SHOULD CONGRESS EXTEND THE OCTOBER 2004 STATUTORY DEADLINE FOR REQUIRING FOREIGN VISITORS TO PRESENT BIOMETRIC PASSPORTS?

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

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WEDNESDAY, APRIL 21, 2004

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to call, at 10 a.m., in Room 2141 Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. (Chairman of the Committee) presiding.

Chairman SENSENBRENNER. The Committee will be in order.

Mr. Conyers and I will give opening statements. Secretary Powell is caught in traffic somewhere between the White House and here, but with Secretary Ridge's permission, we decided to get going.

Mr. Conyers and I will make opening statements.

Without objection, other Members' opening statements will be included in the record.

And both secretaries will testify for about 10 minutes, and then we will have questions under the 5-minute rule.

I will repeat this after the testimony is concluded. But both secretaries have to leave at noon. I am keeping track of who appears in what order, and people will be recognized alternatively on each side under the 5-minute rule. And when we get to noon, wherever we are—we hope we thank you very much for saying what you are going to say and everybody can be on their way.

Today, we meet to discuss the October 2004 deadline for countries participating in the Visa Waiver Program to certify they can issue machine-readable passports that are tamper-resistant and incorporate biometric identifiers.

The Visa Waiver Program allows travelers from certain designated countries to come to the United States as temporary visitors without having to obtain a non-immigrant visa. There are currently 27 countries participating. And in fiscal year 2002, 13 million foreign visitors entered the United States under the program.

Since its creation in 1986, the program has greatly facilitated travel to the United States from foreign program countries. Through reciprocal arrangements, the program also benefits American international travelers.

The Visa Waiver Program was established on the premise that nationals from participating countries pose little security risk or threat of overstaying their period of admittance. This premise may have been true in years past but is questionable today. For exam-

ple, in February of this year, thousands of blank French passports were stolen from a delivery truck, the third such theft in less than a year. Spain is a Visa Waiver Program country, and it appears that most of the terrorists who carried out the Madrid bombings were Spanish citizens or legal immigrants entitled to passports which they could have used to travel to the United States under the Visa Waiver Program.

In part to address threats like this, I authored the "Enhanced Visa Security and Visa Entry Reform Act of 2002." The act requires that, by no later than October 26, 2004, governments of Visa Waiver Program countries must certify they have programs to issue to their nationals machine-readable passports that are tamper-resistant and that incorporate biometric identifiers that comply with the biometric identifier standards established by the International Civil Aviation Organization.

On or after this date, any alien applying for admission under the program must present a passport that meets these standards unless the passport was issued prior to that date.

This requirement is aimed at closing existing security loopholes. First, it will allow DHS inspectors at ports-of-entry to determine whether a passport properly identifies its bearer. This will combat terrorist imposters and prevent them from defeating lookout lists on which they are posted. Second, it will make passports much harder to alter or counterfeit. Third, in conjunction with the installation of scanners at ports-of-entry to read the passports, the DHS can track the arrival and departure of travelers and identify those who overstay their visas.

My goal in selecting the October 2004 deadline was to push countries to act promptly to modernize their passports. I have contacted the foreign governments participating in the Visa Waiver Program and asked whether they will meet the October deadline. It appears that for most Visa Waiver countries, the deadline is unreachable.

Fortunately, the impending deadline has led to results by at least a few countries in progress and several others. Belgium had one of the weakest passport regimes in Europe, but has now so completely revised its approach that it will be among the first countries to meet the new biometric requirements. Belgium has also improved its physical security of blank passports so that not one has been stolen since 1999.

Hopefully, France will follow its neighbor and take steps to stop the continuing theft of blank French passports.

The Administration has written to me to say that there are interoperability issues, privacy issues, chip durability concerns as well as production and procurement delays and has asked for legislation to extend the biometric passport deadline for 2 years.

At the same time, the Administration has initiated security procedures that will limit the risk of extending the deadlines. Specifically, the Department of Homeland Security has announced that it will begin fingerprinting each traveler from the Visa Waiver Program countries in September of this year. This abbreviated inspection process for Visa Waiver travelers will be greatly strengthened with the incorporation of US-VISIT especially until such time as all countries participating in the Visa Waiver Program are issuing their citizens passports with biometric identifiers.

To date, US-VISIT has been an outstanding success, taking half a minute or less to capture biometric identification while the conventional interview takes place. Under the program, arriving aliens from overseas have two fingerprints and a photograph digitally recorded with little inconvenience added. This data is used to verify the identity of the visitor and is compared against criminal and terrorist watch lists.

I called today's hearing so that the Committee may hear from Secretaries Powell and Ridge on both their efforts over the past 2 years to encourage Visa Waiver Program countries to meet the statutory requirements and also on their assessment of the ability of countries to meet the deadline. This will provide valuable information for the Committee to evaluate the Administration's request that we extend the deadline for a period of 2 years.

The gentleman from Michigan?

Mr. CONYERS. Thank you, Mr. Chairman.

And good morning to our distinguished witnesses.

It is not often that any Committee gets two Cabinet Members at the same time in one morning, and we are honored by your presence.

First of all, I would like to make it clear that this biometric means of identifying a person by biological features unique to each individual uses advanced computerized recognition techniques that make rapid comparison possible and is almost a total proof contained method of identification.

It started—it is in some use already, and I think everyone is quite satisfied with it. So we come here this morning with the understanding that we want these biometric measurement techniques instituted at our earliest convenience.

The question is, is there sufficient reason for us to re-examine the time limit that has been imposed?

And I would like permission, Mr. Chairman, to put in the record the article by the Secretary of State that appeared in the *Wall Street Journal* just today.

[The information referred to follows:]

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THE WALL STREET JOURNAL.

Secure Borders, Open Doors
By Colin L. **Powell**
931 words
21 April 2004
The Wall Street Journal
A18
English
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On Sept. 11, 2001, terrorists attacked our homeland, ruthlessly exploiting our openness, and killing some 3,000 people from 90 countries. But President Bush and the American people are determined that they shall not shatter our will or shut down our free and democratic society. In response to the attacks, the U.S. and our allies launched a global war on terrorism. At the same time, the president resolved to keep our doors open and our borders secure. We are doing our utmost to balance the need to protect our citizens with the need to preserve America's accessibility.

Some argue that we should raise the drawbridge and not allow in any more foreign visitors. They are wrong. Such a move would hand a victory to the terrorists by having us betray our most cherished principles. For our own nation's well being, and because we have so much to give, we must keep our doors open to the world. That is also why, as I will testify today before the House Judiciary Committee, Congress should extend the biometric passport deadline for the Visa Waiver Program that allows citizens of 27 countries, including Britain, France, Germany and Japan, to visit temporarily without a visa.

Openness is fundamental to our success as a nation, economically, culturally and politically. Our economy will sputter unless America remains the magnet for entrepreneurs from across the world. Our culture will stagnate unless we continue to add new richness to our mosaic. And our great national mission of spreading freedom will founder if our own society closes its shutters to new people and ideas. Openness also is central to our diplomatic success, for our openness is a pillar of American influence and leadership, or what is sometimes called "soft power."

We want to preserve and even expand the benefits of openness, but we also need to be uncompromising on protecting America's security. The past 30 months have seen some fundamental changes, such as the creation of the Department of Homeland Security -- the largest reorganization of our government since World War II. For its part, the State Department has taken many steps to strengthen the integrity of the visa process. We have greatly increased the level of data sharing between State and law enforcement and intelligence communities. We have made visa information available to inspectors at all ports of entry. We have tightened interview requirements, hired additional consular officers, and incorporated a biometrics check into the visa process.

Security is always Job One, but we are committed to minimizing the impact of new procedures on legitimate travelers. It is not likely that any of the Visa Waver Program countries will produce 100% biometric passports by the October 2004 deadline set by Congress in the Border Security Act, which is why we are asking Congress to extend or waive that deadline for VWP countries. But we are engaged in a global effort to enroll biometrically scanned fingerprints of all visa applicants, as required by law. This will allow us to identify and impede the travel of impostors, known criminals and possible terrorists. We are doing so in a manner that is quick, efficient and nonintrusive to the traveler. In fact, feedback from U.S. embassies and consulates overseas indicates that much of the traveling public there sees these new requirements as enhancing their security, not just ours. When we make our nation safer for Americans, we are also making it safer for those who would come here to enjoy what our country has to offer.

We have invested significant money and time in our name-check system so that we can move visa applicants more quickly through the clearance process, which has been a source of frustration and delays for students and researchers, among others. We are making real progress. Last year, the wait time for students and scholars who

require special clearances averaged two months. Today, 80% of these visas are issued within three weeks. We are not yet where we want to be, but we are committed to efficiently facilitating the travel of students, scholars, and all other legitimate travelers.

We recently increased to one year the validity of the clearance granted to certain scientists and scholars who participate in joint-research programs. This enables travelers who need to make repeated visits within a given year to do so without our consular officers having to go back to Washington for an additional name check. We work every day with business, industry, the academic community and the general public to see that access to our country is not impeded for those whose presence we encourage and value.

We are working hard to further reduce delays and improve our service. Why? When a foreign student goes elsewhere to school, we lose not only the student, but his entire family, including siblings, who might have followed in their brother's or sister's footsteps. When scientists hold conferences in other countries, we lose their brainpower for our institutions. When business travelers and tourists go elsewhere, we lose more than their money. We lose their goodwill.

The U.S. has always welcomed visitors, as befits a nation of immigrants. My own family benefited from this generosity, my parents having emigrated from the Caribbean. While terrorists have done material harm to the U.S., they will never destroy the essential, embracing spirit of America. Please pardon the inconvenience while we are adjusting to new circumstances. But rest assured: In every sense, America is still open for business.

Mr. Powell is secretary of state.

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Chairman SENSENBRENNER. Without objection.

Mr. CONYERS. Thank you.

And of course, we are always happy to welcome a former colleague in the Congress back to the House, and we are always happy to see him. We gave you one of our best on the Committee to make him your deputy, and I trust that he is doing a good job. I testified for him. He'd better be.

And what we want to examine, is there sufficient reason to extend the deadline for biometric passports past the current October 2004 deadline? And it seems to me that this, the answer to this question, involves a few considerations that I would like to enumerate as this discussion before the Committee goes on today.

The first one that I raise is whether we have sufficiently considered the global privacy issues of creating government controlled and shared databases with biometric data, which will soon number millions and millions of travelers.

Secondly, if we are too hasty and if we do legitimately need additional time, won't this make us more secure rather than rushing to meet a deadline that was established in good faith by all the parties without question? But there are circumstances which perhaps you might want to expand on that requires us to make this modification that is before us.

And then I am asking myself, how can we demand other nations to move forward with this brand new technology when it is not clear that we are ready for it ourselves?

And if we do not extend the deadline, the question arises, what will be the consequences for our allies, our friendly nations abroad and our own tourist industry itself. Clearly, making millions of individuals and Visa Waiver nations wait in line for visas with approximately 6 million other people in the backlog does not seem to be a desirable result from, I think, all of our points of view.

Now, our backs are against the wall. We are facing a deadline. We are in a highly active part of the year, to put it mildly. I am not sure if the State Department or the Department of Homeland Security has to be nailed up against the wall or to be held responsible, because I think that the reasons for this can be found in the congressional approach that we made.

And when the House passed this bill, setting the deadline, incidentally, 3 years ago, during the limited debate, a central issue with this deadline was whether it was reasonable, but we went along with it.

I am not sure if anything terrible would happen in the global scheme of things if we were to take this second examination of the time and be guided by the Wall Street Journal publication in which the Secretary of State was quoted, "Some argue that we should raise the drawbridge and not allow any more foreign visitors. They are wrong. Such a move would hand a victory to the terrorists by having us betray our cherished principles. Openness is fundamental to our success as a Nation, economically, culturally and politically."

And with that, Mr. Chairman, I look forward to the testimony of our distinguished witnesses.

Chairman SENSENBRENNER. Without objection, all Members' opening statements will be placed in the record at this point.

Messrs. Secretaries, would you please rise and take the oath?

[Witnesses sworn.]

Chairman SENSENBRENNER. Let the record state that both witnesses answered in the affirmative.

Our first witness is Secretary Colin Powell. Secretary Powell became the 65th Secretary of State on January 20, 2001. Prior to his appointment, he was the chairman of America's Promise, The Alliance For Youth, the national nonprofit organization dedicated to mobilizing people to build the character and confidence of young people.

During his distinguished career, Secretary Powell served as a professional soldier for 35 years, during which time he had many command and staff positions and rose to the rank of 4-star general. His last assignment from October 1, 1989, to September 30, 1993 was as Chairman of the Joint Chiefs of Staff, the highest military position in the Department of Defense.

He is the recipient of numerous U.S. and foreign military awards and decorations as well as two presidential Medals of Freedom, the President's Citizen Medal and the Congressional Gold Medal.

He holds a bachelor's degree from the City College of New York and an MBA degree from George Washington University.

The second witness is Secretary of Homeland Security Tom Ridge. He was appointed as the first Secretary of the Department of Homeland Security on January 24, 2003. Prior to his appointment as secretary, he served as the Bush administration's first director of the Office of Homeland Security, which was created in response to the tragic events of September 11.

Preceding Secretary Ridge's position with the Bush administration, he boasts a long history of public service to the people of the great Commonwealth of Pennsylvania. He was first elected to Congress in 1982 and was overwhelmingly re-elected five times.

He then decided there were better things to do than being a Congressman and was twice elected as Governor of Pennsylvania, serving from 1995 to 2001.

He is a decorated Vietnam Veteran, earning the Bronze Star for Valor. He holds a degree from Harvard where he graduated with honors and a law degree from the Dickinson School of Law.

Each of the Secretaries has asked for 10 minutes.

Secretary Powell, you are first.

TESTIMONY OF THE HONORABLE COLIN POWELL, SECRETARY OF STATE

Secretary POWELL. Thank you very much, Mr. Chairman and I would like to thank you for calling this hearing. It is a very important hearing and I am pleased to be here with my fellow Cabinet officer and fellow infantryman Tom Ridge.

Mr. Conyers, I also thank you for your kind remarks concerning my article this morning. I had to notice a slight smile on your face when we have two Cabinet officers here this morning, which is rare. It almost reminded me of my former occupation, something we would call a target-rich environment.

Mr. Chairman, Members of the Committee, Mr. Conyers, thank you for the opportunity for us to testify on the progress of those

countries participating in our Visa Waiver Program toward producing passports with embedded biometrics by October 26, 2004.

I am here with Secretary Ridge to explain the Administration's request for an extension of this deadline. Moreover, I want to report on the Department of State's progress in implementing our own biometric programs for U.S. Passports and visas.

President Bush's number one priority is the security of our homeland. Secretary Ridge and I share that commitment. Secretary Ridge is responsible for our visa policy, and I am responsible to Secretary Ridge and to the President for its implementation.

The inclusion of biometrics in international travel documents is a critical step in upgrading security for America and in protecting travelers coming to our country. It is imperative that we improve our ability to verify the identities of prospective travelers, especially individuals who might be terrorists, criminals or who otherwise present a security risk to our Nation and to our people.

The "Enhanced Border Security and Visa Entry Reform Act" established October 26, 2004, as a deadline. By that date, Visa Waiver Program countries must begin issuing their nationals only passports that incorporate biometric identifiers that comply with ICAO standards.

Also, by that date, a separate requirement by that same date, all Visa Waiver passport travelers must enter the United States with a machine-readable passport.

In May 2003, less than a year ago, ICAO decided to make facial recognition technology the standard passports biometric, leaving Visa Waiver Program countries only 17 months, from May 2003 to October of 2004, to bring biometric passport from design to production and prepare for those passports to be issued. Such a process doesn't take 17 months. It usually takes a number of years to get it right.

The Border Security Act does not provide a waiver provision. And very few, if any, of the 27 participating VWP programs or countries will be able to meet this legislatively mandated deadline. Although the governments of the VWP countries share a commitment to this step forward—they all agree with it, they all want to be part of it, they all want to do it but many of them are encountering the same challenges that we face in our own effort to embed biometrics in the U.S. passport.

The challenge provided to the international community by the October 26 deadline is a daunting one. We are confronted by complex technological issues. Among these are the security of the passport data, the interoperability of readers and passports, and the reliability of the chips that would be embedded in the passports. Will they last for the life of the passports, which in most cases is 10 years? Will the chip last 10 years? We have to validate all of these sorts of issues and considerations.

We and our VWP partners are steadily resolving these issues, but then studying them and achieving success in dealing with them takes time. Moreover, we want to get the science as right as possible before we spend dollars, implement and depend on these new measures to defend our security.

This concern for taking the necessary time to get things right has not kept us from working aggressively with the VWP countries. In

fact, we have not only urged them to meet the deadline, we've led the way in our international effort to provide better security for our citizens. At every opportunity around the world, State Department officials seek to educate government representatives of the VWP countries and their journalists and other informed citizens about the requirements and about the deadlines. In addition, VWP countries have sent representatives to Washington, and we have had full and open discussions on the issues.

As a result, VWP countries are making progress toward complying with the biometric requirement, but I doubt whether any will meet the October 26 deadline. None of the larger countries, for example, Japan, the United Kingdom, France, Germany, Ireland, Italy or Spain, will begin issuing passports with biometrics by that deadline. Japan and the United Kingdom say they will begin in late 2005. Others may not begin to come online until well into 2006.

Under these circumstances, we believe there are compelling reasons to extend the October 2004 deadline to November 30, 2006. This extension would enable our allies to resolve the scientific problems and to develop more secure biometrically enabled documents that the original legislation mandated.

Equally important, by providing this additional time, we can be confident that the solutions developed by our partners in the VWP program will work effectively and be interoperable with similar systems installed throughout the world. It is in our interest to ensure global interoperability as Mr. Conyers noted, to enhance not just our own border security, but the security of our citizens overseas and of other citizens traveling worldwide.

Rushing a solution to meet the current deadline virtually guarantees that we will have systems that are not interoperable. Such a result may undercut international acceptance of this new technology as well as compound rather than ease our overall challenge.

Failure to extend the deadline will have other serious consequences as well. Travelers from VWP countries with passports issued on or after October 26, 2004, without biometrics will need visas at that time. To travel to the United States, we estimate that the demand for non-immigrant visas will jump by over 5 million applicants in fiscal year 2005. This would represent a 70 percent increase in our non-immigrant visa work load.

There are no easy solutions to handling this tremendous increase in our work load. True, it is a temporary problem because the work load will progressively go down as VWP countries begin mass production of biometric passports. But in the interim, we would need to implement plans for a massive surge in visa processing, which would involve huge extra expense, diversion of personnel from other vital functions and extending service hours, perhaps even to around-the-clock, 24/7 visa processing at some of our posts.

Even with the Manhattan Project approach, we cannot be sure that we could meet the demand without creating backlogs and creating long waits for appointments. We are already working hard on public diplomacy outreach to address some of the negative perceptions and misunderstandings concerning tightened U.S. visa policies. Even longer wait times would make it doubly difficult to convince people worldwide, particularly young people, that America

welcomes them, that we want them here to go to our schools and universities, to go to our museums, to visit Disneyland, to come and learn our language, to go to our hospital facilities.

The delays resulting from this increased non-immigrant visa demand will also discourage travel to the United States as visitors vote with their feet and choose to go elsewhere, to travel elsewhere, to be educated elsewhere, to get their healthcare elsewhere.

Both Secretary Ridge and I are getting letters from university presidents all around the country. I will offer a letter that I received yesterday from the President of Harvard University describing the impact these delays are having on our educational facilities now. And we really don't want to do things that would complicate that.

[The information referred to follows:]

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April 19, 2004

The Honorable Colin Powell
Secretary of State
U.S. Department of State
2201 C Street, NW
Washington, DC 20520

Dear Secretary Powell:

I am writing to express concern about a trend that threatens the quality of research and scholarship emerging from our universities. National statistics show that the number of foreign scholars seeking to study in the United States has declined significantly over the past two years, and Harvard's own data suggest that we, like other schools in the country, are at risk of losing some of our most promising scholars to universities in other parts of the world.

I recognize the challenges the government faces in addressing the significant security issues that confront our nation, but I fear that one of the unintended consequences of certain new visa measures is the decline in the number and potential quality of students willing to study in the United States. If the visa process remains complicated and filled with delays, we risk losing some of our most talented scientists and compromising our country's position at the forefront of technological innovation. If the next generation of foreign leaders are educated elsewhere, we also will have lost the incalculable benefits derived from their extended exposure to our country and its democratic values. And if other countries feel that we do not welcome their citizens, these countries may feel less inclined to help America.

This year at Harvard, applications from international students are down significantly, as they are across the country. Each of Harvard's nine faculties has reported a sharp drop in applications from international students this year. Applications from Chinese students alone declined as much as 40% in some of our graduate programs. The anecdotal evidence is equally compelling. Faculty from around the university tell repeated stories of talented foreign students opting to study in Europe or Australia, for example, rather than the United States, because of the protracted visa process. During a recent visit to Chile and Brazil, many promising students and scholars informed me that they no longer felt welcome in our country.

Once here, students too often fear leaving the country because visa problems have prevented others from returning in time to resume work or classes. In one case, a postdoctoral fellow in biochemistry and molecular biology here at Harvard flew home to attend the funeral of his father in Beijing, and then wasted five months waiting for permission to return—long after another postdoctoral fellow was hired to take over his project. His experience seems all too common.

