local Graduates status and is allowed a year to find a job. He or she can work for any employer in Hong Kong without the need for an additional visa from immigration authorities. The status is subject to renewal after a year and should be approved if the graduate has a Hong Kong employer and continues to be employed in Hong Kong.

Japan

Japan allows international students six months after graduation to seek work with the option to extend that period for an additional six months. Since there is no quota on professional work visas (technically called Specialist in Humanities and International Services visas), international students often can stay and work after graduation if they desire. However, along with cultural issues, the 10-year wait before applying for permanent residence likely dissuades at least some international students from seeking to make Japan a permanent home.

VI. Hiring Lower-Skilled Workers



A primary factor that propels immigrants to enter America illegally is the opportunity to work in full-year jobs at salaries higher than in their home countries. They enter and work illegally because the U.S. immigration system has no visa category for year-round jobs in hotels, restaurants or construction. Only foreign nationals interested in seasonal positions can work lawfully at lower-skilled jobs. The bureaucratic H-2A seasonal visa for agriculture and the equally bureaucratic and numerically limited H-2B category for nonagricultural work, such as in summer resorts, are the only legal alternatives for foreign nationals to work at lower-skilled jobs in the United States.

Singapore

In place of bureaucratic rules, Singapore has adopted a foreign worker levy as a “pricing mechanism to regulate the number of lower-skilled foreign workers in Singapore.”¹¹¹ The levy is different for various sectors. For example, if foreign workers represent 25 to 50 percent of a manufacturing company’s workforce, then the company pays a monthly fee of 470 Singapore dollars (about \$375) for every unskilled foreign worker it employs.

Restrictions exist on the percentage of foreign lower-skilled workers a company may employ, but the rules still allow employers to hire a significant share of such workers. For example, in construction, 87.5 percent of the workforce can be foreign, while the level is 60 percent in manufacturing and 40 percent in services.¹¹² Still, relatively few citizens of Singapore seek to work in construction, which means the quotas can be an issue for companies. The quotas and levies generally do not affect high-skilled workers. “If an employee is paid more than 3300 [Singapore dollars] a month (about \$2,640) and meets education and experience requirements, then they are eligible to apply for an Employment Pass,” which is not subject to quotas.¹¹³

Canada

Every province operates an immigration program in Canada, which helps regions with different needs meet demands for labor. For example, while most of Provincial Nominee Programs are geared to high-skilled professionals, lower-skilled workers, such as meat packers admitted to work in Manitoba under the federal Low Skilled (now known as Low Wage) Temporary Foreign Worker Program, have been able to quickly transition to permanent residence under the provincial program. “After six months they can file for permanent residence under the Manitoba Provincial Nominee Program and get it,” according to attorney Peter Re kai. The country also admits agricultural and nonagricultural workers on a seasonal basis subject to standardized and regulated employment contracts.

A Free Market Approach to Immigration



While the Fraser Institute, a Canadian research group, rated Hong Kong first in the world for economic freedom, Singapore finished just behind in second place.¹¹⁴ The nation's free market policies — including those that relate to immigration — have made it one of the world's most successful economies.

Singapore's unemployment rate has not exceeded 2.2 percent since 2010, an economic record most governments would envy. After more than 140 years as a British colony, in 1963 Singapore became part of newly formed Malaysia and established its own sovereign nation two years later in 1965. The percentage of foreign born in Singapore is 39 percent. A small island nation, Singapore is only about 3.5 times the size of Washington, D.C., and it is multiethnic, with Chinese the dominant ethnicity, followed by Malay, Indian and European.¹¹⁵

In an effort to maintain ethnic and political harmony, the country's leadership has established certain rules on immigration. For example, rather than enact a series of bureaucratic rules, Singapore established a foreign worker levy as a "pricing mechanism to regulate the

number of foreign workers in Singapore."¹¹⁶ The levy varies by sector.¹¹⁷ Also, approval for permanent residence is much more discretionary in the hands of Singaporean immigration officials when compared to other countries. However, businesses and attorneys find transferring employees from abroad a smooth process with few denials.

In 2014, Singapore started requiring employers to use a Jobs Bank, an online jobs posting site, in conjunction with hiring foreign nationals. Employers, particularly small employers and those hiring highly skilled individuals, were given a number of exemptions from using the Jobs Bank. "Companies are still likely to get the person they want," said Mark Chowdhry, managing associate at Magrath Global in Singapore.¹¹⁸

The free market tenor of Singapore's economic policies leads observers to expect immigration policies in the country to remain pro-growth. "Even after the changes," said Christina Karl, managing director, Asia, of Berry Appleman & Leiden, "Singapore will remain the easiest place in Asia to hire and retain skilled foreign workers."¹¹⁹

"While there are some avenues for low-skilled (or semi-skilled) workers to transition toward permanent residence, the process is not quick and by no means easy," said Audrea Golding, an attorney with Fragomen Worldwide in Canada.¹²⁰ While concurring with Reikai on the possibility of a foreign national gaining permanent residence in Manitoba, she points out that meeting the government's qualifications for individual professions and work experience can be problematic. Seasonal workers need to establish 12 months of work experience before becoming eligible for a Provincial Nominee Program. Still, to place this in context, in the United States, seasonal workers on H-2A or H-2B visas are ineligible to transition to permanent residence.

Canada allows full-time caregivers to transition to permanent residence. In contrast, the United States generally does not allow employers to sponsor foreign caregivers on either temporary visas or for permanent residence, whether for the elderly, for children or for health care purposes.

Despite these programs, “new rules in the past 12 months have narrowed the ability of employers in Canada to hire lower-skilled workers,” said Reikai.¹²¹ The Canadian government has mandated that by July 1, 2016, no employer can have more than 10 percent of its labor force at any one site be lower-skilled foreign workers on temporary visas. Moreover, employers must now pay a \$1,000 fee for each foreign worker and continue to advertise prior to hiring a “low-wage” worker.

Australia

Australia fills many of its lower-skilled work needs through Working Holiday visas. The country issued 258,250 such visas in 2012.¹²² These visas allow many young people from different countries to enter Australia for 6 to 12 months and work at jobs in restaurants, hotels and elsewhere. Jobs not considered highly skilled may require a labor market test to use a 457 visa in Australia.

Germany, France, the U.K. and Switzerland

In comparing policies on lower-skilled workers, one must start with the fact that Germany, France, the U.K. and Switzerland permit any citizen of the EU to enter these countries and work at lower-skilled jobs without going through any immigration process at all. The 2014 referendum in Switzerland may change aspects of the policy in that country, but the extent of the change remains unclear, and there are efforts to overturn the referendum or at least limit its impact. No provisions exist in Swiss law to grant work permit approvals to newly arriving non-EU nationals to work at lower-skilled jobs in Switzerland.