As you are no doubt aware, Harvard is not the only university facing this problem. According to a report by the Council of Graduate Schools, 90% of schools surveyed experienced a decrease in graduate school applications from international students this year. The drop in the number of applications from Chinese and Indian students is particularly striking. A recent General Accounting Office (GAO) study appears to confirm our sense that the decline is caused, at least in part, by the protracted and often unpredictable visa process. Indeed, the GAO study concluded that there are no standard procedures for maintaining data or tracking visa cases, and the agencies and departments responsible for international students do not have an effective way to communicate with one another.

There are some immediate steps to be taken that could improve the visa system without compromising enhanced security measures. For example, establishing timeframes for the adjudication of visa applications and conducting comprehensive background checks would provide scholars the certainty they need to plan their courses of study. Such procedures, coupled with the State Department's new proposal to provide special windows for students or allow them priority in scheduling appointments, might help to alleviate some of the delays.

Appointing an ombudsperson within the State Department to assist universities would make it easier for students and administrators to check on the status of unresolved visa cases and address any problems. It is also worth considering allowing potential students to seek a security pre-clearance, or reestablishing a procedure for foreign students and scholars already in the United States to initiate the visa clearance process before traveling abroad.

If implemented, these recommendations would make important improvements to the existing visa process. I appreciate that the visa problem has many dimensions, however, and would therefore welcome the opportunity for a direct dialogue with the appropriate officials in the Departments of State and Homeland Security. Toward that end, I have also written to Secretary Ridge about our concerns.

Harvard has a long and proud history of Americans and foreign nationals working side-by-side to discover cures for disease, develop business and economic models, and conduct cutting-edge and innovative research. While we recognize that security threats require protective measures, we are concerned that America's position at the forefront of scholarship and discovery is threatened by the serious decline in international scholars seeking to study at our universities.

Sincerely yours,

Lawrence H. Summers

Secretary POWELL. In fact, we judge that added economic costs will be substantial. VWP travelers, who tend to spend more than other visitors, contribute billions of dollars to our economy each year. One out of eight jobs in the U.S. civilian labor force is employed in some segment of the travel and tourism industry. We want to avoid unnecessary harm to this vital industry as well as other vital industries that depend on travelers.

I want to be clear that extending the deadline is only part of the answer. We will also continue to pursue vigorous diplomatic efforts at the highest levels to ensure that the VWP countries remain committed to introducing biometric passports.

Over the next few months, the Department of State will participate in the VWP country reviews led by Secretary Ridge's Homeland Security Department. And we will take every opportunity to remind governments of the importance of meeting the new deadline should it be extended. We will ensure that they all understand that if they fail to meet the extended deadline, we will have no alternative but to begin requiring visas for travelers in those countries.

Further, to continue to tighten our security posture, the Department of Homeland Security will enroll the VWP travelers in US-VISIT, the program that tracks the entry and exit of foreign visitors by using electronically scanned fingerprints and photographs. And I know that Secretary Ridge will describe this program in greater detail.

Before closing, Mr. Chairman, let me give you just a few details with respect to our own efforts to introduce biometrics into our passport system. Our plan is to embed electronic chips on which we will write the bearer's biographic information and photograph. In December of this year, the program should produce the first biometric U.S. passports using ICAO's standard of facial recognition. Under this program, we would complete the transition to the biometric passport by the end of 2005.

It is important to note that we are encountering the same challenges as the VWP countries are in developing our own biometric passport, and we will be unable to meet the deadline that we are trying to impose on other nations.

That said, we are making good progress. We began deployment of the biometric visa program on September 22, 2003, at five pilot posts. The program is now spreading across the entire State Department system. Under the biometric visa program, consular officers electronically scan the fingerprints of the visa applications at the visa interview windows. These fingerprints are checked electronically against the DHS fingerprint database. If there is no match, then the visa applicant's fingerprints are stored in the U.S. Visa databases. If the fingerprints do match any in the database, no action can be taken on that visa application until a consular officer reviews the information.

If and when a visa is issued, the applicant's bio-data, photo and fingerprint data are sent to the DHS's US-VISIT system. And when the visa applicant arrives at the port-of-entry, the DHS officer will use the fingerprint data to match the visa to the U.S. visa databases and will compare the visa holder's fingerprints with those that are on file.

This one-to-one fingerprint comparison ensures that the person presenting the visa at the port-of-entry is the same person to whom the visa was issued.

Mr. Chairman, Members of the Committee, we are working hard to protect our Nation, to secure our borders. We are working just as hard, as I tried to note in my article earlier. And I say to audiences around the world, we are working just as hard to make sure we remain an open society and a welcoming society. We want people to come to the United States. We need them to come to the United States, not just to spend money, but to be part of our foreign policy effort. I want young people to come here and learn about America, feel that they are welcome, go back and take what they learn about our value system and who we are back to their countries.

If we make that too hard and difficult so they go to other countries, we are affecting our future foreign policy options, our future foreign policy agenda.

With that Mr. Chairman and Members of the Committee, I will close and turn it over to my colleague, Secretary Ridge.

[The prepared statement of Secretary Powell follows:]

PREPARED STATEMENT OF THE HONORABLE COLIN L. POWELL

Mr. Chairman, members of the Committee, thank you for the opportunity to testify on the progress of those countries participating in our Visa Waiver Program (VWP) toward producing passports with embedded biometrics by October 26, 2004. I am here to explain the Administration's request for an extension of this deadline. Moreover, I want to report on the Department of State's progress in implementing our own biometric programs for U.S. passports and visas.

I am pleased to be here today with my friend and fellow cabinet officer, Secretary Tom Ridge. President Bush's number one priority is the security of our homeland. Secretary Ridge and I share that commitment. Secretary Ridge is responsible for our visa policy and I am responsible for its implementation.

The inclusion of biometrics in international travel documents is a critical step in upgrading security for America. And in protecting travelers, it is imperative that we improve our ability to verify the identities of prospective travelers to our country, especially individuals who might be terrorists, criminals, or others who present a security risk.

The Enhanced Border Security and Visa Entry Reform Act (EBSA) established October 26, 2004, as a deadline. By that date, VWP countries must begin issuing their nationals only passports that incorporate biometric identifiers that comply with the International Civil Aviation Organization, or ICAO, standards. Also by that date, all VWP travelers must enter the U.S. with a machine readable passport.

In May 2003, ICAO decided to make facial recognition technology the standard passport biometric, leaving VWP countries only 17 months to bring a biometric passport from design to production. Such a process normally takes years. The EBSA does not provide a waiver provision and very few, if any, of the 27 participating VWP countries will be able to meet this legislatively-mandated deadline. Although the governments of the VWP countries share a commitment to this step forward, many are encountering the same challenges that we face in our own effort to introduce embedded biometrics to the U.S. passport.

The challenge provided to the international community by section 303 of the EBSA is a daunting one. Meeting it has taken VWP countries and the U.S. to the cutting edge of existing technologies. As a consequence we're confronted by complex technological issues. Among these are the security of the passport data, the interoperability of readers and passports, and the reliability of the chips imbedded in the passports—will they last for the life of the passport, for example, which in most cases is 10 years. We and our VWP partners are steadily resolving these issues, but studying them and then achieving success in dealing with them takes time. Moreover, we want to get the science as right as possible before we spend dollars, implement, and depend on these new measures to enhance our security.

This concern for taking the necessary time to get things right has not kept us from working aggressively with the VWP countries. We've urged them to issue bio-

metric passports by the October 26, 2004 deadline. Moreover, we believe that success in this international effort to provide better security for our citizens requires U.S. leadership.

That is why in the ICAO working groups, for example, we led in advocating the successful inclusion of biometrics in travel documents. In the G–8, we strongly advocated support for ICAO leadership in biometrics and we participate actively in a special working group on biometrics established by the G–8 ministers of Home and Justice Affairs. At every opportunity around the world, State Department officials seek to educate VWP government representatives, journalists and citizens from these countries about the requirements and deadlines. In addition, VWP countries have sent representatives to Washington and we have had full and open discussions on the issues.

As a result, VWP countries are making progress toward complying with the biometric requirement, but I doubt whether any will meet the October 26 deadline. None of the larger countries—for example, Japan, the United Kingdom, France, Germany, Ireland, Italy or Spain—will begin issuing passports with standardized biometrics by that deadline. Japan and the United Kingdom say they will begin in late 2005. Others may not come on-line until well into 2006.

Under these circumstances, we believe there are compelling reasons to extend the October 26, 2004 deadline to November 30, 2006. This extension would enable our allies to resolve the scientific problems and to develop the more secure, biometrically enabled documents that the original legislation mandated. Equally important, by providing this additional time we can be confident that the solutions developed by our partners in the VWP program will work effectively and be interoperable with similar systems installed throughout the world. It is in our interest to ensure global interoperability, to enhance not just our own border security but the security of our citizens overseas and of other citizens worldwide. Rushing a solution to meet the current deadline virtually guarantees that we will have systems that are not interoperable. Such a result may undercut international acceptance of this new technology as well as compound rather than ease our overall challenge.

Failure to extend the deadline will have other serious consequences as well. Since travelers from VWP countries with passports issued on or after October 26, 2004 without biometrics will need visas to travel to the United States, we estimate that the demand for non-immigrant visas will jump by over 5 million applications in FY 2005. This represents a 70% increase in our nonimmigrant visa workload. There are no easy solutions to handling this tremendous increase in our workload. True, this is a temporary problem because the workload will progressively decrease as VWP countries begin mass production of biometric passports. But in the interim, we would need to implement plans for a massive surge in visa processing, which would involve extra expense, diversion of personnel from other vital functions, and extending service hours, perhaps even to around-the-clock 24/7 visa processing at some posts. Even with a "Manhattan Project" approach, we cannot be sure that we could meet the demand without creating backlogs and long waits for appointments. We are already working hard on public diplomacy outreach to address some of the negative perceptions and misunderstandings concerning tightened U.S. visa policies. Even longer wait times would make it even more difficult to convince people worldwide, particularly youth, that America welcomes them and wants them here, to go to our schools, visit our museums and learn our language.

The delays resulting from this increased nonimmigrant visa demand will also discourage travel to the U.S. as visitors "vote with their feet" and choose to travel elsewhere, or defer their travel to the U.S., hurting relations with some of our closest friends and allies, and harming the American economy.

In fact, we judge that the added economic costs will be substantial. VWP travelers, who tend to spend more than other visitors, contribute billions of dollars to our economy each year. One out of every eight jobs in the U.S. civilian labor force is employed in some segment of the travel and tourism industry. We want to avoid unnecessary harm to this vital industry.

But Mr. Chairman, I want to be clear that extending the deadline is only part of our answer. We will also continue to pursue vigorous diplomatic efforts at the highest levels to ensure that the VWP countries remain committed to introducing biometric passports. Over the next few months, the Department of State will participate in the VWP country reviews led by Secretary Ridge's Homeland Security Department and we will take every opportunity to remind governments of the importance of meeting the new deadline should it be extended. We will ensure that they all understand that if they fail to meet the extended deadline we will have no alternative but to begin requiring visas for travelers from those countries. Further, to continue to tighten our security posture, the Department of Homeland Security (DHS) will enroll all VWP travelers in US-VISIT—the program that tracks the

entry and exit of foreign visitors by using electronically scanned fingerprints and photographs. Secretary Ridge will describe this program in detail for the committee.

Before I close, Mr. Chairman, let me give you a few more details with respect to our own efforts. As I noted earlier, we believe that embedding biometrics in U.S. passports, to establish a clear link between the person issued the passport and the user, is an important step forward in the effort to strengthen border security. Our plan is to introduce "contact-less chips" to U.S. passports—electronic chips on which we will write the bearer's biographic information and photograph. In December of this year, the program should produce the first biometric U.S. passports using ICAO's standard of facial recognition. Further, under this program we will complete the transition to the biometric passport by the end of 2005. It is important to note that we are encountering the same challenges as the VWP countries in developing our own biometric passport and will be unable to meet the deadline mandated for them.

That said, we are making good progress in our own biometric efforts. For example, we began deployment of our Biometric Visa Program on September 22, 2003, at five pilot posts. The program is now operational at more than 125 visa-adjudicating posts worldwide and will be operational at all visa-adjudicating posts by October 26th of this year, as mandated by law. This biometric program includes both non-immigrant and immigrant visas.

Under the Biometric Visa Program, consular officers electronically scan the fingerprints of the visa applicants at the visa interview windows as part of the visa interview process. These fingerprints are checked electronically against the DHS fingerprint database. If there is no match, then the visa applicant's fingerprints are stored in the US-VISIT databases. If the fingerprints do match any in the fingerprint database, no action can be taken on the visa application until a consular officer reviews the information. If and when a visa is issued, the applicant's bio-data, photo and fingerprint data are sent to DHS's US-VISIT system. When the visa applicant arrives at a port of entry, the DHS officer will use the fingerprint data to match the visa in the US-VISIT databases, and will compare the visa holder's fingerprints with those on file. This one-to-one fingerprint comparison ensures that the person presenting the visa at the port of entry is the same person to whom the visa was issued. To ensure the integrity of visas issued prior to the introduction of biometrics (currently some 20 million), we have also upgraded our visa datashare program for use in the initial inspection under US-VISIT. This means that US-VISIT has access to the photograph that was previously captured on most visas currently in circulation—providing us with a critical enhancement during primary inspection even though fingerprints are not available. An additional security measure of the Biometric Visa Program is that consular officers now interview all visa applicants with the exception of children, the elderly, and diplomats. We are working hand-in-hand with our colleagues in DHS to ensure that we have a system that allows legitimate travelers to be on their way as expeditiously as possible while, at the same time, it identifies those who pose a threat so we can prevent them from entering our country or arrest them if the situation warrants such action.

As I said, ensuring the security of our borders is our number one priority. But protecting our democracy and the special, welcoming society we have always been, demands that we remain an open nation. America must continue to be a magnet for enterprising minds from around the world and the preferred destination of millions of tourists. We must also continue to add new richness to our unique mosaic to enhance our cultural diversity and further enlighten our tolerance. And we must continue to be that shining beacon on the hill for people around the world.

Mr. Chairman, in my confirmation hearing before the Senate Foreign Relations Committee in January 2001, I pointed out that America is a country of countries, with a citizen in her ranks from every country in the world. I said that there is no country we do not touch and no country that does not touch us. For me these are not just words. I am a direct beneficiary of this connectedness and of our country's historic openness. So I believe passionately that we must deny the victory to terrorists that changing the very nature of our democracy would represent.

But I am also a realist. I know that while we maintain our openness we must also enhance our security. I know too that enhancing our security was a principal purpose of the Border Security Act. What I am requesting of you today is that you and the members of your committee recognize that the deadline of October 26, 2004 is not only unrealistic, it is counterproductive. Moreover, I am requesting that we fix this problem by extending the deadline to November 30, 2006.

Thank you, Mr. Chairman.

Chairman SENSENBRENNER. Thank you.

Secretary Ridge?

TESTIMONY OF THE HONORABLE TOM RIDGE, SECRETARY OF HOMELAND SECURITY

Secretary RIDGE. Thank you Chairman Sensenbrenner and Ranking Member Conyers, distinguished Members of this Committee.

Let me first say, it is a great pleasure and privilege to appear before you, but particularly with my friend and colleague the Secretary of State.

And we join together in requesting the extension of the two deadlines that Secretary Powell highlighted in his opening remarks. I think the fact that we are testifying together reflects in a very important way the partnership that we have in our mutual efforts to make sure that our doors are open and yet our borders are secure. It also reflects our mutual desire that congressional action be taken because we believe that it is in the long-run best interests of our country for a variety of reasons that it be done.

Now, in the brief year since the Department of Homeland Security was created, we worked together with Secretary Powell and other executive branch agencies as well as the Congress of the United States to make sure that our country is safer and more secure, not just for citizens but non-citizens who travel, recreate, visit and go to school here. Our policies have been designed to keep our borders closed to terrorists, but open to legitimate, law-abiding visitors. They deserve to travel on secure airlines and vessels, to be processed efficiently through our ports and our border crossings and to have their privacy respected and protected from abuse as well.

And once here, they, too, deserve to live in safety, not in fear of terrorists, criminals or fugitives from the law. That is the charge of our open, welcoming Nation, a champion of freedom both at home and abroad. And I believe the changes we favor will help us preserve those freedoms and protect all individuals from harm.

Currently, as noted by Secretary of State, 27 nations are members of the Visa Waiver Program. And under the program, citizens of participating countries are allowed to travel to the United States for tourism or business for 90 days or less without obtaining a visa. This policy encourages travel, trade and student exchanges between the United States and our allies.

However, one unintended consequence of the policy is a potentially significant gap in security as those wishing to avoid visa security checks conducted at U.S. consular posts abroad might attempt to take advantage of the program. One of the responsibilities of the Department of Homeland Security is to determine whether the continued participation of a particular nation in the VWP program possesses a threat to the national security or law enforcement interests of the United States and, therefore, should be ended. The Enhanced Border Security and Visa Entry Reform Act requires that beginning on October 26, 2004, Visa Waiver Program countries have a program in place to issue their nationals machine-readable passports. They must be tamper-resistant and incorporate biometric and document authentication identifiers that comply with the ICAO standards.

The law also requires, as has been noted, that visitors coming into the United States under the VWP program present these new

biometric and machine-readable passports if they were issued on or after that date. VWP travelers with non-biometric passports issued after October 26, 2004 will need a visa to enter the United States as the Secretary has pointed out.

We have learned that while most VWP countries will be able to certify they have a program to issue biometric passports by the deadline, few if any of these countries will be able to produce biometric passports by that date. Under the current deadline, millions of visitors from these countries who do not have an ICAO-compliant passport will have to obtain visas. That is a 70 percent increase we can anticipate. There will be about 5 million more men, women and children lining up in consular offices around the world—and I might add from my travels around the world, already consular affairs offices do a tremendous job with limited resources.

So we would be imposing an additional burden on these men and women overseas as well. As my colleague has indicated, this sweeping change would place a huge burden on our consulate and have a significant negative impact on tourism, travel and commerce.

Therefore, we agree that relief, congressional relief, is critical. We are encouraged by the progress that has been made by these VWP countries to meet the emerging ICAO standards. We will continue to work together with them to help them meet the mandatory deadlines.

It must be noted that the reason the countries cannot meet the October 26 deadline is not a lack of will, nor a lack of commitment. I mean, both publicly and privately, our colleagues around the world accept the notion that biometric identifiers confirming identities and authenticating documents are going to be a part of the 21st century. By complying with the deadline technically is where the real problem is, not the commitment.

For these same technical reasons, the Department of Homeland Security is not currently in a position to acquire and deploy equipment and software to compare and authenticate these documents as well.

I would like to share with you a couple of thoughts about the US-VISIT program because what the secretary and I would propose to Congress, if you are willing to extend the deadline for 2 years, that have these Visa Waiver Program citizens come in and be entered as part of our US-VISIT program that has been a very successful program embraced by, frankly, the visitors from around the world who found out that it is fair, it's simple, it's easy and their privacy rights are protected as well.

Despite challenges, we have identified an interim solution that we believe will allow us to improve the Nation's security and the integrity of the VWP program. This involves enrolling VWP travelers in the US-VISIT system beginning this fall. That's what we would offer to you. US-VISIT represents the greatest single advance in border technology in three decades.

The Department has established US-VISIT to enhance the safety of our citizens and visitors, facilitate legitimate travel and trade, ensure the integrity of our immigration system and protect the privacy of travelers to the United States. US-VISIT represents a continuum of security measures that use biometrics as a key element. Biometrics, such as digital, inkless fingerscans and digital photo-

graphs, enable the Department to determine whether the person applying for entry in the United States once they get to our borders is the same person who was issued a visa by Secretary Powell's consular affairs offices and embassies around the world.

Both State and our Department use biometric and biographic data to check against appropriate lookout data. The Department deployed the first implemented US-VISIT on time and with your support and on budget. And as it includes biometrics ahead of schedule, we have exceeded, at least for the time being, the mandate established by Congress.

We would like to meet the mandate by Congress obviously. We use it at 115 airports and 14 seaports. And by the end of this year, US-VISIT will be in operation, again consistent with the congressional mandate, at our 50 busiest land ports-of-entry.

You should also know, my colleagues in public service, we have also begun pilot biometric exit procedures at airports and seaports and will expand to additional pilot locations later this summer. US-VISIT procedures—and I need to emphasize this, again, not just to the domestic audience, but more importantly to our friends overseas—US-VISIT procedures are clear, simple, and fast and privacy protections are afforded our visitors.

On the average, US-VISIT procedures take less than 15 seconds per person during the inspection process. And as of April 20, more than 3 million foreign visitors have been processed.

As impressive as its speed, I would say to you has been its thoroughness. Already US-VISIT has matched more than 300 persons against criminal databases, preventing more than 100 known or suspected criminals from entering the country. More than 200 were matched while applying for a visa at a State Department post overseas.

Again, we begin the security piece of this effort in the consular affairs offices and our embassies overseas. They in fact rejected well over 100 people applying for a visa in the first place.

We have a double-check system when they come into our country. There may be a lapse between when the visa was issued and the time they came into the country. So we've put an added layer of security by checking the same database again.

We have extended the principles and protections of the 1974 Privacy Act to all individuals processed through the US-VISIT system. There is a process for redress if an individual has a complaint.

Visitors to this Nation have a right to be secure from criminals and predators as well. And I think the US-VISIT system has helped to make that right a reality. And before I conclude, I would like to give you a couple of quick examples.

On December 28, 2003, an international traveler appeared for inspection at the Newark international airport. Standard biographic record checks using a name and date of birth would have cleared this person automatically. However, once he gave us the fingerscans and we checked that against our biometric database, it was revealed he was a convicted felon who we had previously deported from the United States. He had used multiple aliases to disguise authorities from his record of rape, assault, criminal possession of a weapon and the making of terrorist threats.

Obviously, open door for legitimate travelers; secure borders for those people who need not enter our country again. This individual fits that model.

Similar examples abound. A fugitive drug trafficker was captured after two decades on the run. A traveler sporting three Social Security numbers and a 14-year criminal history was nabbed.

Just weeks ago, an airline crew member was biometrically identified as having been convicted of forgery in violation of electronic funds transfer accounts. Crew members from foreign airlines are not exempt from US-VISIT. This individual was sent home and the visa was canceled.

Through US-VISIT, our two Departments have identified numerous criminal and immigration law violators who otherwise would have disappeared. Everyday the system highlights the importance of using accurate, timely information to protect our Nation from terrorists and criminals and, I would add, to protect innocent noncitizens and their families from being tarred with a broad brush or targeted by mistake. By focusing on individual behavior, US-VISIT and programs like it today and in the future help reduce our reliance on more arbitrary and unfair standards, such as nationality.

In fiscal year 2003, the Department of Homeland Security recorded the admission of approximately 13 million Visa Waiver Program visits through air and our sea ports-of-entry. Secretary Powell has indicated to you what happens to those folks and the problems associated with running the visas if we don't extend the deadline.

We have briefed ambassadors of these countries on the potential change, and overall, they are very supportive. The European Commission spokesperson told the Wall Street Journal, "We will work with the United States with whom we share counterterrorism goals to ensure that any new measures are introduced with minimum disruption and maximum safety."

We have been and must always be an open and welcoming society. And in the post-9/11 world, the balance between open doors and secure borders has become a lot more complex. Frankly, we have allies who understand the significance of our security measures and also see the relevance of similar measures being applied in their own countries. The extension of 2 years not only gives us a chance to comply with the appropriate congressional mandates, but also to further engage our friends and colleagues around the world so that at the end of the day, when it comes to document verification and identity verification, we have one international standard, not a U.S. standard and another world standard, but one international standard.

The Secretary and I look forward to working to achieve that common goal with our allies around the world.

And again, I join with him in requesting congressional relief from the two deadlines and the measures we previously discussed.

Thank you, Mr. Chairman and Members of the Committee.

[The prepared statement of Secretary Ridge follows:]

PREPARED STATEMENT OF THE HONORABLE TOM RIDGE

Chairman Sensenbrenner, Ranking Member Conyers and other distinguished Members, it is a pleasure to appear before you today to discuss our request to ex-

tend the deadlines of certain provisions of the Enhanced Border Security and Visa Entry Reform Act of 2002 (EBSA) requiring:

- Visa Waiver Program (VWP) countries [1] to produce International Civil Aviation Organization (ICAO) compliant, biometric passports;
- VWP travelers to use ICAO-compliant biometric passports for admission into the United States; and
- DHS to install equipment and software at all Ports-of-Entry (POEs) to allow biometric comparison and authentication of those passports.

I will also describe how the Department of Homeland Security will increase the security of the Visa Waiver Program by enrolling VWP travelers in the US-VISIT system beginning in the fall to help DHS identify terrorists, criminals, and immigration violators while facilitating the travel of the overwhelming majority of VWP travelers.

I. STATUTORY REQUIREMENTS IN ENHANCED BORDER SECURITY ACT

The VWP enables citizens of certain countries to travel to the United States for tourism or business for ninety days or less without obtaining a visa. While visa-less travel encourages travel and trade with our allies, it also makes the program attractive to those wishing to avoid visa security checks conducted at U.S. consulates abroad. To help address this security vulnerability, the EBSA shortened the timeframe for the mandatory reviews of countries participating in the VWP from 5 years to 2 years. These reviews are intended to enable us to determine whether the continued participation of a particular country in the program poses a threat to the national security or law enforcement interests of the United States. If the Secretary determines that a particular country's participation is a threat, that country can be removed from the program. Six of the mandatory reviews were completed prior to DHS' assumption of that responsibility. We are now in the process of reviewing the remaining countries and are committed to completing all the reviews by October.

The EBSA also requires that beginning on October 26, 2004, VWP countries have a program in place to issue their nationals machine-readable passports that are tamper-resistant and incorporate biometric and document authentication identifiers that comply with ICAO standards as a condition of continued participation in the VWP program. The law also requires that visitors coming to the United States under the VWP present machine-readable, tamper-resistant passports that incorporate biometric and document authentication identifiers, if the passport is issued on or after October 26, 2004. Furthermore, DHS is required to install equipment and software at all ports of entry to allow biometric comparison and authentication of these passports.

While most VWP program countries will be able to certify that they have a program in place to issue biometric passports by the October deadline, very few, if any, VWP countries will actually be able to begin issuing biometric passports by that date. The result is that millions of visitors from VWP countries who are issued non-ICAO compliant passports after October 26, 2004, will be required to obtain visas prior to traveling to the United States. The issue is not lack of will or commitment to achieving the standard by these countries, but rather challenging scientific and technical issues.

The ICAO selected contactless integrated-circuit chips for data storage, and stated that if biometrics are incorporated into the travel document, the mandatory biometric is the "encoded face." [2] Last week, ICAO published a revision to the standard to address the issue that, up to this point, the standard did not ensure that all chips produced for incorporation into passports can be read by any reader and any reader produced to that standard can read any chip. This standard will be approved in

[1] The following 27 countries are currently in the VWP: Andorra, Austria, Australia, Belgium, Brunei, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom (which includes citizens with the unrestricted right of permanent abode in England, Scotland, Wales, Northern Ireland, the Channel Islands and the Isle of Man).

[2] Machine Readable Travel Documents: Technical Report: Development of a Logical Data Structure—LDS for Optional Capacity Expansion Technologies, ICAO, April 2004. The report states: "While the use of biometrics is optional for issuing authorities, if a choice is made to incorporate biometrics, Data Group 2, the encoded face, is therefore Mandatory. All other Data Elements defined for recording by an issuing State or organization are optional. "

May.[3] Both DHS and the Department of State (DOS) are encouraged by the progress that has been made by VWP countries to meet the emerging ICAO standards and will work with them to meet the deadlines.

For the same challenging technical reasons, DHS is also not currently in a position to acquire and deploy equipment and software to biometrically compare and authenticate these documents. DHS cannot today acquire one reader that will be able to read all chips utilized in the ICAO compliant biometric passports. However, we believe that by the fall of 2006, the technology required to implement successfully a security system based on the ICAO standards will be much more settled and allow DHS to derive the security benefits envisioned when the original EBSA was enacted.

Acknowledging the current state of technology, and the potential for harm to our international relations with our closest allies, DHS and DOS are requesting that the October 26, 2004, deadline be extended to November 30, 2006, for those sections of the EBSA relating to the production of ICAO-compliant biometric passports, and deployment of equipment and software to read them.

Based on the information provided to us by these countries on their status and their expected implementation dates, as well as DOS's own experience as it moves to implement this standard for U.S. Passports, we believe that all countries will be compliant by the November 30, 2006, deadline.

II. INCREASING SECURITY THROUGH US-VISIT EXPANSION

While we recognize the need to extend the date for these new processes, we are focused on the need to continue to increase security at the borders. Therefore, we will expand US-VISIT procedures to visitors traveling under the VWP at:

- Air and sea POEs by September 30, 2004,
- The most trafficked land POEs by December 31, 2004, and
- The remaining land POEs by December 31, 2005.[4]

In FY 2003, DHS recorded the admission of approximately 13 million VWP travelers through air and sea POEs. This number includes multiple visits to the U.S. by a single individual. By expanding US-VISIT to include processing of VWP travelers, DHS will double the number of admissions processed through US-VISIT from its current status. As discussed below, we are confident that the US-VISIT infrastructure can continue to function quickly and accurately after the expansion. In addition, while the number of VWP travelers arriving at land ports of entry is small, the expansion rollout plan will allow for biometric enrollment for those travelers as well.

DHS believes that processing visitors traveling under VWP in US-VISIT achieves several important security objectives. These security objectives include:

- *Conducting appropriate security checks:* We will conduct checks of VWP visitors against appropriate lookout databases available to inspectors, adding additional biometric-based checks available through US-VISIT.
- *Freezing identity of traveler:* We will biometrically enroll visitors in US-VISIT—freezing the identity of the traveler and tying that identity to the travel document presented.
- *Matching traveler identity and document:* We will biometrically match that identity and document if a traveler returns to the United States, enabling the inspector to determine whether the traveler complied with the terms of his or her previous admission and is using the same identity.
- *Documenting arrival and departure:* We will collect automated arrival and departure information on travelers. We will update their record to reflect changes in their immigration status while they are in the U.S.
- *Determining overstays:* We will use collected information to determine whether individuals have overstayed the terms of their admission. This information will be used to determine whether an individual should be apprehended or whether the individual should be allowed to enter the U.S. upon his or her next visit.

[3] The Machine Readable Travel Documents: Technical Report: Development of a Logical Data Structure—LDS for Optional Capacity Expansion Technologies, ICAO, April 2004, report will be approved at the Technical Advisory Group in Montreal, Canada in May 2004.

[4] The Immigration and Naturalization Service Data Management Improvement Act (DMIA) of 2000 established a series of deadlines for the implementation a data system that would record arrival and departure information on non-United States Citizens.

- *Identifying security threats:* We will use appropriate security checks to determine individuals who represent a security threat and act upon this information.

We believe that the VWP countries will be supportive of this change. To date, response to our announcement of this change from VWP countries has been positive. These countries appreciate both the U.S. interest in increasing security, and our support for an extension to the ICAO compliant biometric passport requirement. Although the majority of travelers from VWP countries are exempt from the requirement to obtain a nonimmigrant visa, those who are required to obtain one are already successfully processed through US-VISIT. Since the implementation of US-VISIT through April 8, 2004, approximately 400,000 nonimmigrant visa holders from VWP countries have been processed through US-VISIT.

Many of the VWP countries themselves are actively engaged in developing programs like US-VISIT that allow them to collect biometrics through the visa issuance process and match those biometrics upon entry into the country. We are actively working with many of these countries to share information about terrorism, other security threats, and opportunities for improvements in immigration and border management.

In order to expand US-VISIT to VWP travelers, DHS will have to implement both technical and procedural changes. In terms of technical changes, DHS will need to invest in additional hardware and software, including additional biometric matchers, database capacity, processing power, and backup/storage capability, that will support the additional volume and maintain the response times needed on biometric watch list checks and identity matching. DHS will also modify processing procedures and make other operating environment changes to accommodate the increase. These changes will vary in scope, depending on the volume of VWP travelers at that location.

III. US-VISIT IMPLEMENTATION AND SUCCESS TO DATE

DHS has established US-VISIT to achieve the following goals:

- Enhance the safety of our citizens and visitors;
- Facilitate legitimate travel and trade;
- Ensure the integrity of our immigration system; and
- Protect the privacy of travelers to the United States.

US-VISIT is a continuum of security measures that begins before individuals enter the United States and continues through their arrival and departure from the country. Using biometrics such as digital, inkless fingerscans and digital photographs, DHS is able to determine whether the person applying for entry to the United States is the same person who was issued the visa by DOS. Additionally, DOS and DHS use biometric and biographic data to check against appropriate lookout data, improving DOS's ability to make visa determinations and DHS's ability to make admissibility decisions at entry.

US-VISIT procedures are clear, simple, and fast for visitors.

DHS deployed the first increment of US-VISIT on time, within budget, and has exceeded the mandate established by Congress as it includes biometrics ahead of schedule. On January 5, 2004, US-VISIT entry procedures were operational at 115 airports (covering 99% of air travelers who use visas to enter the United States) and 14 seaports. In addition, we began pilot testing biometric exit procedures at one airport and one seaport. As of April 20, more than 3 million foreign visitors have been processed under the US-VISIT entry procedures. On average, US-VISIT takes only 15 seconds during the inspection process.

Already US-VISIT has matched over 259 persons against criminal databases and prevented more than 124 known or suspected criminals from entering the country. One hundred and fifty-eight people were matched while applying for a visa at a State Department post overseas.

Our border management system impacts the security of our citizens and our visitors, affects billions of dollars in trade and travel and helps define relations with our international partners. There is a need to improve this system and bring it into the 21st century with a new integrated system of technological processes that will keep our country's economic and national security strong. This 21st century technology will provide an important step toward achieving the President's goal of secure U.S. borders.

We respect our visitors' privacy and seek to enable them to pass through inspection quickly so they can enjoy their visit in our country. However, as people attempt to enter the United States, we must know who they are and whether they intend

to do us harm. The ability of US-VISIT to rapidly screen applicants' biometrics and biographic information through watch lists and databases means we can have security and control without impeding legitimate travelers, and we can also help protect our welcomed visitors by drastically reducing the possibility of identity theft. Moreover, as visitors leave the country, we must know that they have not overstayed the terms of their admission.

US-VISIT will be rolled out in increments to ensure that the foundation is strong and the building blocks are effective. With the deployment of the entry components at air and seaports, we have made a strong beginning. We are on track to meet the December 31, 2004, deadline to integrate US-VISIT procedures at the 50 busiest land border ports of entry.

US-VISIT is dedicated to safeguarding the privacy of traveler information. US-VISIT has extended the principles and protections of the 1974 Privacy Act[5] to all individuals processed through the program—even though the law only applies to U.S. Citizens and Lawful Permanent Residents. US-VISIT has implemented a privacy program that includes a privacy policy[6] and a three-stage process for redress,[7] if individuals have concerns about their information.

A. Moving to a "Virtual Border" Solution

The vision of US-VISIT is to deploy an end-to-end border management program. This comprehensive view of border management leads to a virtual border. It elevates the requirement to develop the best processes to manage data on visitors. It will provide information to the immigration and border management decision makers to support the pre-entry, entry, status management, exit and analysis processes.

Much of the emphasis to date has focused specifically on the entry and exit processes at the ports of entry—the "port-centric" solution. One of the key initiatives of the US-VISIT program is to adjust this focus to a "virtual border" solution, placing equal emphasis on the pre-entry, entry, status management, exit, and analysis processes associated with this Program. The virtual border will enhance national security by matching the identity of visitors, facilitate legitimate trade and travel, and ensure the integrity of our immigration system by improving enforcement.

1. Pre-Entry

For millions of visitors, entry into the United States must be preceded by the issuance of travel documents at a U.S. embassy or consulate abroad. The purpose of the pre-entry process is to determine eligibility for immigration status and/or visas at DOS consular offices worldwide or DHS Service Centers.

The pre-entry process is a critical component of the US-VISIT virtual border. The consular officers gather a large amount of information prior to a visitor's arrival at a port. This data is now available to appropriate border management agencies. In turn, the US-VISIT Program can provide additional information about the individual, including a history of prior entries and exits, biometrics, or prior immigration status information, that can be used to match identity or search watch lists to the consular officer or Citizenship and Immigration Services adjudicator who is determining a visitor's eligibility.

Since the beginning of 2004, the pre-entry process includes analysis of the manifest supplied by the airlines for each international flight to determine the nonimmigrant visa holders on board the plane. This is done through the Advanced Passenger Information System (APIS). The U.S. Customs and Border Protection Officers analyze this information to know in advance whether a visitor may require additional review at inspection.

2. Entry Process

The purpose of the entry process is to determine the admissibility of visitors requesting entry into the United States at air, land, or seaports. The entry process can begin at a primary port inspection booth at an air, sea, or land ports, or at a

[5] The principles and protections of the Privacy Act are centered around notice to those who will be subject to information collection; notice of how the information will be used and how long it will be retained; and adherence to those uses.

[6] The US-VISIT Privacy Policy and Privacy Impact Assessment (PIA) can be found at: http://www.dhs.gov/dhspublic/interapp/editorial/editorial—0333.xml

[7] US-VISIT has implemented a three-stage process for redress if an individual has a concern. If an affected individual requests a change or when a DHS Officer determines that an inaccuracy exists in the individual's record, the DHS Officer can modify the record. If an individual is not satisfied with this response, he or she can contact the US-VISIT Privacy Officer and ask for assistance. The individual can request a review by the DHS Privacy Officer, to address any remaining concerns.

temporary inspection location such as a ship lounge. Visitors can also be inspected at certain pre-inspection locations overseas, such as Shannon Airport in Ireland.

As part of the US-VISIT entry process, visitors will be required to provide biometric data, biographic data, and/or other documentation. This data is used to match identity, determine proper visa classification, and to query the watch list. Inspectors match identity of each visitor collected by DOS and determine the visitor's admissibility.

All ports share similarities in the inspection processes. Inspectors must quickly conduct a primary inspection and determine if the applicant should be recommended for a more in-depth review at the secondary inspection point. The average primary inspection of U.S. citizens, lawful permanent residents, and visitors, lasts approximately one minute.

Although all inspections involve certain basic tasks, there are marked differences between an inspection conducted at an air or sea port and one conducted at a land port because of the different physical environment and different travel patterns.

To expedite the flow of traffic at land ports, DHS has implemented several programs, such as the Secure Electronic Network for Traveler's Rapid Inspection (SENTRI) or Dedicated Commuter Lane, and NEXUS, using Radio Frequency (RF) technologies to be able to preposition and collect information for inspection. For land borders, we are considering expanded use of RF technology to expedite processing of frequent border crossers using biographical data as part of the virtual border solution.

3. Status Management Includes Identifying Overstays

Managing the status of visitors once inside the borders of the United States includes, but is not limited to:

- Ensuring that determinations relating to a visitor's legal extension of stay or change of immigration status are informed by previous determinations by State at visa issuance, DHS when the individual was admitted, or the individual's compliance on previous visits to the United States.
- Updating an individual's admission record to reflect changes in immigration status or extensions of their period of admission.
- Matching arrival and departure records to determine if individuals have overstayed the terms of their admission.
- Identifying violations of terms of admission.
- Referring lookout or other information demonstrating an individual's failure to comply with his or her immigration status to agencies and organizations responsible for enforcement.

Maintaining the status of visitors while in the United States is an integral part of border management and ensures the integrity of the immigration system. One of the US-VISIT Program's primary roles in status management will be the overstay calculation, and exchanging appropriate entry and exit information with case management systems, especially those managed by U.S. Citizenship and Immigration Services.

4. The Exit Process Will Capture Departure Information

Currently, our exit procedures are based upon departure information from passenger manifests shared with us by carriers. We match this information with the admission information and identify those likely to have overstayed the terms of their admission. Our goal is to enhance our ability to match arrivals and departures by using biometrics. We are testing this with various pilot programs, one of them being at the Baltimore-Washington International Airport. We plan to expand our pilot program to a total of 15 air and seaports over the next several months. We will pilot test three options and evaluate the results to identify the best, most efficient and effective process. These pilot programs will build on the current kiosk pilot and test mobile devices.

5. The Analysis of Information

The purpose of the analysis process is to provide information that will aid immigration and border management officials in their decision-making process. Currently, the Arrival/Departure Information System (ADIS) system is the primary data source for use in these analyses.

One of the activities conducted in the analysis process is the determination of those who have overstayed the terms of their admission. Each week, the Immigration and Customs Enforcement (ICE) Compliance Enforcement Unit (CEU) receives a report of those individuals for whom the period of admission has expired and no departure record has been received. The ICE/CEU evaluates these records, deter-

mines whether additional information may exist that would indicate that the person has departed timely or is in a status that would result in their continued presence within the U.S., and acts on the remainder in a manner appropriate to the circumstances.

A visitor's information is stored and routinely updated in ADIS. Information compiled in ADIS will tell the officer if an individual has complied with the terms of his or her admission. If the traveler's history illustrates immigration violations, the officer would use that information to inform his or her decision.

As the US-VISIT program evolves, this process will take on an ever-increasing level of importance. Emphasis will be placed on providing an increased level of information to all border management personnel (e.g., the consular official, the inspector, the adjudicator, and the investigative officer) to aid them in making critical decisions.

6. Watch Lists

At various points in the pre-entry, entry, status management, and analysis processes, decision makers are supported by systems checks against data consolidated from law enforcement and intelligence sources that identify persons of interest for various violations.

All names and fingerscans are checked against watch lists to identify known or suspected terrorists, criminals, and immigration violators. Terrorist watch list checks are coordinated through the Terrorist Screening Center (TSC).

B. The Success Stories of US-VISIT

Through the US-VISIT biometric process, DHS and DOS have identified many individuals who are the subjects of lookout records. These included rapists, drug traffickers, and those who have committed immigration offenses or visa fraud.

Here are details of a few examples.