Since EU nationals do not require a work permit to be employed in Germany, many potential workers come to the country to seek lower-skilled positions, including short-term work. Access to the entire EU for labor means temporary visas for lower-skilled labor outside the EU generally are not necessary, according to Lucy Jacobs of Palladium Mobility Group. Bulgarians, for example, come to Germany to pick cherries on a seasonal basis, the type of jobs most Germans are not interested in filling. In addition, seasonal visas are available for up to six months in agriculture, catering and the hotel industry with the approval of the German labor office.

In the U.K. there is no visa category for lower-skilled jobs. While a Tier 3 category exists for seasonal labor, such as picking crops, it has never been implemented. The sentiment in the U.K. has been that since nearly anyone within the EU could enter the U.K. and work, there should be sufficient labor to meet the demand. Attorney Rose Carey believes access to the EU workforce has been sufficient to meet lower-skilled labor needs in the U.K.¹²³

As an EU member, France’s labor market is also open to the approximately 500 million EU citizens who can enter the country to work without any immigration filings. As with Germany and the U.K., this helps fill some of the demand for lower-skilled workers. Still, attorneys believe a majority of individuals who work in France as nannies and some other jobs are in the country unlawfully and do not come from EU member states. One reason for this is that it is considered “almost impossible” to gain approval for a “low-skill” full-year worker, such as a hotel worker, crane operator or even construction foreman, due to the labor market testing required for such jobs. However, employers in France can gain approval to hire seasonal workers in agriculture and tourist resorts. The work permits for seasonal workers allow entry for multiple years and are considered to serve their purpose well.¹²⁴

Hong Kong

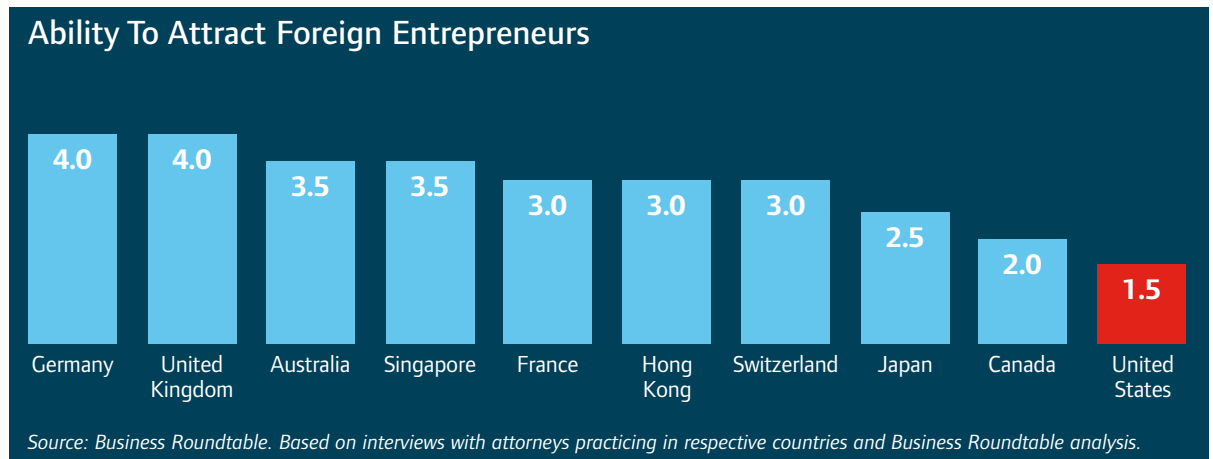
Hiring lower-skilled foreign nationals to work in Hong Kong is possible but not simple. “There is a lot of red tape,” according to Magdalene Tennant with Fragomen Worldwide in Hong Kong. “It is nowhere near as easy to hire low-skilled workers as high-skilled workers.”¹²⁵ Under the Imported Workers’ Scheme, the process to hire and bring construction workers or mechanics into Hong Kong is time consuming and involves filings with the Labor Department and local advertising, followed by applying for the visa. “It is difficult,” said Hong Kong attorney Christopher Hooley.¹²⁶

Despite these challenges, a Foreign Domestic Helpers Scheme and a Training Scheme allows persons who qualify to work legally in Hong Kong. The Working Holiday Scheme allows young people ages 18–30 from certain countries to work for up to a year in Hong Kong, helping to fill some labor market niches. Moreover, in response to concerns from the business community and the aging population in Hong Kong, *China Daily* reported: “To alleviate the labor pressure, the administration said it will permit those elderly service centers which participated in the ‘Enhanced Brought Place Scheme’ to recruit imported labor through the SLS (Supplementary Labor Scheme). The government has not permitted the above elderly care centers to hire imported labor in the past.”¹²⁷

Japan

Japan does not possess a category for lower-skilled workers, even for seasonal agricultural work. An employer can hire someone only on a “trainee” visa and allow the foreign national to work at lower-skilled jobs under the premise that the foreign national is being trained to work in agriculture, construction, etc. Individual employers typically use only one or two such visas a year. Japanese Prime Minister Shinzo Abe has announced the government will make it easier to bring in foreign construction workers to help with the rebuilding that continues in parts of Japan following the devastating tsunami. This may also be helpful for construction work connected to Tokyo hosting the Summer Olympics in 2020.

VII. Attracting Foreign Entrepreneurs



Given the entrepreneurial spirit of the American economy, it is noteworthy that the country lacks an “entrepreneur visa,” meaning no legal mechanism allows someone with a good idea to obtain both a temporary visa and permanent residence for starting a successful business in the country.

While many immigrants are successful entrepreneurs in the United States, they accomplish this only after gaining permanent residence through another part of the legal immigration system, either as a refugee or as a family- or employer-sponsored immigrant. Many years may pass while a foreign national with an idea and even financial backing must wait for that permanent residence status before being permitted to start a business. That delay means many potential entrepreneurs may leave the United States to pursue that dream elsewhere or simply miss out on an opportunity to start a company.

The closest thing is the EB-5 Immigrant Investor visa, which is for investors, not entrepreneurs. Foreign nationals invest usually \$500,000 in ongoing projects, such as hotels or casinos. The E-2 visa for treaty investors is for temporary status (not permanent residence) and is not open to entrepreneurs from India, China and a number of other countries. President Obama has proposed expanding the use of “national interest waivers” and granting “parole” to give more foreign-born entrepreneurs a chance to stay in America long term to build their businesses. Given that adjudicators are not known for giving great deference to employer-sponsored immigration, including startup activities, administrative policy changes are likely to be less effective than a legislative solution that establishes an entrepreneur visa.