- *Interception of Drug Trafficker who escaped from Prison*—On January 14, 2004, at Miami International Airport, a man was identified as wanted by the U.S. Marshals for escaping from La Tuna Federal Correction Facility where he had been serving a sentence for a conviction of dealing cocaine. The individual was turned over to the U.S. Marshals.
- *Visa Fraud Uncovered*—On January 14, 2004, Customs and Border Protection determined that a woman was trying to enter the United States using a false name, after determining that the woman was not the same individual whose visa photo appeared in the database. The traveler was a woman who had been arrested in April 2000 in New Orleans, convicted of passport fraud, placed on 5 years probation, and prohibited from entering the United States during that time. The woman was removed from the United States after it was determined that she did not meet the guidelines for criminal prosecution.
- *Convicted Sexual Offender Identified*—In New York City, on February 19, 2004, US-VISIT identified an individual who had a prior conviction for having sex with a minor in 2000, was registered as a convicted sex offender, and was removed from the United States in 2001 as an aggravated felon. He was given an expedited removal and a 20-year ban on re-entry after it was determined that he did not meet the guidelines for criminal prosecution.
- *Rape Suspect Caught*—On February 22, 2004, at Miami International Airport, biographic and US-VISIT biometric checks alerted officers to an active warrant from New York City for rape. Criminal history checks also uncovered 3 prior convictions for possession or sale of marijuana in 1994 and 1995, as well as a 1998 rape arrest. He was turned over to Miami-Dade police for extradition to New York.

US-VISIT is critical to our national security as well as our economic security, and its implementation is already making a significant contribution to the efforts of DHS to provide a safer and more secure America. We recognize that we have a long way still to go. We will build upon the initial framework and solid foundation to ensure that we continue to meet our goals to enhance the security of our citizens and visitors while facilitating travel for the millions of visitors we welcome each year.

We want to emphasize that we continue to be a welcoming nation, a nation that invites visitors to study, do business, and enjoy our country. We also owe it to our citizens and visitors to deny entry to persons wishing to do harm to the United States.

We are committed to building a program that enhances the integrity of our immigration system by catching the few and expediting the many, the United States is leading the way in this new era—keeping our doors open and our nation secure.

IV. CONCLUSION

Countries in the VWP are our closest allies and economic partners. Seeking a two-year extension of the October 26, 2004 biometric deadline permits citizens of our allies to travel to the United States without undue burden or delay, while processing VWP travelers through US-VISIT allows DHS to achieve our security objective and facilitate the flow of legitimate travelers.

Secretary POWELL. We offer our prepared statements for the record.

Chairman SENSENBRENNER. Without objection, the prepared statements will be put into the record.

Before starting the questions, let me do a couple of housekeeping matters first. First of all, I wrote the ambassadors of 27 of the Visa Waiver countries asking them—a number of countries—on cooperation with the U.S. Government as well as their ability to comply with the requirements of the act and the deadlines that are established. I would like to ask unanimous consent to include those responses in the record together with an attachment to my hearing memorandum that suggest the responses, because I think they are relevant.

Secondly, I agree with Secretary Powell that this hearing is indeed a target-rich environment for those of us who sit on this side of the dais.

First of all, let me ask my colleagues on the Committee to try to keep your questions restricted to the topic of this hearing. They have come prepared to answer questions on this topic. They haven't come prepared to answer questions on everything else that is in their respective portfolios. And I would ask the Members of the Committee to respect that and try to be on target with the target-rich environment that is presented.

Secondly, the Chair has noted the order in which Members have appeared. I will do, as I have always done in past hearings, and that is to alternate by side in the order in which Members on each side have appeared.

Questions under the 5-minute rule. We have the two secretaries until noon, so when we get to noon, wherever we are on the list, the hearing will have to be adjourned. So I will start out.

Secretary Powell, I agree with you that it will be impossible to extend or possible for the United States and the other countries to meet the deadline that was established in the Visa and Border Security Act and that an extension is in order. I question, however, whether a 2-year extension will, in effect, take the heat off of everybody to get the job done that I believe all of us see the need to get done and to get done as quickly as possible given the ease in which certain types of passports can be forged and certain types of visas can be forged.

That having been said, what do you plan on doing to make sure that we keep on making rapid progress in terms of reaching an international agreement on biometric identifiers and travel documents?

And secondly, is not the whole issue of the extension of the deadline, which can be waived, insisting upon either a machine-readable passport or a machine-readable visa and a non-machine-readable passport from a Visa Waiver country? Would it not be helpful to insist that the documents that are issued before the deadline is

reached to be machine-readable? And I am talking specifically about France where we have had three heists of thousands of blank French passports, and Lord knows where they have ended up.

Secretary POWELL. We are working closely with all of our allies on the need to get their machine-readable biometric passports into being as fast as possible.

The country that has raised the greatest concern to me is the United Kingdom. This has been a major problem for them because a large percentage of this 5 million population comes from Europe and especially from the United Kingdom. The U.K. is going to do everything they can to use the ICAO standard, which is facial recognition, and to get their documents moving as quickly as possible. I gave you some indication that most of them will start in 2005.

A couple of them think they can't get started until 2006. I think they are seized with the problem. I don't think they are going to see this 2-year extension as a rationale for them to lay back and take it easy. They know that this has to happen. I can assure you that it would be very hard for any Secretary of State or Secretary of Homeland Security to come back up here and ask for another extension. Congress has made clear what your will is, and we have made it clear to our friends that if we get this extension, it must be met.

With respect to visas and passports, if I got the gist of your question, I think we should phase into machine-readable, biometric passports and visas as quickly as possible with no delay.

Chairman SENSENBRENNER. If I may add a further point on this, Belgium probably had the worst passport regime of any Visa Waiver country. And last year, you refused to grant them an extension on the deadline on machine-readable passports, and Belgium has now so tightened up their process that I think they are going to be the best in all of Europe in terms of security of passports.

On the other hand, we have seen problems with French passports that seem to be getting worse rather than better. And wouldn't it be appropriate to put the heat on the French, given the three thefts of thousands of passports that have occurred, to at least require them to have machine-readable passports at an earlier date so they can get on to joining the 21st century?

Secretary POWELL. It would be most reasonable to do so, and we will do so, because the sooner we can get onto the machine-readable biometric passports, the sooner we will not have to worry about these missing or blank passports that might be out in the system.

Chairman SENSENBRENNER. The gentleman from Michigan, Mr. Conyers?

Mr. CONYERS. May I be permitted to yield to the gentleman from California, Mr. Berman?

Chairman SENSENBRENNER. Gentleman from California?

Mr. BERMAN. Thank you very much, Mr. Conyers, for yielding me your time.

And I appreciate the Chairman's admonition for us to try to stick to the subject, but a target-rich environment is a target-rich environment, and nothing I am going to ask is not fully within the ability of these very distinguished and talented witnesses to respond to.

So I would like to first ask Secretary Powell a question. And by the way, I am a strong supporter of what you are suggesting at this hearing and support the effort that you are asking us to undertake here. My guess with a very energetic role from you, the Administration's fiscal year 2005 budget proposes a 9 percent increase in the 150 Account, The Foreign Assistance Account, to a level of $31.5 billion. The House Budget Resolution, which has passed the House, decimates that request, slashing it by 14.5 percent to below this year's level.

The Senate also made a serious cut. Presumably at some point soon, a Conference Committee will make a report to the House and Senate. Everything that you have talked about in the context of the war on terror, the convergence of terrorism and radical Islamic attacks on America, the fight for the support of world opinion has had a two-pronged approach: One, that we have to act strong on fundamental security interests, and secondly, we have to drain the swamp. We have to do things about the world health epidemics. We have to have a Foreign Assistance Program that is geared to the efforts made by countries trying to improve the situation for their people, the Millennium Challenge Account being such an example. A very expansive important program on the Middle East Initiative dealing with the role of women, with the role of education, with economic development programs.

What in heavens name—I don't hear a peep from the Administration about what they are doing to persuade the Republican leadership of both the House and Senate to knock off this effort to decimate what I assume by virtue of being in a tight budget situation was a significant increase in this account? What is the Administration doing to change the course of where we are headed, because I think it directly undermines what the Administration is trying to do, what the President himself has spoken to very passionately, what you have been fighting for a very long time? And I don't hear the effort that I hear to keep the transportation funding at a certain level or stop overtime regulations or other things that Congress is doing that are inconsistent with the Administration's priorities. Why isn't that going on in this case?

Secretary POWELL. Mr. Berman, it is going on in my part. I have been in touch with the leaders in the House and Senate about the consequences of such reductions, especially the consequences of the House reduction.

The President generously allowed me to ask for 9 percent more. I could use 20 percent more. We have challenges all over the world. We are in the front lines on offense out there with respect to getting rid of the terrorists, with respect to drying up the swamp, and with respect to the need we have to protect our embassies.

A bomb went off in Riyadh today, and none of our people are injured, to the best of my knowledge, but we have people out in dangerous circumstances. We need necessary funding to protect our facilities and necessary funding to work with those countries that are committed with us in the war against terrorism, necessary funding for the Millennium Challenge Account to give hope to people in developing nations, necessary funding in the HIV/AIDS account in order to deal with the greatest weapon of mass destruction on the face of the earth that kills 8,000 people everyday.

And so I am trying to make the case, and I hope the Congress understands that this would be very unwise to make these kinds of reductions in the 150 Account. You can be sure that I am providing that counsel to my colleagues within the Administration.

Mr. BERMAN. Secretary Ridge?

Secretary RIDGE. I would defer to my colleague.

Chairman SENSENBRENNER. The time from the gentleman from Michigan has expired.

The gentleman from Florida, Mr. Keller?

Mr. KELLER. Thank you, Mr. Chairman.

And also thank you to Secretary Powell and Secretary Ridge for being here today and for being in the arena your whole lives as public servants.

I represent Orlando, Florida, which is the world's number one vacation destination. We have over 43 million tourists from everywhere. Of course, home to Disney World, Sea World, Universal and many other popular theme parks. This really is a life-and-death issue in terms of our economic vitality in central Florida.

Secretary Powell, we have something in common. Your foreign policy experience really comes from touring the globe and meeting with foreign leaders. Much of mine comes from going to Epcot once in awhile. So our resumes are a little different, but we share one vision. And that is this and the one thing I do know, the twin goals of cracking down on terrorism and also promoting international tourism are not mutually exclusive tourism. We can do both and should do both, and it is critical to my community that we do.

For example, if we have one more plane attack into a building, our community is devastated because nobody will fly anymore. On the other hand, if we do not grant this extension and visitors cannot come here, our community is devastated. So we must strike the appropriate balance.

And after carefully reviewing your written testimony and analyzing this, I have come to the conclusion we have no choice but to grant this extension for three reasons: One, it is not feasible for the U.S. or the majority of the other 28 countries in the Visa Waiver Program to comply with this. Second, and most importantly, the security of our country will not be compromised by this 2-year extension because we will rely on the US-VISIT program to do a fingerprint check and check a terrorist watch list to stop the bad guys from entering. And since this program has been in place for only 3.5 months, we have effectively stopped over 300 criminals and suspected terrorists from entering the country. And third, it will devastate our tourism-based economy, as I said.

Secretary Powell, as I understand it, we will be relying on this US-VISIT program and the machine-readable technology in place of the biometric chips during this temporary 2-year extension. Are you comfortable that our national security will not be compromised as a result of this proposed extension?

Secretary POWELL. I am comfortable that it will not be compromised. To a certain extent, through the use of US-VISIT with the fingerscan and the photo, we are compensating for the fact that we don't have machine-readable biometric passports from the Visa Waiver Program countries yet.

So I think we have dealt with the significant part of the problems through the use of US-VISIT, and Tom may wish to talk to that. I think it is a good solution. And I know Orlando well. I used to visit there quite frequently in private life to give speeches, and I know the impact that restricting travel, or making it difficult to travel to get to Orlando, will have on your community and all of southern Florida.

Mr. KELLER. Thank you for that.

Let me ask you a question. Some have suggested that using the fingerprint check that we do now with the US-VISIT program is in some ways superior to the facial recognition technology that will be in the biometric chips. I'd like your thoughts on that, Secretary Ridge. And, secondly, will we continue to use this US-VISIT program once the biometric chips are in place?

Secretary RIDGE. First of all, I think it's very important as a member of the international community, since we were involved in the debate and the negotiations with ICAO, the International Commercial Aviation Organization, that we accept initially the international standard and that is facial recognition. So we want to continue to work with that community, refine the technology and apply it across the board with our colleagues around the world.

Facial recognition is very, very important and critical to one-on-one identification. The fingerprints give us an added level of security and protection because we can compare it against a huge fingerprint database. It doesn't necessarily help us if there is an isolated fingerprint found in a safe house for a terrorist or elsewhere. But as long as you have the finger scans you can match against a 10-digit database.

So in the long run I have had some public and private conversations with our colleagues. Let's start with the facial recognition, because there is some constitutional and cultural resistance to adding fingerprints around the rest of the world. But I will tell you that the law enforcement community around much of the world believes that you start with facial and down the road we should add the fingerprints. That is again something to be determined. We need to take the leads and accept the international standard, facial, but then use ICAO as an organization and other international organizations to build in redundancy in the system.

Mr. KELLER. Thank you.

Mr. Chairman, my time has expired.

Chairman SENSENBRENNER. The gentleman from Massachusetts, Mr. Delahunt.

Mr. DELAHUNT. Thank you, Mr. Chairman.

Secretary Powell, I agree with you wholeheartedly that international visits by folks from abroad is an essential piece of our foreign policy; and we are in danger of losing that particular tool in our arsenal, if you will.

Just a segue to comments by my friend from California, Mr. Berman. I just returned from Guatemala where there were a number of American citizens there, prospective adoptive parents. You have a great staff there at the embassy and at the consulate, but they are overburdened, and we continue to have serious problems in terms of treating those American citizens who are going to adopt on an intercountry basis in a way that I think they deserve.

So please continue to advocate for that 9 percent increase. Because, otherwise, it's going to hurt not just American citizens but children from all over the world who should be adopted.

In addition, I also represent the greater Boston area, Cape Cod, Nantucket, Martha's Vineyard, which is also a well-known tourist destination which will host the Democratic national convention in July of this year. I am very concerned about the decrease in the number of international visitors coming to the United States. Do you have data that shows either an increase or decline from 2001 in terms of international visitors?

We rely on international tourism. As you well know, Boston also is a center for educational excellence in the United States. You alluded to Harvard University. We have MIT, Boston College, Boston University. My listening to the representatives of those institutions indicate a dramatic decline in the number of applications coming from abroad. Like my friend from Orlando, I recognize the need for this particular extension, but I'd like either one of you to address the differences, the hard empirical data in terms of where we were and where we are now in terms of students coming to this country and in terms of visitors from abroad coming into this country. Because it clearly—I think it was Secretary Powell that indicated—maybe it was you, Secretary Ridge—one out of eight jobs in this country is affiliated with the industry.

One final comment and then I'd ask for your response. How about a Web site for international visitors either through DHS or DOS, being very clear as to what the conditions and the requirements are for travel to the United States? Please consider that.

Secretary POWELL. Let me begin. The overall statistic is that we are down 30 percent since 2001. That's significant. It's a lot of money. It's a lot of people.

When you look into that number, though, you will find that in some Arab countries, for example, it's much higher because of a perception that they are less welcome than somebody coming from, say, a European country.

An example of the kind of problem we run into from President Summers' letter—Larry Summers letter from Harvard: A Chinese Ph.D. candidate working at Harvard on an important program went home for a family event, wedding of some kind, and needed to reapply to come into the country. With the new system in place and the new barriers in place and the backlog of these, it's taken months for him to get that visa and his work has had to be given to someone else and his whole doctorate program has been seriously interrupted.

People are not going to take that for very long, and when the word gets out to others they will start going elsewhere.

Yesterday I had some people complaining to me about scientific changes with conferences, symposiums. People can't get to them. This hurts us. It is not serving our interests. So we really do have to work on it.

I think we are going to be getting much better in the very near future because between Secretary Ridge's department, my department and FBI, CIA, I think we are doing a much better job of integrating all of our databases through the Terrorist Threat Informa-

tion Center and all the other databases that are coming together that allow us to check people more quickly.

Secretary RIDGE. If I might—thank you for that comment. My comment, we made, I think understandably, right after 9/11 some fairly significant adjustments to visa policy in this country where, given the horror and the destruction of 9/11, security moved immediately to the fore. Secretary Powell and I, Secretary Evans, all the concerns he has with travel- and business-related visas have agreed that we need to take an introspective look at the adjustments and we need to perhaps adjust the adjustments as it relates to visas. And what we are doing with the support of Secretary of State, Secretary of Commerce, looking specifically at the outset at business travel, educational and scientific travel, and security advisory opinions to accelerate that process.

So we are aware that it is a problem. Much of it is associated with well-intentioned, understandable, predictable changes we made right after 9/11. But 2 years has elapsed. We have seen the consequences of some of these changes, and we have to be serious about reviewing them and providing the balance between security and openness. We have to determine whether or not the provisions that we adopted right after 9/11 have actually added to security or have increased, exacerbated and created economic problems for us as well. We are very much engaged in this process together.

Secretary POWELL. And we are engaged with the Congress, because many of these provisions were placed correctly upon us by the Congress at the time. But, for example, we now have to interview visa applicants universally. But if you're in a country like Russia and you have to travel a thousand miles to get to a consular officer in order to make the application and have the interview and then go back, wait months to hear what the outcome is or weeks to hear what the outcome is and go back, it becomes much more difficult.

We want to protect the Nation, but we have got to do it in a smart way, and the kinds of adjustments that Tom is talking about are ones we need to look at, and we may need some legislative relief.

Chairman SENSENBRENNER. The gentleman's time has expired.

The gentleman from Virginia, Mr. Goodlatte.

Mr. GOODLATTE. Thank you, Mr. Chairman.

Secretary Powell, Secretary Ridge, welcome. We are honored to have you here. The presence of both of you I think sends a strong message to Congress, how important this issue is and how important it is that we address it promptly but also thoroughly.

Secretary Powell, I would guess that a great many Americans don't understand the role that you and your department play in homeland security. That, in effect, the hundreds and hundreds of U.S. consular offices around the world and the millions of visa applications that citizens of other countries submit is really our frontline of defense in the security of our country since we know that most of these terrorist threats are from people who would come from elsewhere to cause us harm. So we thank you very much for the understanding and the recognition.

I want to second what the gentleman from Massachusetts said. This is a very important task, but it's also a serious problem that

we design a system that works efficiently and rapidly. I've had a number of my constituents doing important work for U.S. companies doing business around the world who have left to go to other places to conduct that work and are unable to get back to continue their responsibilities here as a result. So anything you can do in that area we very much appreciate.

Secretary Ridge, I am also a Member of the Select Committee on Homeland Security and in that capacity have had the opportunity to visit some of our ports of entry and see the US-VISIT program operating. It is an impressive program, and most of the time it will work very efficiently and very quickly to identify people. Particularly where they have been to a consulate and State Department officials have had the opportunity to scrutinize this individual and pass muster, the match-up is a very effective thing.

But that leads us to the obvious question: How much other data are you receiving that goes into that program that will be useful for the countries that are under the visa waiver program and are not going through that kind of clearance process in the consular offices?

Secretary RIDGE. Well, one of the requests we have and we are working with our friends in the European Union is to get additional information with regard to foreign travelers through the passenger name records. You know, we get certain basic information from men and women who are going to be flying into the country or taking a trip across the Atlantic. So we are going to get additional biographic information from the European Union. Those negotiations are ongoing. I feel confident, though they have been somewhat controversial, that at end of the day we will be able to secure additional information.

Because, again, particularly since 9/11 and the regrettable number of terrorist-related incidents around the world, more and more countries are becoming even more sensitive to the notion that they have an interest in protecting their borders in a fashion, perhaps not precisely like the United States, but getting information about people coming to and from their countries as well is in their best interests.

So I think Secretary Powell and I are really committed to trying to develop a single standard for air travel, a single standard for document authentication, a single standard for personal identification; and there are a lot of people out there who want to work with us to make it happen.

Mr. GOODLATTE. Secretary Powell, is there a quid pro quo here? Can we at the same time that we are telling these countries that we are giving this extension of time suggest that they need to accelerate the cooperation that they are providing us with passenger and other criminal information and so on?

Secretary POWELL. Certainly. There have been quite a few discussions, as Secretary Ridge said, about the passenger information. I think we can use this extension to put pressure on them with respect to any remaining difficulties there are to this kind of effort.

Mr. GOODLATTE. Let me ask you one more question. The U.S. PATRIOT Act provided that by October, 2003, aliens arriving under the U.S. visa waiver program had to have machine-readable passports. The act allows you to waive this requirement to October,

2007; and you have waived that requirement only to October, 2004. Do you expect that all the visa waiver countries will be issuing machine-readable passports by this October and, if not, do you plan any further waivers for individual countries? Does the State Department regulation provide exceptions for nonmachine-readable passports on any basis and, if so, how long will those passports be accepted for admission?

The reason I'm asking is nonmachine-readable passports valid for 10 years could be valid for quite a long period of time beyond which we get the other program operating.

Secretary RIDGE. I would just say to you that I was asked earlier with regard to using US-VISIT, even if the extension is applied; and I think US-VISIT, even if you have a machine-readable passport or a nonmachine-readable passport, adds that layer of security until we get everybody up to the situation where they have an international-compliant, biometrically enabled machine-readable passport.

So I think if it's our call within the Department of Homeland Security we will use US-VISIT in perpetuity as these countries ratchet up to get to the requirements that Congress has appropriately said that we need to apply.

Chairman SENSENBRENNER. The gentleman's time has expired.

The gentleman from Virginia——

Mr. GOODLATTE. Mr. Chairman, I think Secretary Powell wanted to answer.

Secretary POWELL. The only thing I wanted to add is that US-VISIT will continue even after we get machine-readable and biometric passports. Secretary Ridge intends to continue with US-VISIT so we get that other layer of security.

Secretary RIDGE. Particularly because it's the finger scans. The facial recognition is very good to confirm that the person who got the visa is the person who shows up at the port of entry. It doesn't give us a means of being able to take a look at a fairly exhaustive database dealing with criminals and people we have deported and in time I suspect even fingerprints of terrorists and terrorist suspects. So, again, I think we all plan on having that as part of our entry admission system in perpetuity until circumstances warrant a change.

Chairman SENSENBRENNER. The gentleman from Virginia, Mr. Scott.

Mr. SCOTT. Thank you, Mr. Chairman; and with the indulgence of our two secretaries, I'd like to submit several questions for the record——

Chairman SENSENBRENNER. Without objection.

Mr. SCOTT.—that you can answer. And let me just go over what they will be.

Exactly what are the technological barriers to meeting the October deadline? And how—why should we have any confidence that you will be able to overcome these barriers within 2 years?

The second is, have you evaluated the problem of false positives and false negatives in the identification?

Third, what privacy concerns have been studied and what were your conclusions?

And, fourth, what provisions have been made to make the new passports tamper resistant?

And if you could, between the two of you, respond to those, I'd appreciate it.

Let me ask a couple of other questions.

If we don't extend the deadline and we require visas for people visiting the United States, will they require visas for United States citizens visiting them?

Secretary POWELL. That would be a judgment each country will have to make on its own.

There was a recent experience where one country was not happy with the US-VISIT program, and it reciprocated in kind against our people coming into their country. I think we've kind of gotten over that once they realized that this only took 15 seconds and it wasn't painful—and, frankly, those people going through kind of enjoyed the novelty of it and realized that it was for their protection.

So we always have that possibility, but—I think, with the individual countries, we will have to deal with it as it occurs.

Mr. SCOTT. Will U.S. citizens have trouble getting back into the United States if they leave?

Secretary POWELL. U.S. citizens?

Secretary RIDGE. No, they would not.

Congressman, I just wanted to just add, the false match rate—because, obviously, we worry about positives and negatives. For the fingerprint one-to-one match, so far our experience is less than one-tenth of 1 percent. It is a pretty reliable way of confirming identity.

Mr. SCOTT. One-tenth of 1 percent when you are talking about millions is still quite a few.

Secretary RIDGE. That is exactly right. And we obviously try to work to a foolproof, failsafe system. We will keep working on it.

Mr. SCOTT. Without going into detail or asking a question, let me just associate myself with the concerns about tourism. That's a very heavy part of the southeast Virginia economy. So we would want to make sure that whatever we do doesn't adversely affect tourism.

Now, do I understand if the passports that are issued above whatever the deadline is, will they be good until they expire?

Secretary POWELL. Yes, it's all passports issued after the deadline date that must be machine-readable and biometrically enhanced.

Mr. SCOTT. And, therefore, those issued before the deadline will be good until they expire.

Secretary POWELL. Right.

Secretary RIDGE. That's one very good reason for us to keep the US-VISIT system in place. Some countries issue a 5-year passport, some 10. If you extend the date, every passport issued after that would have to be machine-readable, biometrically enabled. Those passports issued before would have an expiration date and necessarily would not have to apply for a new passport. They could use the old passport, which is another reason we think we ought to keep US-VISIT in play indefinitely.

Secretary POWELL. And I would hope most of these countries would be well on their way to issuing the new passports before the deadline.

Mr. SCOTT. Exactly who is in the database that we will be catching with the biometrics?

Secretary RIDGE. Well, the facial databases are obviously fairly small, photographs, and the larger database primarily supplied by the FBI, but other agencies, the fingerprint database is in the millions.

When we—when people are convicted of a crime, we get the full set of prints. When individuals are deported, there is a full set of prints. So in the database we are looking at noncitizens who've been convicted of a crime or deported.

Mr. SCOTT. Were the 9/11 hijackers in the database?

Secretary POWELL. No. No, I don't believe so. No.

The biographic data and the finger scan, taken as they come through the point of entry, is immediately referred to the database. What the biometric facial identification does, it makes absolutely sure that the holder of the passport is the proper holder of the passport because you have the facial recognition.

Secretary RIDGE. You raise, Congressman, a very, very relevant and important point. It's one of the reasons that we are trying to work with our allies in the European Union to give us additional biographical information. In the international community, so many individuals share the same name; and if you get the name and name only you run into obviously many complications, potential conflicts. So the more biographical information that we can get about an individual, then the more relevant that database is to keeping the borders open and secure at the same time.

Mr. SCOTT. Thank you, Mr. Chairman.

I think that's one of the problems we have, people with the same names. What happens when you have a match with just the name?

Thank you, Mr. Chairman.

Chairman SENSENBRENNER. The gentleman's time has expired.

The gentleman from Texas, Mr. Smith.

Mr. SMITH. Thank you, Mr. Chairman.

Secretary Powell, I have a vested interest in the subject of the hearing today, both as a Member of Congress and as the author of the original entry-exit system in 2000. I know you, Mr. Secretary, and Secretary Ridge are doing everything humanly possible to prevent another terrorist attack. But at the same time, if there is one, it is logical to assume that the attack will take advantage of the weakest link in our security chain which may be trying to enter the United States from a visa waiver country.

It also seems to me that it is human nature to wait until there is a deadline before you perform whatever action you're required to perform. My concern is that the 2-year postponement of the deadline is unnecessarily long, especially considering that a number of countries seem to be willing to implement the new system sooner. So why not move the deadline up to, say, 1 year, keep the pressure on those countries who seem to be able to implement the system sooner, lock them in and if absolutely necessary extend it again? It seems to me that 2 years is too long.

But I would be happy to have you respond to that.

Secretary POWELL. It was a judgment call, Mr. Smith. We felt that countries in the VWP program, there were a number of them who clearly can meet the deadline within a year and will start to issue the new passports within a year.

But it was just as clear that other countries were further behind. The ICAO standard has only been out there for 17 months for them to work on, and it was clear that they were not going to be able to get into it until 2006. So we thought the most prudent thing to do, so we didn't have to come back once again, was to ask for a 2-year extension.

But I will assure you—and Secretary Ridge I'm sure would join me in this—that this is not going to be an opportunity for all of them to lay back and wait until November 30th, 2006. We will be working with each of them to get them on line as fast as we possibly can.

Mr. SMITH. Okay. Thank you, Mr. Secretary.

Secretary Ridge, you mentioned a while ago both the facial and the fingerprint biometric identifiers; and we are starting out with the facial and then hopefully moving to include also the fingerprint. Why not reverse the order for these reasons: The fingerprint biometric identifier I understand can be implemented more quickly; and, more than that, it is very secure. As you mentioned a while ago, we already have ample fingerprint databases, whereas the facial database is new and small.

So why not reverse the order? We could do it quicker, and it would still be more secure than neither. Why not have the fingerprint first and then move to the facial?

Secretary RIDGE. I think we need to recognize that if we are to lead the international effort to come up with an international standard, as a member of the ICAO international organization that really wrestled with this problem for a couple of years, that we need to embrace the international recommendation to use the facial and then use the same organization—which did not exclude, by the way. They said you can also use fingerprints or iris scans. But I think as we try to lead and be part of an international effort to create a single standard that we ought to accept the recommendation of the international community. We have backup in our own country with US-VISIT where we do require the finger scans and use the same and similar international organizations to put the redundancy in the system.

Mr. SMITH. It does seem to me that with the security of the United States we might want to lead the international community and perhaps push the fingerprint before the facial. Obviously, you have reasons not to do that.

Secretary RIDGE. But I will tell you that the international standard we all accept, and we are not waiting to begin the process of convincing our colleagues around the world that we need to take the next step through ICAO and other organizations to add fingerprints to it. The law enforcement community is almost universally in agreement for their own sovereign purposes that a system that includes fingerprints in the future should be part of their system and therefore part of an international system as well. So our continued advocacy will be for at least both and down the road you might even throw in an iris scan.

Mr. SMITH. Secretary Ridge, one more question I will try to squeeze in. This goes to the US-VISIT program. We are making advances as far as the entry. We have missed the deadline on the exit aspect or the exit component of US-VISIT. We have a pilot program that has made the deadline but not implementing the entire program. As you all know, the exit is just as important of a component as entry, because if you don't know when somebody has left the country, you don't know who is in the country illegally. Why are we behind on that?

Secretary RIDGE. Well, we actually met the congressional mandate for exit system because we do record based on biographical who is leaving. We added—homeland security said a name based entry-exit program would give us a little security, but we thought biometrics would be an added level of security. We have several pilot projects up and believe that we will add another level of exit security in addition to the biographical exit system that we have.

Mr. SMITH. Thank you.

Chairman SENSENBRENNER. The gentleman's time has expired.

The gentleman from North Carolina, Mr. Watt.

Mr. WATT. Thank you, Mr. Chairman.

Let me go on record at the outset as agreeing that it is impractical, impossible to meet the deadline that is in the current law. However, I think, with all due respect, that may be the wrong question to be debating. I think a more relevant question would be whether the visa waiver program has a rational basis itself. It's based on the premise that nationals of participating countries pose little risk of being security threats or overstaying the period of their admittance, and I've always had a problem with this whole concept of having a visa waiver program in existence.

So while I don't argue with the impossibility of meeting the biometric standard, I do argue with the conclusion that that gets you to, which is that you ought to continue to march in place using a visa waiver program.

It seems to me that we are in exigent circumstances, and we know that. As the Secretary said, Secretary Powell said in his opinion piece, other countries have to pardon the inconvenience while we adjust to these new circumstances.

I remember when I was growing up we used to leave our doors open. We never locked them. I don't think that the fact that my mother now locks her doors means she's any less open, less friendly. She just needs to know who's coming into her house when they show up at the door. It's a little more prudent—it's prudence, I think.

So let me ask a couple of questions that are aimed at the visa waiver program.

Is it true that Zacarias Moussaoui, the so-called 20th hijacker from the September 11 hijackers, came to the United States as a French national under the visa waiver program?

Secretary POWELL. I'd like to provide that for the record, just to make sure I get it absolutely right, the circumstances under which Moussaoui came into the country.

[See Appendix for response from Secretary Powell.]

Secretary RIDGE. I think you're right. I believe he did.

Mr. WATT. Is it true that Richard Reid, the shoe bomber, came in under a French Government or British passport that the French Government believes to be legitimately issued and he came in under the visa waiver program?

Secretary POWELL. That's my understanding, but we'd like to provide it for the record as well.

[See Appendix for response from Secretary Powell.]

Mr. WATT. Is it true that, from what we know about the people who did the bombs in Madrid, many of them would have been able to come in under the visa waiver program without getting visas?

Secretary POWELL. I don't know enough about the individuals to say. But if they were eligible as Spanish citizens, yes.

Mr. WATT. Is it true that none of the South American countries are eligible under the visa waiver program?

Secretary POWELL. Yes.

Mr. WATT. Is it true that there are no African countries eligible under the visa waiver program?

Secretary POWELL. Yes.

Mr. WATT. So I guess the point I'm driving at here is we have a set of standards that are applicable to these 27 countries that's based on a premise that is a questionable premise; is that true? I mean, what's your assessment of that?

Secretary POWELL. The premise of the visa waiver program from its beginning in 1986 was that there were some countries that had relatively low level of risk with respect to who would be using the program and coming into——

Mr. WATT. With respect to who would go back after they got in. Nothing to do with any kind of risk. The criteria was whether they would go back at the end of the period as opposed to say staying in the country. Isn't that the premise on which the visa waiver program was based?

Secretary POWELL. Yes, the visa waiver program is only good for 90 days, the expectation that these people would go back before the 90 days had lapsed. The participation in the program was designed for countries where the initial rejection rate of people coming for visa applicants was relatively low, and it looked like we could have more confidence in having such a program with these countries than with other countries in the world.

Mr. WATT. Mr. Chairman, it looks like my time is up, but I think you get my drift.

Secretary POWELL. Sir, if I could only make one other point. This comes up from time to time.

We have studied it from time to time, and one of the things the visa waiver program does do for us, if we can accept that there might be some risk associated with it, is that it allows us to allocate more resources to other countries where there is a higher level of risk. So doing away with the visa waiver program would essentially require us to do to the visa waiver program countries that we do elsewhere in the world, requiring many more resources that would be taken away——

Mr. WATT. But we reduced the number of consuls in Brazil over the last 2 years so the people have to travel further; isn't that right?

Chairman SENSENBRENNER. The gentleman's time has expired.

The gentleman from Texas, Mr. Carter.

Mr. CARTER. Thank you, Mr. Chairman.

Secretary Ridge, I want to get back to the identification system that we are using.

The other night I happened to be wandering through when my daughter was watching a television program with these women having their faces made over; and, quite honestly, some of them you couldn't recognize as the person who started into the program after the plastic surgeons got through with them. Isn't that a risk in facial identification? Nothing more than the computer and reading a photograph rather than a human being reading a photograph; isn't that correct?

Secretary RIDGE. Well, I would tell you that those who've looked at digital photography—and certainly our National Institutes of Standards and Technology as well as the ICAO will probably admit that it is not an absolutely, 100 percent guarantee, as no database would be. But even some material alteration of certain facial features could be detected with the right kind of technology.

Mr. CARTER. And adding to that question, it's taking—we see right now the biometrics we're proposing internationally, that we are going to have a delay over our deadline of 2 or 3 years, and we're talking about an extension, and possibly someone is going to come and ask for further extensions. Well, that question already has been asked. Somebody courageous, as you pointed out.

But if that's the case—let's just go on the assumption that we find that we have flaws in the facial identification and we really wish we had fingerprint identification, we really wish we had iris identification, so we then propose we're going to put fingerprint identification in the biometrics. Now we have another 3 or 4 years delay while all the international community adds that. And if that is not sufficient, we will add iris identification, and we go through three extensions of redoing biometrics in our program to order to reach the ultimate which we are wanting to seek to be able to be as sure as we can be with modern science.

Why not go ahead and do it now, one cost, one time, and get it all done at one time so we don't have to come back and say it would have been better with fingerprints, so now everybody do fingerprints? Later, it would be better with iris, now everybody do iris. Why don't we put them all in one chip and put it in the passport now?

Secretary RIDGE. I believe that certainly the advocacy that we have undertaken in the department Administration-wide is not wait for another occasion or another event to advocate redundancy in the system. We're working very hard to reach an agreement and convince people around the world that we ought to right now, as we go about identifying and accepting the international facial recognition standard, to begin to build some redundancy in the system.

The iris technology is still a little bit uncertain. There are varying opinions as to its reliability.

There is more of a constitutional or cultural resistance internationally to the use of fingerprints than there is a scientific one. Again, the failure rate is very, very low.

But as we try to drive the international community to a single standard we don't want to be in the position of having an American standard and an other world standard. We accept the international standard of facial recognition and push as hard as we can and be as aggressive as we can to add one or two additional features to either the visas or the passports.

Mr. CARTER. I agree with Chairman Smith. We should be driving this train——

Secretary RIDGE. We are.

Mr. CARTER.—and not the international community. We are the ones that got our buildings blown up.

On this issue of people going overseas, the scientists who went to China for a funeral or wedding or whatever and couldn't get back in. How difficult would it be for State to implement a program where universities or corporations or whatever who have people traveling that way can make a brief application to State to flag a passport to avoid these reentry problems?

We had a similar problem with the chairman of Samsung in Austin. Ultimately, it was resolved by flagging the passport, because he was traveling so much that he had to be identified.

It looks like to me that would not be that difficult a program or expensive a program to implement to accommodate these people who have to leave and have to come back.

Secretary POWELL. Secretary Ridge and I are looking at that now: How can we carve out classes of individuals who we see no risk in this class of individuals and expedite their returning to the country.

Mr. CARTER. They should have some responsibility to apply for that, too, I think. Everybody is responsible for their own problems; and if they want that special privilege, then they should apply for it and have it granted by State.

Secretary RIDGE. If I might just—I know our time is up, but before this hearing today I met with several university presidents, including the president of the University of Texas, and this is one of the issues that they raised. And I can just assure you that the Secretary of State and yours truly, as well as the college and university community around the world, work together to make significant changes in the student visa program. There are still some additional challenges, and this is one of them, and the colleges and universities will partner with us to achieve that workaround. I'm absolutely confident of that.

Mr. CARTER. Thank you, Mr. Chairman; and I thank both of these honorable gentlemen.

Chairman SENSENBRENNER. The gentlelady from California, Ms. Lofgren.

Ms. LOFGREN. Thank you, Mr. Chairman.

I found this to be an interesting hearing, because, as I've listened, it's become clearer to me that, while we do need to play a role internationally in setting the standard, the most important thing for us is, as Americans and as the Congress, is to make sure we know who is coming in here; and actually our US-VISIT system does that pretty well. So whether or not the request to extend the biometric requirement for passports goes forward, we actually have that protection for us for US-VISIT individuals.

I guess one of the questions we might want to ask is whether we extend that US-VISIT model to any nonimmigrant visitor who does not have a machine-readable passport. That might actually solve the security issue that we have before us on the international standard, and I think it's something that we ought seriously to consider.

With that, I think that we need to think about how we utilize the data that we obtain and whether we are really getting maximum value out of it.

Before I was in Congress and before I was elected to any office, I taught immigration law and I practiced immigration law; and, with all due respect, I think the consular officers abroad I think are decent people and hard-working people. I certainly—but they don't have a lot of information. Having someone go in to apply for a visa doesn't give me a high level of confidence they're going to pick out the bad guy from the good guy because they don't have databases, they don't have information.

I think the ability to identify someone at entry is really in some ways a higher level of confidence than what we are going to get with a visit to a consular officer. Because you cannot commit identity fraud after you have once been admitted. You can be Joe Doe the first time. If you are John Smith, you are John Doe forever.

The question is, how do we connect the dots? That gets to the database issue where we have substantial need to put resources.

Secretary Ridge, I was upstairs with Mr. Liscouski. We do not have a merged data list in terms of what our CIA and others have in terms of risk. It's not available to your officers at the airport, it's not available to the State Department visa officers, and, furthermore, we don't have any ability to input and connect the identity of entrants to the most significant database, which is the immigration service. As you know, they are still creating paper files. They are creating microfiche. They have legacy systems. You may know the biometric, you know who is coming in, but you have no way to connect that person to their history in the immigration service.

So my question is when is that going to change? When are we going to score on that effort to get the databases merged from a security—international security point of view and then also get the immigration service database in line?

Secretary RIDGE. First of all, I think at the heart of the President's initiative in the creation of the Terrorist Screening Center is to compile—we have the databases, and all the relevant agencies have access to them. But it's very labor intensive, and the ultimate goal which I think will completed by the end of the summer is to merge them technologically.

Ms. LOFGREN. That is the end of the summer?

Secretary RIDGE. Yes, obviously, in the next couple of months. So not only will we as departments have access to them, but then it's our job to put the technology connect to the borders and to the airports to give them access to that information as well.

Ms. LOFGREN. What about the immigration service? I've been here in Congress now for 9 years and for 9 years I have asked this question of—you know, obviously bipartisan question—the immi-

gration service is still not technologically efficient. We are paying a price for that. When are we going to get there?

Secretary RIDGE. First of all, under the leadership of the Director of Citizenship and Immigration Services, Eduardo Aguirre, we have begun the process of investing more heavily in technology, to the extent that 35 or 40 percent of the applications that really, really bog down it is a very labor-intensive process we're putting on line.

Ms. LOFGREN. But the problem is, you know, the biometrics are more reliable than the names; and your I-94 ought to be filed by your fingerprint and your iris scan, not by your name. We are not there, and when are we going to be there?

Secretary RIDGE. Well, we have had the Department for about a year. Unfortunately, in the previous 8 years when you were in Congress, you never got the answer that you wanted.

Ms. LOFGREN. And I'm still not.

Secretary RIDGE. Well, you got part of the answer. We are putting about 35 to 40 percent of the applications on line. We know that it is absolutely, indisputably technologically deficient; and we know that we have to make significant investments over the next couple of years and bring it into the latter 20th century, let alone the 21st century.

Chairman SENSENBRENNER. The time of the gentlewoman has expired.

The gentleman from North Carolina, Mr. Coble.

Mr. COBLE. Thank you, Mr. Chairman.

Secretaries Powell and Ridge, it is good to have both of you with us this morning.

I'm going to put a two-part question to you all. What assurances has the United States received from the visa waiver countries that they will have biometric passports ready by 2006, October? A. And, B, if any of these countries are unable to meet that deadline after a 2-year extension—and my friend from Texas may be right, that may be overly generous, but let's assume 2 years—will its citizens be required to obtain entry visas or will the fingerprint and picture requirements under the US-VISIT program provide the level of security needed to block entry of terrorists?

Secretary POWELL. They will be required to obtain visas, the same thing that would have happened the 7th of October of this year if we don't get the relief. All we're asking for is a straight 2-year extension, and all the countries that we have been in touch with understand the importance of bringing on line in that 2-year extension period their machine-readable biometric passports. Because at the end of that extension period I can assure you I would have no intention to come back to the Congress again and plead. Because by then they would not only have had the past 17 months from the setting of the ICAO standard but another 2 years from that 17 months, and that is enough time for everybody to get it.

Mr. COBLE. Do you want to weigh in on that, Mr. Ridge?

Secretary RIDGE. I agree.