Australia

In Australia, an individual can use an existing entity in another country to set up a business and obtain a visa, which would operate similarly to what business people in the United States envision as an entrepreneur visa. Similarly, a substantial investment from a venture capital firm in a business is often sufficient for someone to obtain temporary status as the head of the office in Australia, according to Australian registered migration agent Tim Denney.¹²⁸

Germany, France, the U.K. and Switzerland

Germany, France, the U.K. and Switzerland permit any EU citizen to enter their countries and start a business without contacting immigration authorities. That is a significant advantage over any other type of government program geared to raising particular dollar amounts from outside investors. In addition, Germany maintains a



“Popular unrest about immigration to the U.K. [United Kingdom] is largely caused by low-skilled EU [European Union], family and refugee migration. Skilled migration is much less of an issue,” said immigration attorney Emily King of Berry Appleman & Leiden in London. “The premise of economic growth in London is based on attracting talent from around the world, and I don’t see that changing.”¹²⁹ The key question is whether political promises will interfere with good policies.

Advisers often tell elected officials not to promise things beyond their control. In the case of immigration, the U.K. government does not control the annual level of immigration. But in a 2010 election pledge British Prime Minister David Cameron and his Conservative Party pledged to reduce net migration to the U.K. to the “tens of thousands.”

The problem with such a promise is that, as a member of the EU, the U.K. is legally bound to permit citizens of the EU the opportunity to work in the U.K. Since the U.K. economy has performed better than most of its neighbors, it has attracted more EU citizens into the country. In short, without violating its pledge as an EU member, the only direct way the U.K. government can control immigration levels is by reducing non-EU migration. An alternative the U.K. government has proposed is to reduce welfare rights as a way to discourage immigration from the EU. Separately, German Chancellor Angela Merkel has said limiting welfare rights could constitute common ground for reform.¹³⁰

David Cameron has pledged, if the Conservative Party remains in power, to hold a referendum in 2017 on whether the U.K. should stay in the EU. That has made the question of immigration from the EU more urgent, particularly in light of the unexpectedly high vote tallies of the populist U.K. Independence Party in local elections in 2013, as well as 2014 elections to the European Parliament. Currently, the percentage of the population that is foreign born in the U.K. is 12 percent, just below the level of the United States.¹³¹ The U.K. government has made gaining permanent residence harder for families and asylum seekers, including by requiring

them to “demonstrate knowledge of the language and life in the United Kingdom.”¹³²

Economists have pointed out that dramatically reducing immigration to the U.K. would harm the U.K. economy, causing gross domestic product to fall by 11 percent and requiring a tax increase to make up the budget shortfall.¹³³ Ironically, between December 2011 and December 2014, even as more British politicians started voicing concerns about immigrants “taking jobs” because of increased immigration, the unemployment rate in the U.K. dropped significantly, from approximately 8.4 percent to 6 percent.¹³⁴

Cameron has appeared to step back from earlier statements about seeking to impose quotas on EU migration to the U.K., which would violate the “freedom of movement” principle central to EU membership. “David Cameron has beat a retreat over Tory plans for Britain to impose a cap on numbers of European Union migrant workers in response to soaring levels of immigration, confounding hopes among many of his backbench MPs,” reported *The Independent*.¹³⁵ British Home Secretary Theresa May has conceded the inevitable — the net migration target of “tens of thousands” pledged in 2010 is unlikely to be met.¹³⁶

Except for some minor rule tightening, the government has not made hiring highly skilled foreign nationals more difficult for employers. Temporary workers for high-skilled positions gain approval with few denials, according to attorneys, although the process can take more than a month when positions require advertising. While monthly quotas for high-skilled foreign nationals exist, they have never been reached, although the numbers have gradually increased and observers think the quotas could be reached if the U.K. economy continues to perform well. The points-based system for temporary workers only ratified existing requirements by assigning points to such things as a job offer. Anyone with English language skills who is also qualified for a high-skilled job should meet the points threshold.¹³⁷ Those unable to meet it may qualify as intracompany transferees, requests for which are usually granted.¹³⁸

visa category that allows entrepreneurs to submit plans that will be approved if they are “plausible and realistic,” noted Lucy Jacobs of Palladium Mobility Group, and if the individual has sufficient funds to live at least two years in Germany and will later employ at least three German nationals over five years.¹³⁹

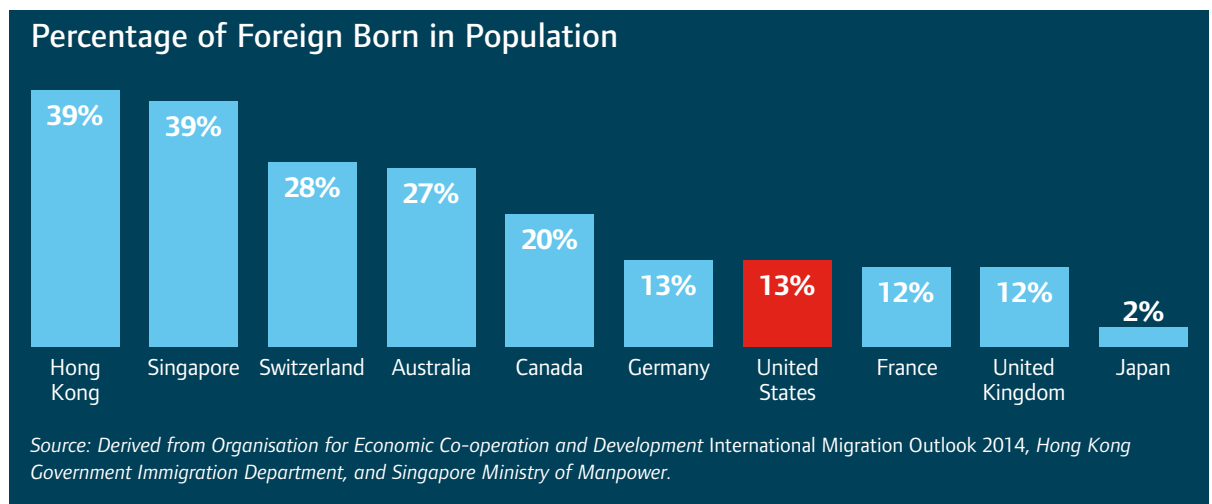
The U.K. allows non-EU entrepreneurs who show the ability to invest 200,000 British pounds (about \$300,000) — plus have a business plan to create at least two jobs — to obtain a temporary visa. In addition, although not widely used, provisions in U.K. immigration law allow an international student at a British university to obtain a visa if he or she can raise 50,000 British pounds (about \$75,000). In some cases, the universities themselves can even partner with international students.