First of all, I think, as I mentioned before, they have an interest, a personal, a sovereign interest in accelerating the process themselves as they design entry-exit systems themselves around biometrics. That is certainly an impetus to this. And they know that

at the end of the line if they don't do that they will have to go and stand in line and get a visa.

Mr. COBLE. I think by implication you have answered my next question, but I want to put it on the record.

Given that there are a finite number of biometric identifier manufacturers and questions have been raised by many about the durability and the security of the identifiers, do Homeland Security and State have confidence that the manufacturers will be able to meet the worldwide demand with a reliable product in time for the visa waiver countries to meet the deadline?

Secretary POWELL. I don't have detailed knowledge of the manufacturing base to be able to answer the question. So with your permission, sir, I'd like to get the answer for the record.

Mr. COBLE. Oh, that would be fine if you could get that to me subsequently.

[See Appendix for response from Secretary Powell.]

Secretary RIDGE. One of the challenges we have right now—I think the marketplace will respond, because countries are going to be investing hundreds of millions of dollars.

One of the challenges we have right now is that we have the need for different kinds of readers, because the marketplace has responded with different kinds of facial identification technology. I think that the marketplace will get us there, but we will give you more specific responses in writing.

Mr. COBLE. And I would appreciate that.

Finally, gentlemen, are there any unusual reasons that would attract our attention that the visa waiver countries have given for having been unable to meet the October 26th deadline? Nothing out of the ordinary is what I am saying.

Secretary POWELL. No, my understanding of it—and we will check just for the record—but the foreign ministers I have spoken to about this new visa waiver program simply say that they haven't had enough time to get the technology straight, to get the design ready, to do the manufacturing process. They are committed to it. They are not dragging their feet, but 17 months simply has not been enough time to get the program in place.

Mr. COBLE. Secretary Powell, as you said in your opening statement, we definitely need to make it known worldwide that our friends from across the ponds are welcomed to come here. I don't want that to be lost in the shuffle.

Gentlemen, thank you again.

Mr. Chairman, I yield back.

Chairman SENSENBRENNER. The gentleman from California, Mr. Berman, on his own time.

Mr. BERMAN. Thank you, Mr. Chairman.

Secretary Ridge, I have one question. And if you would allow me, hold off on your answer. Then I'm going to yield the rest of my time to Mr. Conyers, who wanted to ask you something; and then you could answer both of our questions at that point.

The 9/11 Commission released preliminary findings assessing some of the immigration enforcement efforts that your Department and the Department of Justice made post-September 11. Those findings question the efficacy of some of the specific programs in identifying people connected to terrorism within our borders.

Mr. KING. Mr. Chairman, I object.

Mr. BERMAN. Pardon me?

Mr. KING. Mr. Chairman, I object on the grounds that this question is off the topic of this hearing.

Chairman SENSENBRENNER. Okay. The Chair will quote from House rule XI(k)(8): In the discretion of the Committee, witnesses may submit brief and pertinent sworn statements in writing in the record. The Committee is the sole judge of the pertinence of the testimony and evidence adduced at the hearing.

The question is: Is the question asked by the gentleman from California pertinent to the topic of this hearing?

Those in favor will say aye.

Opposed, no.

The ayes appear to have it. The ayes have it. The gentleman from California may proceed.

Mr. DELAHUNT. Mr. Chairman, point of inquiry. I'd like to state my point of inquiry. I have yet to hear a question.

Chairman SENSENBRENNER. The gentleman from California.

Mr. BERMAN. At some point quickly we will get to my question, which apparently upset some people. I don't even know what it is yet.

A former DOJ employee responded to this saying that those programs, if not effective in counterterrorism, were at least effective in deporting a number of undocumented immigrants.

The question is about resource management of the Department. There is a proposal in the House called the CLEAR Act. The CLEAR Act would withhold funds from local law enforcement and reimbursement for the incarceration by States and counties of illegal aliens unless local law enforcement detained those they come across in their normal law enforcement duties, including victims of crimes and witnesses to crimes who are out of status, and hold them until your Department would pick them up. It would divert funds from the visa fees going to process and do all the biometric tests for visa applicants to reimburse local governments for the cost of these programs. This CLEAR Act is not focused on terrorism-related concerns but on the issue generally of undocumented immigrants.

It seems to me this type of enforcement could be an overwhelming burden on DHS and its security resources. Is this the type of enforcement where you intend to focus DHA's funds and personnel?

And I'd like to yield the rest of my time to Mr. Conyers, and I assume that our little discussion about the relevance of my question is not part of the time.

Chairman SENSENBRENNER. Does—Secretary Ridge, do you want to answer that question?

Secretary RIDGE. I'd like to try.

Chairman SENSENBRENNER. Go ahead.

Mr. BERMAN. I—okay.

Secretary RIDGE. Congressman, whether it's the CLEAR Act or not, until the Congress and this country has—says loudly and clearly that the integrity of our immigration laws are of the greatest importance to us and that we are prepared to expend the resources in order to assure its integrity, we will continue to try to

nibble around the edges of taking a little money out of this Department and putting it over here.

Clearly, I would like to think that in the future we would be a lot more aggressive in enforcing our immigration laws. But I also think that we kid ourselves when we think that the diversion of a few dollars from one pool of money to another will give us the kind of foundation with which we are able to do that.

I'm not personally familiar with the CLEAR Act and would be pleased to respond to what I consider a very relevant question in writing.

Diverting a little money from here to there—it would cost us hundreds of millions if not billions of dollars. If we're serious about immigration laws and we are serious with the enforcement, then we have to be equally serious about the number of dollars we put forth. There are a lot of discussions and in this '05 budget we asked for more money for retention and more money for teams to go out and help enforce the immigration laws of this country. It is a very important question.

We have asked the President to give us more money in this regard in the '05 budget. We sent it up to the Hill. Hopefully we will get it. But even then we have to make over the next couple of years a fundamental decision with regard to providing far, far more resources.

Mr. BERMAN. In this case——

Chairman SENSENBRENNER. The gentleman's time has expired.

The gentleman from California, Mr. Gallegly. The gentleman from California, Mr. Gallegly.

Mr. GALLEGLY. Thank you, Mr. Chairman.

Mr. Chairman, first of all, I ask unanimous consent that my opening statement be made a part of the record of the hearing.

Secretary Powell and former colleague, good friend, Secretary Ridge, it's always good to have you here and you are providing a tremendous service at a very difficult time to this Nation; and I think that all of my colleagues would agree with me on that.

First of all, Secretary Powell, President Bush announced that the US-VISIT—what we know as US-VISIT would not be used to fingerprint and photograph Mexican nationals entering the United States with border crossing cards. Reportedly, the President ceded to the demands of President Vicente Fox, who was concerned that it was unfair that Mexican nationals would be processed through US-VISIT while citizens of visa waiver countries were not. Now that the citizens of visa waiver countries will be subject to this requirement, will Mexican citizens holding border crossing cards be subject to it as well?

Secretary POWELL. I need to yield to my colleague, but my judgment is, no, if they are coming in with the border crossing cards for a limited period of time, 72 or 96 hours—I forget which it is—and a limited geographic destination within the United States, I didn't think we were planning to subject them to US-VISIT. But we can get that for the record.

[See Appendix for response from Secretary Powell.]

Secretary RIDGE. Yes, we will. Particularly with regard—we're going to have to make some distinctions with regard to the land ports of entry in order to comply with the congressional mandate

to set up US-VISIT at the 50 largest land ports of entry, obviously, Canada and Mexico; and there will be some distinctions in those categories. I think that is one of them that I would like to get back to you in that regard.

Mr. GALLEGLY. I'd appreciate that you would get back.

I think, as we all know, the issue particularly on the southern border, as a California resident, it is not limited to California. But I held a hearing, as I chair the Subcommittee on Antiterrorism and Nonproliferation, a Subcommittee hearing—field hearing in California recently; and we had a former U.S. Attorney testify before the Committee that had real concerns about this very issue. He said, you know, if we have uneducated, unsophisticated, and relatively poor folks without any resources that can pretty well find a way to get across that border, what does that say about those that are sophisticated, well educated and well funded? And it is a major concern of mine. I'd just like to get your response to that.

Secretary RIDGE. And we will get back to you certainly in writing.

But I think you are aware of the fact that, through our offices in Mexico, now when they get that laser card, they do give us their photograph, they do give us a fingerprint. We do have readers, and we can refer them to secondary inspection with readers to confirm their identity. But I would like to get back and further amplify that in response to you in writing.

Mr. GALLEGLY. When you do that I'd appreciate if you would go a little bit beyond that and talk about how many are actually—these cards are fed through a reader and how many are just waved through as a result of a long line. That's a major concern.

Secretary RIDGE. All right. All right.

Mr. GALLEGLY. And, Tom, perhaps you can answer this question as well: The visa waiver countries are also required to report all stolen passports, but there is some indication that this requirement is not consistently adhered to. What plans are there to increase compliance with this requirement?

Secretary POWELL. Let me take that, sir, and look into it. I don't have the facts. We will get an answer for you for the record as to which countries we believe have been deficient, and what we're doing about it.

[See Appendix for response from Secretary Powell.]

Secretary RIDGE. We are working with Secretary Powell—we're going back to take a look at, since the invention of the Department of Homeland Security, take a look at the number of reported visas that have been stolen.

Historically, the process is a country reports to the Secretary of State. Since the Department has been up, the Secretary of State sends that information to us.

I know the Chairman asked about a series of stolen French passports. You will be happy to know, Mr. Chairman, that that information was related to the Secretary of State, and we had it, and we denied entry a couple of days ago to somebody trying to use one of those stolen passports.

Mr. GALLEGLY. Thank you very much, Secretary Powell and Secretary Ridge. I look forward to your response.

Thank you, Mr. Chairman. I yield back.

Chairman SENSENBRENNER. The gentlewoman from California, Mrs. Waters.

Ms. WATERS. Thank you very much, Mr. Chairman and Members.

To our very special guests here today, with all due respect for the difficulty that you are confronted with in trying to make our homeland more secure, I must tell you that I do not support the visa waiver program at all. I think it's discriminatory, and I think it was brought out here today. You have no Caribbean countries, you have no African countries in this program, and so I don't know what the criteria is. I don't know how you rate all of the other countries; and when you talk about the refusal or the turndown rate, I just have no sense of that. So I don't support the visa waiver program at all, starting out, because I think it is discriminatory.

But, more than that, we just heard—we are listening to the 9/11 Commission where people are talking about connecting the dots, missed opportunities, all of that, and wishing we had done something more, wishing we had paid attention.

I think we should be at zero tolerance level, and we should be talking about what has been alluded here today about merged databases. As it was said, one of our Members here said today that some of those who are suspected or accused or we know now have been involved in terrorist acts or potential terrorist acts came from these visa waiver countries.

So I don't think that I would expect that you would come in here and talk about how much money you need. You need to talk about how we really do have a comprehensive system by which we prevent people from coming in here, not just people with criminal records but people that we just don't know who they are.

So I guess I'm going to ask you, when do you envision a very tough system, that you do not allow anybody to get in here that we don't know who they are, no matter where they come from?

Secretary POWELL. That is our immediate goal now in the actions we are taking with respect to moving toward machine-readable passports with biometric identification, with respect to the US-VISIT program participation. I think we are trying to do that now to the best of our ability, not only who comes into our country, what are they coming in for and when do they leave? So I think we are moving in that direction now, Ms. Waters.

I'll yield to Secretary Ridge as to when we might have a perfect system, if ever.

Secretary RIDGE. First of all, Congresswoman, with regard to your concerns about the visa waiver program, it began as a pilot program for all the reasons that have been discussed in both the testimony and the question and answer period. I think Congress established it as a permanent part of our approach to the balance to the rest of the world community, and the requirements to the eligibility requirements are not set by the Department of State or by the Department of Homeland Security, they're set by Congress. So if there is to be any modification on a visa waiver program, obviously officials in the executive branch, whatever Congress would will at that point, we would certainly be obliged to enforce.

[12:00 noon.]

Secondly, one of the real challenges—and I have a particular appreciation for this and the challenge that Secretary Powell's consular affairs officers have—the United States is among several countries that has expended the resources, and there are databases which are very familiar to us and we have access to, but there are a lot of countries around the rest of the world where the consular official making a decision as to whether or not an individual should be granted a visa has relatively little information. And it is just a simple fact of life, that is the case. They have to make a judgment call. On balance, I think they make pretty good calls on the limited information they have. And again, as the Secretary has pointed out to you, you are absolutely right. We want to know as much as we possibly can about who is entering, why are they entering, and if you entered for legitimate purposes and your visa has expired, have you gone back home. That is the goal we all share and we are working together to achieve that.

Ms. WATERS. I appreciate that, gentlemen. And I suspect that we will see you again when you come in to get a waiver from one of these visa waiver program countries that you don't want to limit their opportunities to get in here and not inconvenience them, but I am going to tell you that I am not going to support any of it. I am not going to support any waivers of any kind.

And so I just want you to know I don't want to be in a position of making excuses a year or two from now when something bad happens. We have seen enough and 9/11 should be teaching us a good lesson, and the Commission should be unfolding enough information for all of us to be very, very concerned about, and we should be at zero tolerance for everything.

Chairman SENSENBRENNER. The gentlewoman's time has expired and the hour of noon has arrived. And pursuant to the Chair's prior announcement and the commitment that the two Secretaries gave to us when they agreed to come and testify, we will adjourn the Committee at this time. We deeply appreciate both of you presenting yourselves as targets of opportunity.

I would like to personally ask you to be able to respond in writing to questions from Members of the Committee that did not have the time to ask questions today due to our time constraints. The Committee stands adjourned.

[Whereupon, at 12:05 p.m., the Committee was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE SAM FARR, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA, AND THE HONORABLE MARK FOLEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Congress of the United States
Washington, DC 20515

STATEMENT FOR THE RECORD
U.S. HOUSE OF REPRESENTATIVES, JUDICIARY COMMITTEE
APRIL 21, 2004

HEARING ON EXTENDING BIOMETRIC PASSPORT DEADLINE

The Congressional Travel & Tourism Caucus (CTTC) would like to commend the House Judiciary Committee for scheduling this hearing on the upcoming October 26, 2004 biometrics deadline. This deadline applies to Visa Waiver Program (VWP) countries - 27 of our nation's closest allies - which account for 68 percent of all overseas visitors to the United States. Of those 27 countries, only two have expressed their capability of meeting the deadline. Others, such as Japan and the United Kingdom, have reported to U.S. officials that they will not be able to meet the biometrics requirement until 2005 at the earliest. They cite a variety of reasonable factors for this delay – among them are the upcoming deadline for the International Civil Aviation Organization (ICAO) to complete its recommendations for biometrics in travel documents, the inability of the four suppliers of biometric technology to meet world demand within the given timeframe, and those suppliers' inability to certify the security and durability of the technology.

If the VWP countries cannot meet the deadline as it currently stands, millions of travelers from countries with long standing economic, educational, and cultural ties to the U.S. must be incorporated into the U.S. visa processing system, which is seriously backlogged and has caused unpredictable delays for those who must presently apply for visas for entry into the U.S. for tourism purposes or business trips.

In a March 17 letter to the House Judiciary Committee, Secretary of the Department of Homeland Security Tom Ridge and Secretary of State Colin Powell requested a two-year extension of the biometric passport deadline. They expressed their own fears that "travelers will vote with their feet and go elsewhere," should this biometrics deadline go unchanged.

The significance of the travel and tourism industry to our economy cannot be underestimated: it employs 17 million Americans and in 2002 generated $528.5 billion in direct travel expenditures. Travel and tourism is the first, second or third largest industry in 29 states and the District of Columbia, the nation's second largest service export and third largest retail sales industry. Clearly, travel and tourism is a driving force of the U.S. economy and particularly for small businesses. This industry is present in every single Congressional district in the United States.

The Congressional Travel & Tourism Caucus supports an extension of the biometric passport deadline to December 2006. Congress must act now to protect the vitality of the travel and tourism industry and our nation's economy.

Sincerely,

Sam Farr
Rep. Sam Farr
Co-Chair
Congressional Travel & Tourism Caucus

Mark Foley
Rep. Mark Foley
Co-Chair
Congressional Travel & Tourism Caucus

PRINTED ON RECYCLED PAPER

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

The visa waiver program (VWP) allows nationals from 27 countries to enter the United States as nonimmigrant visitors for business or pleasure without first obtaining a visa from a U.S. consulate office. This facilitates international travel and commerce and eases consular office workloads. Last year, approximately 13.5 million visitors entered the United States under this program. The negative side of the program is that it permits people to enter the United States without going through the security clearances that are involved in obtaining a visa. According to the Department of Justice, a terrorist associated with the World Trade Center bombing in 1993 entered the United States as a VWP applicant using a photo-substituted Swedish passport. More recently, the "Shoe Bomber" Richard Reid was coming to the United States to enter the country under the VWP.

The Enhanced Border Security and Visa Entry Reform Act of 2002 mandated that by October 26, 2004, the government of each VWP country must certify that it has established a program to issue machine-readable passports that are tamper-resistant and incorporate a biometric identifier. This only would apply to new passports that are issued after the October 26, 2004, deadline.

While all 27 VWP countries have a program in place to develop a machine readable, biometric passport, few of the countries will be in a position to start issuing them by the deadline. The required technical and interoperability standards have not yet been completed by the International Civil Aviation Organization (ICAO). Preliminary ICAO standards were released in May 2003, but they failed to address some key issues, including interoperable chip security standards and interoperable reader standards. Also, ICAO's decision to make facial recognition technology the standard passport biometric was not made until May 2003, leaving VWP countries only 17 months to move a biometric passport from design to production, a process that normally takes years. It is apparent that very few VWP countries will be able to meet the deadline for incorporating the biometric identifiers.

If the deadline is not extended, the participating countries that fail to meet it will lose the privilege of participating in the program, and the nationals of those countries will need visas to enter the United States. The State Department has estimated that this would result in the need to process an additional 5 million visas. Apparently, the State Department intends to take personnel away from other activities and assign them to the task of processing the extra 5 million visa applications. In an attempt to avoid these consequences, the State Department and the Department of Homeland Security have circulated draft legislation that would extend the deadline from October 26, 2004, to November 30, 2006.

I am concerned about the effect that even a temporary disruption of the visa waiver program could have on the international tourist industry. In the year 2000, the State of Texas alone received revenue from the international tourist industry that totaled $3,751.3 million. This included $410.6 million on public transportation, $111.1 million on automobile transportation, $1,029.2 million on lodging, $731.4 million on food services, $320.2 million on entertainment and recreation, and $1,148.9 million in general trade. A major reduction in such revenue would have an adverse impact on the economy of our country. I also am concerned about the fact that the technology for the biometric feature of the new passport is a work in progress. Such new technology needs to be fully developed and tested before it is put into use. I am afraid that rushing this project could result in passports that have unreliable biometric identifiers, which would not provide the expected increase in our security. Consequently, I will support legislation to extend the deadline for this requirement.

I would like some assurance, however, that the VWP countries will be able to comply with the standards if the contemplated 2-year extension is granted. I also would like assurance that steps will be taken to ensure that our security is not compromised by the delay in implementing the new standards. Thank you.

PREPARED STATEMENT OF THE HONORABLE ELTON GALLEGLY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Thank you Mr. Chairman for holding this very important hearing.

I introduced legislation in the 107th Congress that included a requirement that all visa waiver countries redesign their passports to be machine-readable and contain biometric identifiers as a condition of their continued participation in the visa waiver program. My bill was the model for such requirements included in the "Enhanced Border Security and Visa Entry Reform Act of 2002," that are now the subject of this hearing.

Since 2002, I have awaited the implementation of this improvement. Biometric identifiers in passports will verify the identity of the passport holder, ensure that another person cannot alter the passport for his use, and enable authorities to track entries and exits. It is particularly important that passports from visa waiver countries include these safeguards because their holders are not screened through the visa process in our consular offices abroad.

I am disturbed that the countries currently enrolled in the visa waiver program will not meet the deadline for including biometric identifiers in their passports. I am particularly concerned about how the failure to meet this deadline will impact the national security of the United States.

Our visa waiver partners should treat security improvements with the utmost urgency.

I am, however, heartened to hear that the President has decided to process passport holders from visa waiver countries through the US-VISIT system. Through this processing, passport holders from visa waiver countries will be photographed and fingerprinted, and will also be required to answer questions about their stay. US-VISIT is an important tool in the United States's border control arsenal, not only to verify identity and track entries and exits, but to check for ties to terrorist and criminal pasts. Using fingerprints collected by US-VISIT, authorities are able to utilize several databases to biometrically search for criminal and terrorist ties.

I am concerned by reports that over 9,000 blank French passports were stolen in February of this year and question the wisdom of exempting any population from what may be our only opportunity to check the criminal and terrorist pasts of these people. After all, Zacarias Moussaoui, the accused 20th hijacker of 9/11 entered the country with a French passport as a visa waiver traveler. For these reasons, I hope that this is not a stopgap measure until biometric requirements are satisfied and instead that passport holders from visa waiver countries continue to be processed thorough US-VISIT in perpetuity.

I look forward to the testimony of our distinguished guests. Thank you, Mr. Chairman. I yield back my time.

PREPARED STATEMENT OF THE HONORABLE STEVE KING, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA

Thank you, Chairman Sensenbrenner, for holding this hearing today. The issues we will discuss today are vitally important to our national security and protection of our homeland. Secure passports are essential in the war on terror.

I would like to bring the attention of the Committee and our witnesses to another issue related to passports—namely the western hemisphere passport exception. Currently, a United States citizen can re-enter the United States without a passport if he or she is coming from any country in the western hemisphere, with the exception of Cuba. All that the person needs show is a drivers' license and birth certificate. Unfortunately, neither of these documents is as secure as a passport and forgery is a serious problem. I believe we should require a passport for re-entry of a U.S. citizen to the United States in order to fight terrorism. The Immigration Subcommittee has held a hearing on the subject, and I am anxiously awaiting progress on the issue.

Thank you, Mr. Chairman.

PREPARED STATEMENT OF THE CHAMBER OF COMMERCE OF THE UNITED STATES

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

RANDEL K. JOHNSON
VICE PRESIDENT
LABOR, IMMIGRATION & EMPLOYEE BENEFITS

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April 20, 2004

The Honorable James Sensenbrenner
Chairman
House Committee on the Judiciary
2128 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Sensenbrenner:

On behalf of the U.S. Chamber of Commerce, I would like to thank you for holding a hearing this week on extending the deadline for biometric identifiers in foreign passports. I would like to offer our views on the upcoming deadline for biometric passports for countries in the Visa Waiver Program and the current state of visa processing at our consulates overseas and I would like to request that this letter be included in the hearing record.

The U.S. Chamber of Commerce is the world's largest business federation, representing more than 3 million businesses. The Chamber's federation includes state and local chambers throughout the United States and 96 American Chambers of Commerce overseas. The Chamber's membership also includes businesses and organizations of every size and in every sector of the economy. Chamber members with interest in the Visa Waiver Program include companies and organizations in the travel and tourism industries, companies that do business with international customers and clients, and multinational companies. The Chamber has long been supportive of the Visa Waiver Program, since it facilitates the majority of visits to the United States for business and for tourism, and just under half of all nonimmigrant admissions in all categories.

I am also the chair of the Americans for Better Borders (ABB) coalition, which unites regional business organizations and a wide array of companies and national trade associations representing manufacturing, hospitality, tourism, transportation, recreation and other industry sectors to work to ensure the efficient flow of exports and tourism across our borders while addressing national security concerns. The ABB coalition was originally founded in 1998 out of concern for the impact of implementation of the original entry-exit provision of Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996,[1] and was very involved in the creation and negotiation of the Enhanced Visa Entry and Border Security Act of 2002 which created

[1] Americans for Better Borders, www.abbcoalition.org.

the biometric deadline for the Visa Waiver Program, and strongly supported its passage. However, at the time, we noted that the deadlines in the bill were ambitious and may need to be revisited by Congress.[2]

Visa Waiver Program

Over 13 million visa waiver visitors arrived in the United States in FY 2002. Of these, over 2 million were coming to conduct business, including business meetings, conferences, to close business and trade dealings, oversee investments in the U.S., and other purposes. Over 11 million were tourists. International visitors from Europe are the largest users of the Visa Waiver Program. On average, visitors entering the U.S. from Western Europe stay 15 nights and spend $87 per day ($1,305 per trip), benefiting the U.S. economy by millions of dollars annually.

According to Department of Homeland Security data on inspections, 80% of visa waiver travelers come from six nations, the United Kingdom, Japan, Germany, France, Italy, and the Netherlands—some of our principal trading partners. The government of Japan has informed the Chamber that it will not be able to begin issuing biometric passports to its citizens until sometime in 2005. Our members have heard similarly from the United Kingdom, and, as Secretary of State Colin Powell and Secretary of Homeland Security Tom Ridge stated in their March 17, 2004, letter to the Chairman, "We believe none of the Visa Waiver Program countries will produce biometric passports by the deadline in sufficient numbers to meet the legitimate needs of their traveling nationals."[3]

It should be noted that although the U.S. is not under statutory obligation to issue biometric passports, it is working toward that goal, and, according to the Department of State, hopes to issue the first biometric U.S. passport by the October deadline. However, this does not necessarily mean that mass production of such passports for all U.S. citizens will be available. In fact, the recent letter to the Chairman from Secretary Powell and Secretary Ridge indicated the United States would not complete the transition to biometrically-embedded passports until the end of 2005, at the earliest.

Failure to act on this issue soon, with adequate advance notice to travelers that might make travel plans months in advance, could have a severe impact. Assistant Secretary of State Maura Harty testified before the House Committee on Government Reform on March 4, 2004, that the Department of State would be hard-pressed to process the approximately 5 to 8 million additional visa applications they would expect from travelers no longer able to use the Visa Waiver Program,[4] and because it can take several

[2] "While we support all of these efforts, we are aware that this bill also poses significant challenges to the agencies and Congress to implement new technologies and processes in very short deadlines. [I]f it proves impossible to meet the deadlines in this legislation, Congress must be willing to revisit them to ensure that the legitimate cross-border flow of people, commerce and goods can continue, or our economic security may be jeopardized," Letter from ABB members dated March 8, 2002, to Members of the U.S. Senate.
[3] Joint letter to Judiciary Committee Chairman Sensenbrenner from Secretary of State Colin Powell and Secretary of Homeland Security Tom Ridge dated March 17, 2004.
[4] "T. DAVIS: Also, Ms. Harty, I understand it's October 26, 2004, is the implementation date for biometric-enabled travel documents for visa waiver countries, as well as U.S. intelligent passport system.

months to obtain visas in some countries, many persons potentially affected by this deadline will begin to make those applications in the coming months. According to information from some of our American Chambers of Commerce in Europe, companies are already advising their employees to think about applying for visas. In addition, there will be potentially many more travelers who will simply choose not to travel to the U.S. at all, costing our economy.

We would strongly encourage Congress to reexamine this deadline and either postpone the requirement of a biometric passport until it is clear that a majority of countries will be able to meet it, or, as was done for the machine-readable deadline, allow the Secretary of Homeland Security and the Secretary of State to grant country-specific waivers or extensions to meet the requirement under specified conditions, such as sufficient progress toward meeting the deadline and assurances of meeting security requirements.

Consular Processing

We would also like to address the current state of visa issuance at U.S. consular posts overseas, so that you may understand the concern that reductions in or changes to the Visa Waiver Program may cause significant decline in travel to the United States. As stated above, the current process for obtaining a visa to travel to the U.S. in many countries is a months-long process, which often requires extensive travel just to go to a U.S. consulate and apply for a visa. The changes to the visa process in the last two years, including increasing visa fees, instituting in-person interview requirements for most visa applicants, and new fingerprinting requirements, have served to deter many international travelers. According to the U.S. Department of Commerce, Office of Travel and Tourism Industries, overseas travel to the U.S. is already down 32% over the past three years. Press reports from overseas sources portray travel to the U.S. as a never-ending series of obstacles. The perception exists, and is growing, that travel to the U.S., for business, tourism, study, or any other purpose, is just too much trouble.

We are seriously concerned that the message sent in the U.S. of increasing security at our borders is being interpreted as "fortress America" to the rest of the world. As I stated on November 20, 2003, in testimony before the House Committee on Small Business: "[T]he *perception* of widespread delays is enough to jeopardize trade and business relationships."

It's going to be difficult to meet it. Any idea at this point as to whether that deadline will need to be extended?"

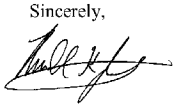
HARTY: "Sir, what I can say about that is that it's a frightening prospect. If the visa waiver countries are held to the deadline as the law currently requires, several things will happen. My job is to implement the law, and so I will do that. However, one of the consequences of so doing is that we will have an awful lot more visa applicants to converse with than we have had in the recent past.

We estimate that there may be upwards of 5.5 to 8 million additional visa applications that we would have to handle. Of course, sir, it's a relatively short-term problem as the visa waiver countries begin to come on board with their biometrically enabled passports. But in the short-term, sir, we would see a serious impact on business travel, on academic institutions, on travel and tourism to this country." Transcript of Hearing on Oversight of the US-VISIT program, House Committee on Government Reform, March 4, 2004, by FDCH Transcripts.

We understand that the Department of Homeland Security is currently undertaking a thorough review of the visa process, in conjunction with its new responsibilities in that area as mandated by the Homeland Security Act of 2002. We hope that they will work with the business community and other interested stakeholders to help ensure that our visas system is as secure as possible without becoming a barrier to legitimate travelers. In fact, we would recommend the creation of an advisory committee of private sector stakeholders to help advise the Department of State and the Department of Homeland Security on the issues facing the business community and develop cooperative solutions to ensuring both security and continued legitimate travel to the United States.

I appreciate the opportunity to provide these comments on the topics covered at the hearing, and the U.S. Chamber of Commerce looks forward to continuing our relationship with the Committee to address these issues.

Sincerely,



Randel K. Johnson

cc: Members of the House Committee on the Judiciary

PREPARED STATEMENT OF THE TRAVEL BUSINESS ROUNDTABLE

OVERVIEW

The Travel Business Roundtable (TBR) would like to thank Chairman Sensenbrenner and Ranking Member Conyers for holding this important hearing, and is pleased to have the opportunity to submit a statement for the record regarding the Committee's consideration of an extension of the October 26, 2004 statutory deadline for requiring Visa Waiver Program (VWP) travelers to present biometric passports upon entry to the United States.

TBR is a CEO-based organization that represents the diverse U.S. travel and tourism industry, with more than 85 member corporations, associations and labor groups. The travel and tourism industry is an engine for economic development and job creation. Some 17 million Americans are employed in travel and tourism-related jobs with an annual payroll of $157 billion. Travel and tourism is the first, second or third largest industry in 29 states and the District of Columbia. In the last decade, travel and tourism has emerged as America's second largest services export and the third largest retail sales industry. Our industry is in 50 states, 435 Congressional districts and every city in the United States.

TBR vigorously supports the efforts of Congress, the Department of Homeland Security, the State Department and the Bush Administration to establish and implement laws and regulations that will protect our borders, our citizens and our visitors. However, it is vital that the agencies incrementally implementing these programs consider their collective impact on the traveling public. Being ever mindful of DHS Secretary Tom Ridge's admonition about the need to create the proper balance between protecting our homeland and promoting free and open commerce, TBR's goal is to ensure that the paramount objective of protecting our nation's security is pursued in a manner that is effective, coherent and does not unnecessarily compromise our economic vitality.

THE BIOMETRIC PASSPORT REQUIREMENT

The rapidly approaching October 26, 2004 deadline requiring travelers from Visa Waiver Program countries to present passports containing biometric identifiers was established in the Enhanced Border Security and Visa Entry Reform Act of 2002, and as a statutory requirement, can only be modified by congressional action. While TBR strongly supports efforts by Congress and the Administration to implement this program as an additional means of strengthening security at our nation's borders, we are concerned that doing so without the necessary technological resources could compromise that security and cause harm to the travel and tourism industry, our bilateral relationships and the nation's image around the world.

VWP countries are among our closest allies, and in 2002, represented 68 percent of all overseas visitors to the U.S., spending approximately $38 billion. Without a delay, VWP travelers will be required to apply for visas, thus increasing FY05 visa applications to almost double the FY03 demand. As a consequence, these visitors will most likely be subjected to the additional scrutiny and hassle of the visa process, which has already experienced heavy backlogs and turned away legitimate travelers.

On January 28, 2004, Assistant Secretary of State for Consular Affairs Maura Harty testified before the House Select Homeland Security Subcommittee on Infrastructure and Border Security that VWP countries were given only 17 months notice to comply with the biometrics requirement—a process that normally takes years for a nation to research, develop and implement. Reports from the United Kingdom and Japan, among many other affected countries, show that they will be unable to technologically comply with this requirement until late 2005 at the earliest. Moreover, the few manufacturers that produce the technology these countries need to fulfill the biometrics requirement have indicated that they cannot meet the demand in such a short timeframe, and given the time constraints, would be unable to vouch for the security of the biometric information contained in the passports. For these reasons, the travel and tourism industry feels a great sense of urgency to delay the deadline. It is noteworthy that even the United States, which is not required to comply with this requirement, will not be prepared to issue biometric passports until 2005. This suggests that we are asking our allies to conform to deadlines that we ourselves cannot meet.

We are heartened that Administration officials understand the importance of addressing this issue. In a March 17 letter that Homeland Security Secretary Tom Ridge and Secretary of State Colin Powell sent to Chairman Sensenbrenner, they requested a two-year extension of the biometrics deadline for VWP citizens. Secre-

taries Ridge and Powell voiced their own fears that if the deadline is not extended, "travelers will vote with their feet and go elsewhere."

TBR shares this concern and believes that it is crucial that Congress implement the delay in an expeditious manner to ensure that the affected countries can plan accordingly and so that potential travelers from those countries have sufficient notice of what will be expected of them as they make their plans to travel to the U.S. We hope to work closely with Congress and the Administration to quickly establish a workable deadline for VWP countries and an effective means of communicating the changes to the countries and their citizens.

It is impossible to stress enough how important international visitors are to the health of our industry as well as the overall U.S. economy. Every 1 percent drop in international arrivals to the U.S. accounts for the loss of 172,000 jobs and $1.2 billion in tax revenue. From 2001 to 2002, international travelers to the United States dropped from 44.9 million to 41.9 million. International visitor spending in the U.S. over that time decreased from $71.9 billion to $66.5 billion. And our travel trade surplus of $26 billion in 1996 plummeted to $5.5 billion in 2002. This continued downward trend of international visitor patterns has caused federal, state and local government travel-related tax receipts to decline from $95.5 billion in 2001 to $93.2 billion in 2002. Moreover, U.S. travel and tourism industry payrolls have dwindled from $160.3 billion in 2001 to $157 billion in 2002, and industry job growth remained stagnant at 17 million workers. The United States cannot allow this downward trend to continue.

CONCLUSION

To further quote from the letter to Chairman Sensenbrenner from Secretaries Powell and Ridge regarding the impracticality of the upcoming deadline: "Clearly we need to address this problem. We believe there are good reasons to extend the October 26, 2004 deadline. . . . A biometric deadline extension will enable our allies to develop viable programs and resolve the scientific problems to produce the more secure biometrically enabled documents that the original legislation mandated." We could not agree more.

In considering the need for an extension and the necessary timeline to ensure that VWP countries are able to comply with the biometric passport requirement, we believe that Congress and the Administration need to explore a number of important questions, namely: What have VWP countries told the Committee about their ability to comply with the requirement? Based on their responses, is the two-year extension suggested by Secretaries Powell and Ridge an accurate reflection of the necessary time involved in achieving a workable standard? Given that there are a finite number of biometric identifier manufacturers, and questions have been raised about the durability and security of the identifiers, will they be able to meet the worldwide demand with a reliable product? And perhaps most importantly, how can the United States ensure that VWP countries and their citizens have the most reliable information possible about what is required of them, and when?

TBR stands ready to work with Congress, the State Department, the Department of Homeland Security and other relevant federal entities to ensure that those who wish to do harm to our nation are prevented from traveling to the U.S., while those who seek to visit our country for legitimate reasons are treated respectfully and are admitted in an efficient manner. We appreciate the Committee's attention to these pressing matters and offer our assistance in any way.

MEMBERSHIP

Jonathan M. Tisch
Chairman, *Travel Business Roundtable*
Chairman & CEO, *Loews Hotels*

Affinia Hospitality
Air Transport Association
American Airlines
American Express Company
American Gaming Association
American Hotel & Lodging Association
American Resort Development Association
American Society of Association Executives
Amtrak
Asian American Hotel Owners Association
ASSA ABLOY Hospitality
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Business Travel News
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Choice Hotels International
The Coca-Cola Company
Commonwealth of Puerto Rico
Delaware North Companies Inc.
Detroit Metro Convention and Visitors Bureau
Diners Club International
Fairmont Hotels & Resorts
FelCor Lodging Trust
Four Seasons Regent Hotels & Resorts
Greater Boston Convention & Visitors Bureau
Greater Fort Lauderdale Convention & Visitors Bureau
Greater Miami Convention & Visitors Bureau
Gucci
The Hertz Corporation
Hilton Hotels Corporation
Hotel Employees and Restaurant Employees International Union
HRW Holdings, LLC
Hyatt Hotels Corporation
Inc Magazine
InterActiveCorp
InterContinental Hotels Group
International Association of Convention and Visitors Bureaus
International Council of Shopping Centers
International Franchise Association
Interstate Hotels & Resorts
Interval International
JetBlue Airways Corporation
Las Vegas Convention & Visitors Authority
Loews Hotels
LA INC, The Convention and Visitors Bureau
Lufthansa Systems North America
Mandalay Resort Group
Marriott International Inc.
Maryland Office of Tourism Development
McDermott, Will & Emery
The Mills Corporation
Nashville Convention and Visitors Bureau
National Basketball Association
National Business Travel Association
National Football League
National Hockey League
National Restaurant Association
Nederlander Producing Company of America
New York University
Northstar Travel Media, LLC
NYC & Company
Omega World Travel
Pegasus Solutions, Inc.
Philadelphia Convention and Visitors Bureau
PricewaterhouseCoopers, LLP
Smith Travel Research
Starwood Hotels & Resorts
Strategic Hotel Capital Inc.
Taubman Centers, Inc.
Tishman Construction Co.
United Airlines
Universal Parks & Resorts
United States Chamber of Commerce
United States Conference of Mayors
USA Today
Vail Resorts, Inc.
Virginia Tourism Corporation
Walt Disney Parks and Resorts

Washington D.C. Convention and Tourism Corporation
Waterford Group, LLC
WH Smith USA
World Travel and Tourism Council
Wyndham International
Zagat Survey, LLC

PREPARED STATEMENT OF J. CLARK ROBINSON

As president of the International Association of Amusement Parks and Attractions, and on behalf the board of directors and our general membership, I appreciate the opportunity to submit testimony for the hearing record on this very important subject.

INTRODUCTION

Founded in 1918, the International Association of Amusement Parks and Attractions (IAAPA) is the largest international trade association for permanently situated parks and attractions worldwide. Headquartered in Alexandria, VA, IAAPA represents approximately 5,000 member companies from more than 85 countries, including virtually all multi-park companies such as Disney, Universal, Busch Entertainment, Paramount, Cedar Fair, and Six Flags. Our membership includes amusement/theme parks, waterparks, amusement manufacturers and suppliers, family entertainment centers, arcades, zoos, aquariums, museums, and miniature golf venues.

According to *Amusement Business* magazine and other industry analysts, America's 600-plus parks and attractions hosted approximately 322 million visitors in 2003, generating more than $10 billion in revenue. An annual compilation of the world's "Most Visited Amusement/Theme Parks" indicated that the United States had 16 of the top 25 most attended parks globally during the past year. American amusement facilities take great pride in their commitment to providing quality family entertainment to visitors from our own country and countries around the world.

THE NEED FOR SAFE, OPEN BORDERS

The amusement industry supports enhanced border security measures, understanding that seamlessly safe travel helps to bolster consumer confidence in visiting our parks and attractions. However, the industry is concerned about the implementation schedule of security measures and the adverse impact it might have on travel by foreign visitors.

Since 9/11, the travel and tourism industry has seen significant decreases in international travel to the United States. Over a two-year period following September 11, 2001, international travel to the U.S. declined twenty percent, resulting in a loss of $15 billion in visitor spending. More than 300,000 jobs in the travel industry were lost as a product of the decrease in international travel. There are preliminary indications that interest in tourist travel to the United States is recovering slowly towards pre-9/11 levels. But this progress could be extinguished if perceived or actual impediments to inbound international travel exist.

While the need to enhance physical safety is paramount, the United States must also be vigilant in ensuring enhanced economic security during that process. As a result, the amusement industry, in conjunction with the entire United States travel industry, supports an extension of the congressionally mandated deadline of October 26, 2004 for Visa Waiver Program (VWP) countries to begin issuance of biometric passports to their citizens. We concur with the recommendations of Secretary of State Powell and Secretary of Homeland Security Ridge that the deadline be extended until December 2006.

AMUSEMENT INDUSTRY SUPPORTS BIOMETRIC PASSPORTS, PHASE-IN NEEDED

Both the United States and the international theme park community support implementation of a biometric passport program for Visa Waiver countries. Biometric identification will undoubtedly enhance security by allowing more vigorous screening of visitors. The further development and issuance of machine-readable, tamper-resistant, biometric passports will reduce the number of fraudulent and suspicious passports used to gain illegal entry into this country.

While illegal entry must be prohibited, legitimate travel into the United States must be permitted to continue without significant disruption. The State Department's Bureau of Consular Affairs has indicated that VWP governments will be un-

able to meet the legislatively mandated deadline to issue biometric passports. It is currently believed that at best, only three of the twenty-seven Visa Waiver countries will be able to meet this deadline, and that none of the larger countries (United Kingdom, Japan, Germany, France, Italy or Spain) will be able to issue biometric passports by October 26, 2004. Officials have indicated that these VWP governments will not be capable of producing biometric passports until late 2005 or 2006.

Visa Waiver travelers with non-biometric passports issued on or after October 26, 2004 will be required to obtain a visa for travel to the United States. As governments in Visa Waiver countries will be unable to issue passports with biometric identifiers, the demand for non-immigrant visas for travel to the United States will overload the processing abilities of U.S. consulates overseas. The State Department has indicated that the demand for non-immigrant visas would at least double, leaving them unable to process requests in a timely manner.

We fear that these requirements will serve as a disincentive for tourist travel to the United States. The biometric passport deadline for Visa Waiver countries will create an actual barrier for some international travelers and a perceived barrier for others. Fewer international visitors to the U.S. will result in less spending and job loss in the amusement industry across the country.