A non-EU national may be able to obtain a work and residence permit for starting a business in Switzerland, but to gain approval generally the individual needs to demonstrate a track record in business, as well as a realistic business plan benefiting the economy and business diversity of the respective Swiss region, according to attorney Nina Perch.¹⁴⁰ Although setting up a company is relatively easy in Switzerland, noted Perch, it does not automatically entitle an individual to obtain a work and residence permit.

In theory, foreign entrepreneurs in France could use the Skills and Talent category to obtain a visa, but few have gained approval to date. A proposal aimed at competing with the United States, Canada and the U.K. would permit a foreign entrepreneur to gain a visa if he or she invests 500,000 euros (about \$560,000) and creates 10 jobs. As an EU member, France is open for any member of the EU to enter France and start a business.

Hong Kong

Although the application process has tightened over the past year, according to attorney Magdalene Tennant, a partner with Fragomen Worldwide in Hong Kong, it remains quite possible for individuals to be granted an entrepreneur visa in Hong Kong.¹⁴¹ One of the main criteria for the grant of such a visa lies in whether an individual is able to prove that his or her business will make a significant contribution to the Hong Kong economy. An individual must usually provide details to the Immigration Department that include a two-year business and employment plan. An individual should ideally invest not less than 1 million to 1.5 million Hong Kong dollars (about \$130,000 to \$195,000). The more unique the business and the greater the likelihood to add unique talent to Hong Kong, the greater chance the visa will be approved, according to legal experts.



Outcompeting Its Southern Neighbor



Twenty percent of the residents of Canada are foreign born, much higher than the United States' 13 percent.¹⁴² In a given year, Canada *admits twice as many immigrants* as a percentage of its population than does the United States.¹⁴³

Canada's points-based system has been largely unimportant to most employers, who typically first hire individuals on temporary visas and then sponsor them for permanent residence. Sometimes individuals use employer sponsorship to gain quicker permanent residence via the points system. However, overall, the points-based system has taken on less importance over the years as employer sponsorship and the Provincial Nominee Programs have become more vital to retaining valued workers. The major flaw in Canada's points-based system has been the "Ph.D. taxi driver" syndrome, whereby people have good paper credentials, but Canadian employers are not interested in hiring them.

One goal of Canada's new Express Entry program is to correct the flaws in its points-based system. Express Entry would act as a "filter," said attorney David Crawford, by accepting people employers wish to sponsor and, in effect, give them priority over others without work experience in Canada.¹⁴⁴ The Canadian government would then use that "expression of interest" in immigrating and "invite" people to apply, with an emphasis on those with employer sponsors.

Express Entry remains new, and attorneys are concerned the new process is likely to take much longer than the six months from the date of filing advertised by the Canadian government. Moreover, there is concern the process could adversely affect Canada's retention of international students.

If there is an area of Canadian immigration law most worth emulating for the United States, it is the Provincial

Nominee Programs. The Provincial Nominee Programs allow regions to attract foreign workers based on each province's unique economic needs. (All Canadian provinces and two of its territories operate a program.) High-skilled workers are prized as engines of economic growth, but in Manitoba, for example, employers can hire someone at a meat packing plant on a temporary visa, and he or she (and his or her family) can receive permanent residence within six months under the Manitoba Provincial Nominee Program, noted immigration attorney Peter Reikai.¹⁴⁵

The Provincial Nominee Programs have become the second largest source of economic immigrants in Canada, increasing six-fold from 2004 to 2011.¹⁴⁶ Canadian attorneys reported that it remains far from perfect for employers. Alberta, New Brunswick and Prince Edward Island have "streams" for semi-skilled workers but only in specific industries and occupations, while some provinces, such as Ontario, do not have a pathway for lower-skilled workers.¹⁴⁷

While over the past year Canada has tightened rules on temporary visas, particularly the labor market testing process, the Express Entry program shows that the government wants to continue to attract immigrants to Canada with a focus on individuals that companies want to employ. But Canadian immigration law gives the type of leeway to bureaucratic officials that the U.S. Congress would hesitate to permit, including setting annual quotas. That is one reason why immigration policies in Canada change much more frequently than in America.

U.S. policymakers should take note of Canada's eagerness to attract immigrants. When a foreign-born engineer or scientist in Michigan finds he or she must wait 10 years to attain permanent residence in the United States, but the process could take one year or less across the Ambassador Bridge in Canada, then the choice may become obvious.

Canada

A number of Canadian provinces maintain programs to attract foreign entrepreneurs who bring in substantial sums of money for a new business, similar to America's Immigrant Investor visa program (EB-5), or by allowing venture capital firms to invest in the new company. However, relatively few individuals immigrate to Canada under these programs. One reason is that other parts of the Canadian immigration system carry a lower burden to gain permanent residence, particularly for talented individuals. The federal government in Canada has experimented with immigrant entrepreneur programs without lasting success.¹⁴⁸

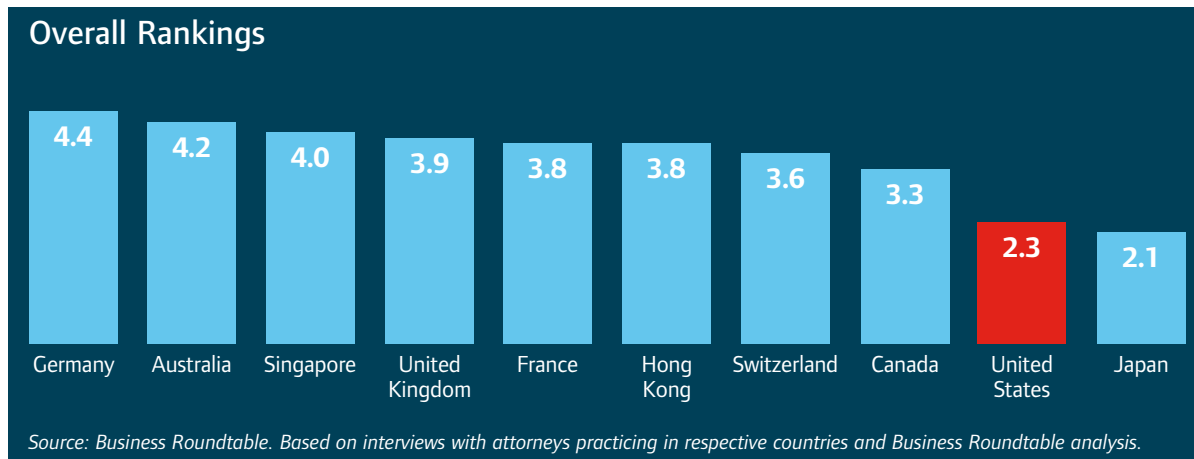
Singapore

Singapore permits entrepreneurs to obtain a visa, but given the conditions attached to it, Mark Chowdhry generally recommends clients, such as CEOs, qualify for an Employment Pass to avoid obligations a startup company might not be able to meet.¹⁴⁹

Japan

Japan has rules on the equivalent of a temporary visa for entrepreneurs. By law, an investment of 5 million Japanese yen (about \$42,000) can be approved for an investor/business manager visa. That reflects changes made to the law in 2014 to liberalize the rules, including permitting a Business Management visa to be used both by foreign investors and foreign business managers hired by a Japanese company that provides investment capital to a venture. Still, the denial rates for such a visa are higher than for other work visas, according to immigration attorney Yoshio Shimoda.¹⁵⁰

VIII. The Task Ahead



The United States offers many natural advantages to immigrants, including a culture tolerant to outsiders, a strong tradition of entrepreneurship, and an ability to sponsor or join family members. However, U.S. laws on immigration are not the most conducive to fostering economic growth, particularly when compared to other advanced economies. In the end, by almost any metric, America is not winning the global competition for talent.

Low quotas on temporary visas and employment-based green cards and inflexible policies on entrepreneurs, international students, lower-skilled workers and intracompany transferees leave the United States 9th out of 10 major economies in maintaining immigration policies that promote economic growth.

The CEO members of Business Roundtable believe that to correct course, U.S. policymakers should fix our immigration laws so that legal immigrant workers can contribute more to America. Proposed solutions include:

- ▶ **Increasing the number of H-1B visas and exempting from the annual cap H-1B workers who have degrees in needed fields from U.S. universities.**
- ▶ **Allowing individuals with advanced STEM degrees from U.S. universities to immediately qualify for a green card to work and live in the United States.** A high percentage of STEM graduate students at U.S. universities are foreign born, and America would benefit from encouraging them to stay and work here.
- ▶ **Reducing the employment-based green card backlog by “recapturing” unused visas caused by processing delays from prior fiscal years, exempting the dependents of those sponsored from counting against the annual quota and eliminating the per-country limit.** Employers often must wait several months to hire outstanding individuals. Further, foreign-born scientists and many engineers and researchers wait a decade or more just to receive a green card.
- ▶ **Maintaining flexibility in the high-skilled visa categories by avoiding overly bureaucratic rules that inhibit access to skilled workers.**

- ▶ **Granting highly educated individuals more flexibility for themselves and their spouses,** including by:
 - Allowing H-1B visa holders to move between employers more easily;
 - Allowing all spouses of H-1B visa holders to work;
 - Permitting high-skilled visa holders to renew their visas from within the United States, subject to appropriate security precautions; and
 - Enabling foreign students to pursue a green card while on a student visa.

- ▶ **Creating a new visa classification for immigrant entrepreneurs.** Those who are prepared to invest in the United States and are contractually bound to employ Americans are by definition job creators and should be welcomed.

- ▶ **Creating a new visa classification for long-term, nonseasonal workers.** Such workers would be protected under U.S. employment laws and have “portability,” meaning they could leave to work for any employer that complies with the requirements of the program. The annual limit on less-skilled workers should fluctuate based on market forces, and workers should be able to earn green cards if they succeed in America.

- ▶ **Expanding the current H-2B temporary visa program for seasonal workers to meet current demand.**

- ▶ **Creating a new temporary agricultural worker visa program administered by the U.S. Department of Agriculture that would allow workers to move easily among employers.** Immigrants living in the United States illegally who have passed appropriate background checks, have worked in agriculture and continue to do so could become eligible for a green card based on their work in that industry.

Fixing America’s legal immigration system should be one component of broader reform that also better secures U.S. borders, provides for consistent enforcement of laws and finds a solution for undocumented immigrants.

The good news is that most of the changes to improve the U.S. immigration system are straightforward, and proposals for reform have been discussed — and in some cases even introduced in Congress — for years. It is up to U.S. policymakers to take the important step of turning proposed changes into legislative reality.

Appendix

How the Countries Were Selected

In comparing the U.S. immigration system to other countries' systems, it is important to consider countries with which the United States competes for foreign talent. A country with no restrictions on immigration may nevertheless be unattractive to foreign workers if its economy is weak, its governance system is lacking or there are few opportunities for immigrants to thrive. As such, only advanced economies — as defined by the International Monetary Fund (IMF) — were considered for inclusion in the study.¹⁵¹ In general, these advanced economies have developed policies for admitting and regulating the flow of foreign-born workers.

Once countries with advanced economies were identified, five additional criteria were developed that are associated with general attractiveness to foreign workers. Two of these criteria were considered mandatory for a country to be included in the analysis (primary criteria), while the other three were equally weighted, optional criteria used to further differentiate advanced economies (secondary criteria). Together, these five criteria helped identify countries that are likely to directly compete with the United States in attracting top foreign talent. Each criterion is summarized below:

- 1. Availability of high-quality higher education** (primary criterion): To be included in the sample, a country had to be an advanced economy with at least two universities ranked in the global top 100 according to either the Times Higher Education World University Rankings or the Shanghai Academic Ranking of World Universities.
- 2. Per-capita income** (primary criterion): To be included in the sample, a country had to be an advanced economy whose per-capita income level is ranked in the global top 25 based on IMF data.
- 3. GDP growth rate** (secondary criterion): Countries experiencing recent GDP growth rates in the global top 25 were preferred over countries with slower growth rates based on IMF data.
- 4. Net migration rate** (secondary criterion): Countries with higher net migration rates (based on World Bank data) were preferred over countries with lower migration rates. Countries with advanced economies located in war-torn regions were excluded, as migration rates in these countries are inflated by asylum seekers that were not included in this study's scope.
- 5. Research and development (R&D) investment** (secondary criterion): Countries that invest heavily in R&D relative to their GDP level (based on World Bank data) were preferred over countries less committed to R&D investment.

After comparing each advanced economy relative to the five criteria above, nine countries rose to the top (plus the United States) and were selected for the study: Australia, Canada, France, Germany, Hong Kong, Japan, Singapore, Switzerland and the U.K.

Sources

Interviews

- ▶ Raphael Apelbaum Esq., partner, Immigration & Mobility Group, LexCase in Paris.
- ▶ Rose Carey, partner, Speechly Bircham LLP in London.
- ▶ Mark Chowdhry, managing associate, Magrath Global in Singapore.
- ▶ David Crawford, partner, Fragomen Worldwide in Toronto.
- ▶ Tim Denney, managing director, Berry Appleman & Leiden in Sydney.
- ▶ James Dougherty, attorney, Hikari Sogoh in Tokyo.
- ▶ Audrea Golding, partner, Fragomen Worldwide in Toronto.
- ▶ Christopher Hooley, partner, Oldham, Li & Nie in Hong Kong.
- ▶ Lucy Jacobs, associate, Palladium Mobility Group in Dresden.
- ▶ Christina Karl, managing director, Asia, Berry Appleman & Leiden in Singapore.
- ▶ Emily King, EMEA regional director, Berry Appleman & Leiden in London.
- ▶ Noah Klug, formerly senior lawyer, Nevett Ford in Melbourne (now with Berry Appleman & Leiden).
- ▶ Stefan Lenz, head of legal department, ICUnet.AG.
- ▶ Nina Perch, attorney, Sgier und Partner GmbH in Zurich.
- ▶ Peter Rekai, attorney, Rekai LLP in Toronto.
- ▶ Sara Rousselle-Ruffieux, certified specialist SBA employment law, BCCC Avocats Sàrl in Geneva and Lausanne.
- ▶ Yoshio Shimoda, attorney, ILS Shimoda in Tokyo.
- ▶ Supinder S. Sian, national partner, Squire Patton Boggs in London.
- ▶ Jet T. Stigter, partner, Duane Morris LLP (formerly director, global practice, Berry Appleman & Leiden).
- ▶ Magdalene Tennant, partner, Fragomen Worldwide in Hong Kong.
- ▶ Karl Waheed, attorney, Karl Waheed Avocats in Paris.

Additional Country Information

Australia

<http://www.immi.gov.au/Visas/Pages/132.aspx>

<https://www.immi.gov.au/Visas/Pages/485.aspx>

<http://www.immi.gov.au/Visas/Pages/416-swp.aspx>

<http://www.loc.gov/law/help/points-based-immigration/australia.php>

Gareth Larsen (December 23, 2013), *Family Migration to Australia*, Parliamentary Library Research Paper.

Organisation for Economic Co-operation and Development (2014), *International Migration Outlook 2014*, OECD Publishing, Paris, http://dx.doi.org/10.1787/migr_outlook-2014-en.

Canada

<http://www.cic.gc.ca/english/immigrate/express/express-entry.asp>

<http://www.cic.gc.ca/english/work/apply-who.asp>

<http://www.cic.gc.ca/english/study/work-postgrad.asp>

http://www.cic.gc.ca/english/work/hire/permanent_workers.asp

<http://www.loc.gov/law/help/points-based-immigration/canada.php>

France

<http://www.ofii.fr/default.php3>

Your Europe, "Work-related rights," at europa.eu.

Your Europe, "Workers' and pensioners' residence rights," at europa.eu.

Germany

http://www.bmi.bund.de/EN/Topics/Migration-Integration/Immigration/labour-migration/labour-migration_node.html

<http://www.bluecard-eu.de/eu-blue-card-germany/>

<http://www.bluecard-eu.de/eu-blue-card-germany/working.html>

Hong Kong

<http://www.immd.gov.hk/en/services/addresses/headquarter.html>

<http://www.gov.hk/en/about/abouthk/factsheets/docs/immigration.pdf>

Japan

<http://www.immi-moj.go.jp/english/>

<http://www.immi-moj.go.jp/english/tetuduki/index.html>

Pew Research Center (January 30, 2014), *Attitudes About Aging: A Global Perspective*.

Singapore

<http://www.mom.gov.sg/foreign-manpower/passes-visas/work-permit-fw/before-you-apply/Pages/overview.aspx>

<http://www.mom.gov.sg/foreign-manpower/working-in-singapore/Pages/employment-of-foreign-students.aspx>

Switzerland

http://www.swissworld.org/en/faq/living_in_switzerland/

<http://sae.epfl.ch/law-foreigners>

United Kingdom

<http://www.educationuk.org/global/articles/work-visas/>

<https://www.gov.uk/tier-1-entrepreneur/overview>

<https://www.gov.uk/browse/visas-immigration/work-visas>

<http://www.loc.gov/law/help/points-based-immigration/united-kingdom.php>

Katerina Lisenkova, Miguel Sanchez-Martinez and Marcel Merette (December 2013), "The Long-Term Economic Impacts of Reducing Migration: The Case of the UK Migration Policy," National Institute of Economic and Social Research, NIESR Discussion Paper Number 420.

United States

<http://www.uscis.gov/>

<http://travel.state.gov/content/visas/english/law-and-policy/bulletin.html>

<https://www.dhs.gov/immigration-statistics>

Business Roundtable (June 2014), *Contributing to American Growth: The Economic Case for Immigration Reform*, <http://brt.org/act-on-immigration>

Giovanni Peri, Kevin Shih, Chad Sparber and Angie Marek Zeitlin (June 2014), *Closing Economic Windows: How H-1B Visa Denials Cost U.S.-Born Tech Workers Jobs and Wages During the Great Recession*, Partnership for a New American Economy.

Endnotes

1. Hong Kong is a Special Administrative Region of the People's Republic of China but fits the criteria of a "country" for the purposes of this study given its economic and other characteristics; its separate legal system; and its "high degree of autonomy" in domestic affairs, including operating an immigration system separate from China's system.
2. See Business Roundtable's June 2014 report *Contributing to American Growth: The Economic Case for Immigration Reform*.
3. Congressional Budget Office as cited in *Contributing to American Growth: The Economic Case for Immigration Reform*, Business Roundtable (June 2014).
4. Congressional Budget Office and Bipartisan Policy Center as cited in *Contributing to American Growth: The Economic Case for Immigration Reform*, Business Roundtable (June 2014).
5. Giovanni Peri, Kevin Shih and Chad Sparber (January 29, 2013), "STEM Workers, H-1B Visas and Productivity in U.S. Cities."
6. *Ibid.*
7. Giovanni Peri, Kevin Shih, Chad Sparber and Angie Marek Zeitlin (June 2014), *Closing Economic Windows: How H-1B Visa Denials Cost U.S.-Born Tech Workers Jobs and Wages During the Great Recession*, Partnership for a New American Economy.
8. *Ibid.*
9. Alberto Alesina and Enrico Spolaore (2003), *The Size of Nations*, Cambridge, Massachusetts: The MIT Press, pp. 3–4. The authors note that the openness (or lack of openness) of a country to trade can affect the benefits gained from a larger economy.
10. See Appendix for additional details on the selection of countries.
11. The term "country" is used to refer to the 10 entities examined, although it is understood Hong Kong is a Special Administrative Region of the People's Republic of China. Hong Kong maintains an immigration system that is separate from China's system.
12. Because each category measures a distinct aspect of immigration policy, equal weight was given to each in calculating a cumulative score (which was the average of the scores in the six categories).
13. "USCIS Reaches FY 2015 H-1B Cap," Press Release, U.S. Citizenship and Immigration Services (April 10, 2014).
14. Those eligible for Optional Practical Training (OPT), primarily international graduate students, could stay in the country and work for a time period in OPT status. However, the low annual quota on H-1B visas means there is no guarantee individuals on OPT will obtain an H-1B visa in the future.
15. Interview with Karl Waheed. The only current exception is certain limits that have been placed on Croatia, the newest of the EU's 28 member countries.
16. Your Europe, "Work-related rights," at europa.eu.
17. Your Europe, "Workers' and pensioners' residence rights," at europa.eu.
18. Interview with Lucy Jacobs.
19. Interview with Stefan Lenz. The qualifications for a D visa are straightforward. "For the D visa the applicant needs to have a job offer, needs to be a specialist, executive employee or the job requires a university degree in Germany. Furthermore, the applicant needs to have a salary that is comparable with a German employee," according to Stefan Lenz, head of the legal department at ICUnet.AG. To apply for an appropriate visa at the German Embassy the original application and signed documents are usually necessary. "For high qualified jobs (IT, mechanical engineering, doctors, etc.) no labor market check will be done by the German labor office," according to Lenz. "But when an assignee in these jobs applies for a Blue Card in the case of a shortage occupation or according to another article of the German immigration law, the labor office generally will check the conditions of employment (e.g., salary, working hours, vacation entitlement, etc.). These need to be comparable with the conditions of employment of German employees. In a case that the assignee fulfills the requirements of the Blue Card and receives a minimum salary of currently 48,400 euros (in 2015), the labor office will not be involved. Furthermore non-EU country citizens graduating from a German university also do not require the approval by the German labor office as long as the job in Germany is in line with their studies. This is also true for executive managers, where the labor office will also not be involved."
20. *Hong Kong: The Facts*, "Immigration," Information Services Department, Hong Kong Special Administrative Region Government.
21. Interview with Christopher Hooley.
22. Organisation for Economic Co-operation and Development (2014), *International Migration Outlook 2014*.
23. Alison Smale (July 18, 2014), "Needing Skilled Workers, a Booming Germany Woos Immigrants," *The New York Times*.
24. Interview with Lucy Jacobs.
25. Under German immigration law, the minimum salary in Germany is regulated as follows: two-thirds of the annual earnings ceilings of the annuity assurance (in 2015, 48,400 euros) or in case of shortage occupations (especially in the fields of mathematics, information technology, medicine and engineering) 52 percent of the annual earnings ceilings of the annuity assurance (in 2015, 37,752 euros), according to Stefan Lenz.
26. Pew Research Center (January 30, 2014), *Attitudes About Aging: A Global Perspective*.
27. *Ibid.*
28. Alison Smale (December 30, 2014), "Merkel to Attack Anti-Immigrant Movement in Germany," *The New York Times*.

29. Sponsors for 457 visas are required to prove they spend an amount each year on training their Australian citizen and permanent resident staff at least equivalent to 1 percent of total payroll. Alternatively, they can donate each year to a qualifying Australian training fund an amount that is at least equivalent to 2 percent of total payroll. Most businesses in Australia that petition for foreign workers, particularly high-skilled workers, meet this obligation without great difficulty, according to legal experts.
30. Interview with Noah Klug.
31. "Australia — Visa Proposal," Client Alert, BAL Corporate Immigration (January 9, 2015).
32. Interview with Noah Klug.
33. *Ibid.*
34. Interview with Mark Chowdhry.
35. Interview with Emily King. EMEA is Europe, Middle East and Africa.
36. *Ibid.*
37. *Ibid.*
38. Interview with Rose Carey.
39. Interview with Supinder S. Sian.
40. Interview with Raphael Apelbaum.
41. Interview with Karl Waheed.
42. Interview with Nina Perch.
43. Interview with Sara Rousselle-Ruffieux.
44. Interview with Nina Perch.
45. Fragomen Worldwide in Canada; interview with Peter Re kai.
46. Interview with Yoshio Shimoda.
47. Council for Global Immigration and the Society for Human Resource Management (2013), *Navigating the U.S. Employment-Based Immigration System*.
48. Australian Government Department of Immigration and Border Protection.
49. Organisation for Economic Co-operation and Development.
50. *Ibid.*
51. Interview with Tim Denney.
52. Gareth Larsen (December 23, 2013), *Family Migration to Australia*, Parliamentary Library Research Paper.
53. *Ibid.*
54. *Ibid.*
55. Working Holiday Visa, Australian Government Department of Immigration and Border Protection.
56. Organisation for Economic Co-operation and Development.
57. *Ibid.*
58. Australian Government Department of Immigration and Border Protection.
59. Interview with Tim Denney.
60. Australian Government Department of Immigration and Border Protection. Under Skilled Nominated, an individual must be nominated by an Australian state or territory government agency.
61. The level of German must comply with the B1 Level. In the case of either 21 months or 33 months, applicants must pay into Germany's retirement system or comparable insurance institution and demonstrate sufficient knowledge of the country's "legal and social order."
62. Interview with Stefan Lenz.
63. It does not include the time individuals will need to gather documents to prove their experience and qualifications for eligibility.
64. Library of Congress (February 28, 2014), *Points-Based Immigration Systems: Canada*.
65. Interview with David Crawford.
66. "No Country for Old Men," *The Economist* (January 10, 2015).
67. Interview with Audrea Golding.
68. Interview with Peter Re kai.
69. Hong Kong Immigration Department; Oldham, Li & Nie.
70. Rakesh Kochhar (February 3, 2014), "10 Projections for the Global Population in 2050," Pew Research Center.
71. *Ibid.*

72. Pew Research Center (January 30, 2014), *Attitudes About Aging: A Global Perspective*.
73. Interview with James Dougherty.
74. *Ibid.*
75. Interview with Yoshio Shimoda.
76. Interview with James Dougherty.
77. Daryl Buffenstein and Bo Cooper, *Business Immigration Law & Practice*, vol. 1, (Washington, D.C.: American Immigration Lawyers Association, 2011), p. 863. L-1B status for an employee with “specialized knowledge” has a maximum limit of five years. “Specialized knowledge” for L-1B petitions is “special knowledge of the company product and its application in international markets” or “an advanced level of knowledge of processes and procedures of the company.”
78. National Foundation for American Policy (March 2014), *L-1 Denial Rates for High Skill Foreign Nationals Continue to Increase*, NFAP Policy Brief.
79. Department of Homeland Security (June 27, 2014), *Annual Report 2014*, U.S. Citizenship and Immigration Services Ombudsman.
80. Interview with Tim Denney.
81. French Office of Immigration and Integration. This is different than the minimum salary, which is lower than the gross average annual salary.
82. Interview with Karl Waheed.
83. *Ibid.*
84. “National Debate on French Identity Ends Amid Immigration Controversy,” *Deutsche Welle* (August 2, 2010).
85. “Migration Debate: Deportation Scandal Grips France,” *Spiegel Online International* (October 21, 2013).
86. Interview with Raphael Apelbaum.
87. Interview with Mark Chowdhry.
88. Interview with Emily King.
89. Global Client Alert, Fragomen (April 22, 2014), “EU States Expected to Harmonize Immigration Rules for Intracompany Transferees by 2016.”
90. Interview with Karl Waheed. Waheed points out the six-year limit creates a conflict with French labor law since the statute permits indefinite employment in France after 18 months for almost all workers.
91. Organisation for Economic Co-operation and Development, *Trading Economics*.
92. Organisation for Economic Co-operation and Development.
93. Interview with Nina Perch. There is no labor market test for intracompany transferees.
94. Interview with Sara Rousselle-Ruffieux.
95. Interview with Yoshio Shimoda.
96. “Questions and Answers: Extension of Optional Practical Training Program for Qualified Students,” U.S. Citizenship and Immigration Services.
97. Interview with Peter Reikai.
98. James Gwartney, Robert Lawson and Joshua Hall (2014), *Economic Freedom of the World, 2014 Annual Report*, Fraser Institute.
99. Hong Kong Special Administrative Region Government.
100. Hong Kong Immigration Department (2012).
101. The Central Intelligence Agency (2014), *The World Factbook*.
102. Interview with Christopher Hooley. According to the Hong Kong Special Administrative Region Government, salaries for foreign nationals should be “broadly commensurate with the prevailing market rate of Hong Kong.”
103. Interview with Peter Reikai.
104. Interview with Stefan Lenz.
105. Embassy of the Federal Republic of Germany (London). “To obtain a jobseeker’s visa applicants must provide proof of their university degree and proof of financial means for the intended duration of stay. While seeking employment jobseekers are not permitted to work, neither employed nor self-employed.”
106. There was controversy during the Sarkozy Administration amid allegations international students were being denied work permits they were entitled to under the law.
107. Lamiat Sabin (December 21, 2014), “Theresa May to ‘Kick Out Foreign Graduates’ in New Immigration Plans,” *The Independent*; Alan Travis (January 5, 2015), “Theresa May Defends Student Immigration Policy,” *The Guardian*.
108. Rosa Prince (January 7, 2015), “George Osborne Sees Off Theresa May’s Controversial Plan to Deport Foreign Graduates,” *The Telegraph*.
109. Interview with Nina Perch.

110. Interview with Mark Chowdhry.
111. Ministry of Manpower, Singapore government.
112. S Passes are subject to separate (lower) subquotas in different sectors. Work permits and S Passes are subject to quotas.
113. Interview with Christina Karl.
114. James Gwartney, Robert Lawson and Joshua Hall.
115. Interview with Peter Rekai.
116. Central Intelligence Agency (2014), Singapore in *The World Factbook*.
117. Ministry of Manpower, Singapore government.
118. *Ibid.* As noted in the body of the report, for example, if foreign workers represent 25 to 50 percent of a manufacturing company's workforce, then the company pays a monthly fee of 470 Singapore dollars (about \$375) for every unskilled foreign worker it employs.
119. Interview with Mark Chowdhry.
120. Interview with Christina Karl.
121. Interview with Audrea Golding.
122. Interview with Peter Rekai.
123. Organisation for Economic Co-operation and Development (2014), *International Migration Outlook 2014*.
124. Interview with Rose Carey.
125. Interviews with Karl Waheed and Raphael Apelbaum.
126. Interview with Magdalene Tennant.
127. Interview with Christopher Hooley.
128. Oswald Chan (January 10, 2014), "Take This Job and Shove It," *China Daily*.
129. Interview with Tim Denney.
130. Interview with Emily King.
131. Arne Delfs and Patrick Donahue (January 7, 2015), "Merkel Said to Offer Cameron Common Ground on Immigration," Bloomberg.
132. Organisation for Economic Co-operation and Development.
133. *Ibid.*
134. Katerina Lisenkova, Miguel Sanchez-Martinez and Marcel Merette (December 2013), "The Long-Term Economic Impacts of Reducing Migration: The Case of the UK Migration Policy," National Institute of Economic and Social Research, NIESR Discussion Paper Number 420.
135. Trading Economics.
136. Nigel Morris (November 28, 2014), "Cameron Forced to Retreat on Immigration: 'Game-changing' Speech Makes Unexpected Concessions to EU leaders," *The Independent*.
137. Nicholas Watt (November 23, 2014), "Theresa May Says 'No Ifs, No Buts' pledge on Migration likely to Fail," *The Guardian*.
138. Interviews with Emily King and Supinder S. Sian.
139. *Ibid.* The U.K. government must deem the position highly skilled and within the Standard Occupation Codes, which are published and available for public review.
140. Interview with Lucy Jacobs.
141. Interview with Nina Perch.
142. Interview with Magdalene Tennant.
143. Organisation for Economic Co-operation and Development, 2012 data.
144. *Ibid.*
145. Interview with David Crawford.
146. Interview with Peter Rekai. The Provincial Nominee Programs will generally continue outside of the new Express Entry program. However, Rekai noted that it is likely any province that successfully negotiates a higher quota with the federal government will have those additional numbers go through the Express Entry program.
147. Library of Congress (February 28, 2014), *Points-Based Immigration Systems: Canada*.
148. Interview with Audrea Golding.
149. Fragomen Worldwide in Canada; interview with Peter Rekai.
150. Interview with Mark Chowdhry.

151. Interview with Yoshio Shimoda.
152. The IMF differentiates “advanced economies” from “emerging markets” and “developing economies” based on (1) per-capita income level, (2) export diversification and (3) degree of integration into the global financial system. Note, however, that these are not the only factors considered in deciding the classification of countries. As stated in the World Economic Outlook Statistical Appendix, “this classification is not based on strict criteria, economic or otherwise, and it has evolved over time. The objective is to facilitate analysis by providing a reasonably meaningful method of organizing data.” A full list of advanced economies is located at the IMF website, www.imf.org/external/pubs/ft/weo/2014/01/weodata/groups.htm.



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