We support the Administration's request to extend the current October 26, 2004 deadline for biometric passports. Further, we urge the committee to consider legislation providing Visa Waiver Program countries the necessary time to begin issuing biometric passports to their citizens. Extension of this deadline will give VWP governments the opportunity to complete development of these more secure documents while maintaining the flow of legitimate tourist travel to the United States.

CONCLUSION

As U.S. parks and attractions are just now beginning to recover from the events of the last two years, another barrier to inbound travel would be detrimental to the industry. In 2002, Visa Waiver travelers spent approximately $38 billion in the United States. Over 10 million international visitors traveled to the United States from VWP countries last year. Extending the biometric passport deadline for Visa Waiver travelers by at least one year would allow the seamless flow of legitimate travel into the United States to continue, while providing VWP governments with the opportunity to successfully meet and comply with requirements mandated by the Border Security Act. Homeland security must be defined as more than protection of our borders. The implementation of security measures must account for the economic health of the nation as well.

I thank you again for the opportunity to submit this testimony for the official record.

PREPARED STATEMENT OF THE AMERICAN CHAMBER OF COMMERCE IN SINGAPORE

INTRODUCTION

The American Chamber of Commerce in Singapore (AmCham) represents the interests of the 1,500 U.S. companies operating in the country, and more than 18,000 Americans living and working in Singapore.

In light of the current global security situation, AmCham and the American business community in Singapore support the strengthening of U.S. immigration and visa policies to improve national security and to safeguard the interests of business, educational, and leisure travelers visiting the United States and Southeast Asia. However, this additional attention to security must be balanced with the proper resources to ensure that delays and other problems are minimized.

ENSURING THE PROPER RESOURCES

While the American Embassy in Singapore has done an excellent job to ensure that 90% of all visa applications are processed within 10 working days, further attention needs to be paid to the overall shortage of consular resources in Southeast Asia—i.e., personnel, technology, and Embassy space—in order to meet the growing demands placed on Consular staff for increased security checks, interviews, etc.

Of AmCham Singapore's 1,500 individual and 700 corporate members, 80–90% of these have regional responsibilities, which means that they and their employees often travel within Asia and to the United States for business meetings, training, and related purposes. Although Singapore is a visa waiver country, which means that its nationals do not require visas to go to the United States for short business or leisure trips, many AmCham member companies employee citizens of non-visa waiver countries such as Malaysia and Indonesia.

It is in these cases of non-visa waiver countries that AmCham members have experienced significant difficulties obtaining visas for (as an example) their Managing Directors or other senior executives (who are Malaysians working in Singapore) to visit their U.S. corporate offices for meetings or training. These executives have reported that the visa approval process was either too slow, or by the time it had been approved, it was too late to travel to the United States.

Many of Amcham's member companies reported severe difficulties in 2002 and early 2003 with obtaining legitimate visas for Malaysians, Indonesians and even Singaporeans that were necessary for their operations. Recent changes in operating procedures have ameliorated this situation somewhat, but some cases are still inexplicably delayed. One of the most bothersome aspects of the problem for businesses is the total lack of predictability—our member companies do not know whether their executives will get their visas within some foreseeable span of time, or if they will be indefinitely delayed, without a refusal but with no response. In the latter cases, U.S. embassies in the region have been unable to give us any information or status reports about the processing of the visa, saying simply that they are being processed in Washington. The process for business visas should be made more transparent, predictable and responsive to the legitimate needs of American businesses. Government agencies involved in reviewing the visas in Washington need to apply sufficient resources to this task, so that decisions are made on a timely basis. When there are unavoidable delays, adequate information should be made available to the companies and the individuals about the status of the case.

An example of this involves one American technology company in Singapore, who reported that its Indonesian-born executive that had been living and working in the United States, and who has a Green Card, went back to Indonesia to get married. However, when he tried to return to the United States, U.S. Immigration officials did not allow him to do so, and did not provide clear reasons for their decision. Even though his employer vouched for his credibility and he did have U.S. permanent residency, he was not allowed back into the United States.

With implementation of The U.S.-Singapore Free Trade Agreement, and discussions on a U.S.-Thailand FTA and other bilateral trade frameworks, the United States will begin to see increasing business visits by foreign national executives who are employed by American companies in Southeast Asia. The Departments of State and Homeland Security must ensure that adequate resources and processes are in place to meet this growing flow of international visitors. Their inability to do so will inhibit business transactions between the United States and its Asian partners, and negatively impact on bilateral trade and investment with the U.S., which are key to helping the American economy to recover and to continue growing in the future.

US-VISIT PROGRAM & BIOMETRIC REQUIREMENTS

AmCham Singapore supports the US-VISIT Program as a way to further enhance the United States' national security while helping to process more efficiently visitors (particularly repeat travelers) to the United States. We further agree with the use of biometrics (e.g., fingerprint scans and digtal photos) at entry points to the United States and in passports of citizens of Visa Waiver Program (VWP) nations, which will better help to ensure the validity of travelers' identities and to protect against fraud and abuse.

Effective September 30, 2004, the US-VISIT Program will require all visitors to the United States to enroll upon entry into the United States. This includes the 13 million travelers under the VWP who visit the U.S. annually. To ensure that US-VISIT can be managed effectively on a nationwide basis and to accommodate the additional (initial) processing time required to enter all visitors into the system, it is critical that Congress provide Department of Homeland Security and Department of State with the proper resources to enable them to conduct this program.

A second area of concern is that, for countries such as Singapore who are members of the VWP and whose citizens would be required to have biometric passports for entry into the United States, most of the 27 VWP members would not be able to issue machine-readable passports containing biometric information of their citizens prior to the current deadline of October 26, 2004. As the current law indicates, citizens of countries not complying with these regulations by this date would need to go through the formal U.S. visa application process.

This would result in an estimated 5 million visa applications for consular offices worldwide, and Department of State would need to add hundreds of new officers to help meet this demand. Further, it is likely that some countries might retaliate and require American citizens visiting their countries to also implement these features into U.S. passports. It would seem unlikely that the United States could do so in the proposed timeframe.

The result would not only be a continued decrease in Singaporean and other business travelers to the United States, but (and perhaps more importantly) the high level of interest from Singapore companies in investing in the United States and purchasing American products would be tempered because of the difficulties in traveling there for business.

The United States has entered into a free trade agreement (FTA) with Singapore in late 2003, and is currently in discussions with Australia and other countries, who are also members of the VWP. If the October 26 deadline is not extended, and businesspeople from Singapore and other VWP nations need to go through the normal visa application channels, this will negatively impact on potential investors and business travelers to the U.S. These individuals would be more likely to evaluate business opportunities within Asia, Australia, or European nations which have less stringent requirements for non-immigrant visitors.

AmCham has already seen a reverse in the steady upward trend of Singaporean students wanting to study in the United States because of existing visa processing delays. Many of these students have foregone U.S. colleges and universities in favor of Australian and United Kingdom schools, due to those nations' easier visa processing procedures.

If the United States does not extend its deadline for VWP members to issue biometrically-enabled passports to their citizens, this will also hurt America's tourism industry, as more people choose to visit other nations, or to remain in Asia where it will be easier for them to travel.

CONCLUSIONS

AmCham Singapore strongly supports strengthening of visa application procedures and policies to help ensure the United States' national security interests, but feels the current system and US-VISIT program need to be re-examined to ensure that America's long-term business relationships and economic opportunities are not nullified as a result of well-meaning measures which are not carefully implemented.

We also agree with DHS and State Department's request to extend the deadline for VMP nations to comply with the US-VISIT requirements on machine-readable passports and biometric information, and ask Congress to pass legislation that will meet this request.

LETTER FROM THE NATIONAL BUSINESS TRAVEL ASSOCIATION

110 North Royal Street, 4th Floor • Alexandria, VA 22314-2747

Phone: 703.684-0836 • Fax: 703.684.0263 • www.nbta.org

April 21, 2004

The Honorable F. James Sensenbrenner, Jr.
Chairman of the House of Representatives Committee on the Judiciary
2138 Raybum House Office Building
Washington, D.C. 20515

Dear Mr. Chairman,

The National Business Travel Association (NBTA), representing over 1,500 corporate travel managers for the Fortune 1000 companies, and over 8 million international business travelers, advocates that Congress extend the October 26, 2004 biometric passport deadline for Visa Waiver Program countries by at least one year.

Prior to September 11th, 2001, international business travelers were becoming an integral part of our economy. Even today, multinational corporations like Miller Brewing Company, Harley-Davidson Company and Northwest Mutual provide consistent services and support to the United States from offices across the globe. While the national security "hassle factor" seems to be decreasing and the U.S. economy seems headed for a rebound, there are still remnants of the fallout of September 11th that are threatening the resumption of international travel and the restoration of a solid economy.

According to the Department of Commerce, twenty-eight percent of all international visitors come to the United States for business. The same survey shows that international business visitors spend an average of over $1,700 per person on each visit. However, due to the nature of the business world, business travelers finalize their plans for international travel closer to the departure date than leisure travelers. In 2002, on average, international business travelers coming to the United States made their airline reservations less than 20 days before their departure date. Clearly, the implementation of a visa process would cause the delay or cancellation of thousands of international business trips to the Untied States each year, costing American businesses across the country hundreds of millions of dollars.

While travel continues its rebound from the post-September 11 fallout, a barrier to travel, and especially business travel and international commerce, would only serve to slow the current recovery. International business travel helps facilitate trade of goods and services from all over the United States to every corner of the globe. We must ensure that the lanes of business travel with our most important trading partners and allies remain free and clear. Therefore, we urge Congress extend the October 26, 2004 biometric passport deadline for Visa Waiver Program countries.

If you would like to discuss this issue further, please feel free to contact me.

Sincerely,

Bill Connors
Executive Director and COO

LETTER FROM THE TRAVEL INDUSTRY ASSOCIATION OF AMERICA

Travel Industry Association of America

April 21, 2004

1100 New York Avenue, NW
Suite 450
Washington, DC 20005-3934
phone: 202.408.8422
fax: 202.408.1255
www.tia.org
www.seeamerica.org

The Honorable F. James Sensenbrenner, Jr.
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Sensenbrenner:

On behalf of the more than 2,000 member organizations of the Travel Industry Association of America (TIA), I write in support of the Administration's request for a two-year extension of the biometric passport deadline currently scheduled for implementation on October 26, 2004.

TIA is the national, not-for-profit organization representing all segments of the U.S. travel industry, and our mission is to promote and facilitate increased travel to and within the United States.

We appreciate your holding the oversight hearing on April 21 to address this critical deadline and to hear directly from Secretary Powell and Secretary Ridge on this matter. We would appreciate your including our letter in the hearing record.

As you undoubtedly know from your direct inquiries, very few of the 27 Visa Waiver Program countries can comply with the October 26, 2004 deadline. (Nor is the U.S. Government in a position to issue biometric passports by then.) Unfortunately, insistence on adherence to the deadline will ultimately hurt the U.S. travel and tourism industry, which is still recovering from the devastating impact of 9/11.

International travel to the United States accounted for over $80 billion in expenditures in 2003 and helped to directly support 1 million U.S. jobs. Visa Waiver Program travel to the U.S. alone accounted for $38 billion in spending in 2002. A significant portion of this spending will be jeopardized if the October 26 deadline is not extended.

The U.S. travel industry projects that 2004 may be the turnaround year where we actually experience positive growth in inbound travel to the U.S. for the first time in three years. The U.S. dollar is at a ten-year low and tourism exports, or international travelers to the U.S., are growing because travel to our country is a relative bargain.

Sustaining Corporate Leadership
AAA
Air Transport Association of America, Inc.
American Express Company
Amtrak
ARAMARK National Park & Cultural Attractions
Arizona Office of Tourism
Avis Rent A Car System, Inc.
Best Western International, Inc.
Greater Boston Convention & Tourism Bureau
Budget Rent A Car
Busch Entertainment Corporation
Carlson Companies, Inc.
Carnival Cruise Lines
Cendant Corporation
Chicago Convention & Tourism Bureau, Inc.
Choice Hotels International
Coach USA, Inc.
Delaware North Companies
Delta Air Lines, Inc.
Discover New England
Dollar Thrifty Automotive Group, Inc.
Fairmont Hotels and Resorts
Greyhound Lines, Inc.
Hawaii Visitors & Convention Bureau
The Hertz Corporation
Hilton Hotels Corporation
Hyatt Corporation
Illinois Dept. of Commerce and Econ. Opportunity
InterContinental Hotels Group
LA INC. The Convention & Visitors Bureau
Las Vegas Convention & Visitors Authority
Loews Hotels
Louisiana Office of Tourism
Marriott International
Maryland Office of Tourism Development
Massachusetts Office of Travel & Tourism
National Geographic Society
Nevada Commission on Tourism
Northstar Travel Media, LLC
NYC & Company
Royal Caribbean Cruises, Ltd.
Starwood Hotels & Resorts Worldwide, Inc.
State of Texas, Office of the Governor, Econ. Dev. & Tourism
United Airlines, Inc.
Universal Parks & Resorts
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Virginia Tourism Corporation
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Bonnie L. Carlson
President
Bloomington Convention & Visitors Bureau

Treasurer
Todd Davidson
Executive Director
Oregon Tourism Commission

President
William S. Norman
President and CEO
Travel Industry Association of America

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19 March 2004

The Honorable F. James Sensenbrenner, Jr
Chairman
Committee on the Judiciary
2138 Rayburn House Office Building
Washington DC 20515-6216

Dear Congressman,

Thank you for your letter of 17 March about the introduction of biometric passports for travellers from visa waiver program countries. You will be aware from your recent meeting with Baroness Symons and my letter of 12 February (enclosed for ease of reference) that this is a critical issue for the UK. We are committed to introducing an effective biometric passports programme as soon as possible. But, like many other countries, we are unable to meet the October deadline. I am therefore pleased to have the opportunity to help in your information gathering process. I very much hope that you will conclude that the deadline for introducing biometric passports should be extended until the end of 2005.

It might be helpful if I address each of your questions in turn:

Did the Department of State and the Department of Homeland Security provide your government with sufficient and timely information about the new requirements?

They did. As a result we have pursued our biometric passports programme with all possible speed. But even so, practical 'hard science' means that we will not be able to meet the deadline.

Will the UK be able to issue legally compliant passports before October 26, 2004?

We have already met (from 1988 in the vast majority of cases and by December 2003 in all cases) the requirement to issue machine-readable passports.

The State Department and the Department of Homeland Security accept that the UK's biometric passport programme, begun in June 2003, meets the legislative requirement (Part One of Section 303) to have a programme in place to deliver biometric passports. But we cannot roll out properly tested, secure biometric passports by October 2004,

because of the scale and complexity of the change and the associated risks to passport production for a country issuing six million passports per year. You will recall the detailed presentation on the technical complexity of this issue, passed to you at the meeting with Baroness Symons.

If not, has the UK initiated a process to revise its passports at a later date?

We have a comprehensive plan in place for implementing biometric passports and are pursuing it urgently.

When is it anticipated that the UK's passports will be compliant?

We expect to be issuing state-of-the-art, ICAO-compliant biometric passports to all new passport applicants by the end of 2005.

Does the UK currently use electronic scanners at its international ports of entry to read Machine Readable Travel Documents (MRTD) compliant with current International Civil Aeronautics Organisation standards (ICAO)?

Our scanners are ICAO compliant and we use them routinely, in addition to examination of the passenger and any supporting documents.

How will the proposed ICAO MRTD standards addressing global interoperability, reader technology and contactless chips anticipated to be adopted by the ICAO Technical Advisory Group on MRTD in May 2004 affect the UK's passport revision plans?

Confirmation of the refined standards will allow the UK programme to move ahead on the basis of much greater certainty about what is required, for example by using contactless chips which meet interoperability specifications.

I hope this gives you the information your require. If you have further questions, please contact me. Alternatively, one of your staff could call Lizzy Gummer on 588 7639.

Best wishes,

yours sincerely

David Manning

David Manning

EMBASSY OF SWEDEN

Washington, March 23, 2004 R 191 A

Washington

The Honorable F. James Sensenbrenner, Jr.
Chairman
Committee on the Judiciary
House of Representatives
2138 Rayburn House Office Building
Washington DC 20515-6216

Swedish Passports

Dear Chairman Sensenbrenner,

Referring to your letter of March 17, concerning the Visa Waiver program and Swedish passports, please find below the answers to your questions:

- The Swedish Government has in general received sufficient and timely information on new legal requirements through diplomatic channels, i.e. the State Department and the American Embassy in Stockholm. Sometimes the exact interpretation can be a problem, e.g. if Sweden will still benefit from a waiver.

- Sweden will not be able to issue legally compliant passports from October 26, 2004.

- The National Police Board, which is the agency responsible for passports in Sweden, has been tasked with drafting a proposal for the introduction of biometrical information in passports, including a time-scale. The Swedish Government is furthermore supporting a concerted European Union approach to finding a solution with the United States.

- The compliance of Swedish passports will be possible once the biometrical standards recommended by ICAO have been processed in the EU. Intensive discussions are at present going on in Brussels. According to our information a decision should be forthcoming at the end of this year. After finalizing technical specifications Member States would start issuing new standard passports in June 2006.

- Sweden uses electronic scanners (system "Border Guard") at major international ports of entry.

- Sweden is pushing for implementation of the ICAO recommendations, foreseen to be adopted in May, to be included in the pending European Union legal instrument on this matter.

I hope that the information given above is useful to the Committee's further deliberations. If there are any follow-up questions, your staff can contact our Minister for Consular and Administrative Affairs Pontus Jarborg at (202) 467-2630.

Sincerely,

Jan Eliasson
Ambassador of Sweden

Embajada de España

Washington DC, March 25, 2004

The Honorable James Sensenbrenner, Jr.
Chairman, Committee on the Judiciary
Congress of the United States
House of Representatives
2138 Rayburn House Office Building
Washington, DC 20515-6216

Dear Congressman Sensenbrenner,

Your letter of March 17, 2004 addressed to our Ambassador, Mr. Javier Rupérez, was forwarded to the Spanish Ministry of Foreign Affairs and we have been instructed to convey to you the following information:

On February 18, 2004, the European Commission, in accordance with the conclusions by the Thessaloniki European Council and with the invitation issued by the Brussels European Council, dated December 12, 2003, has presented a draft of the EU standards on the regulations for the security and biometric devices in the passports of EU citizens.

As the objective of the proposal, in addition to rendering the passport more secure through the introduction of biometric identifiers which establish a reliable link between the genuine holder and the document, the European Commission has taken into account that this would allow EU Member States to comply with the requirements established by the new U.S. legislation, as of October 26, 2004.

Said draft regulations discuss the obligation of embedding a high-resolution electronic portrait in the passport, as well as a means of storage containing the facial image of the passport holder, with an option to include fingerprints.

Regardless of the above, it must be taken into account that Spain currently has a national register in which there is a digitized photograph and a fingerprint of each Spanish citizen holding a Spanish ID card.

Embajada de España

The Honorable James Sensenbrenner, Jr.
March 25, 2004
Page Two

As passports issued in Spain have the Spanish ID number, there is a link between said passports (85% of those issued) and the database containing the aforementioned biometric elements.

I hope that this information will be useful for your Committee's work.

Best Regards,

Félix Valdés
Chargé d'Affaires

cc: US Department of State
Spanish Desk

The Ambassador

Embassy of Italy
Washington

Prot. N. 1651
March 25, 2004

Dear Hon. Sensenbrenner:

I write with reference to your letter dated March 17, 2004, in which you inquire as to how Italy is addressing the requirement for machine-readable passports containing at least one biometric identifier, introduced by the U.S. PATRIOT Act of 2001, that would allow continued participation to the Visa Waiver Program. In this connection, I am pleased to provide the Committee of the Judiciary of the House of Representatives, under your Chairmanship, the following information:

- The Department of State and the Department of Homeland Security have been informing in a timely manner the Italian Authorities on the new U.S. requirements for passports containing biometric indicators.

- Italy and – based on available information - all other European Union countries will not be in a position to issue passports containing biometric indicators before October 26, 2004.

- Italy has initiated the process to enable the issue of passports containing biometric indicators. In fact, on December 11, 2004, a prototype of the new Italian passport with a biometric indicator -the first such in Europe- was presented to the press by Assistant Secretary of State Baccini.

- Moreover, since July 1, 2003, the Italian Ministry of Foreign Affairs (which by law governs all matters related to passports), has been meeting on a frequent and regular basis together with the Departments of Home Affairs, Justice, Economy and Finance, the Office for the Protection of Privacy, and other Agencies directly involved with this matter, in order to implement the new passport containing biometric indicators.

Honorable F. James Sensenbrenner, Jr.
Chairman, Committee of the Judiciary
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, D.C. 20515 6216

- In principle, it is expected that the first Italian passports containing biometric indicators will be issued during the course of 2005.

- Electronic scanners that read machine-readable travel documents are currently used at Italian international ports of entry; the electronic reading stripe is appended to the last generation Italian travel documents, in compliance with current ICAO MRTD proposed standards.

- Italian legal and technical experts are actively engaged in the implementation of a passport with biometric indicators in compliance with current ICAO and European Union standards.

Italy considers its current participation in the U.S. Visa Waiver Program extremely useful in maintaining the excellent bilateral relations between our two countries. At the same time, Italy is convinced that the new security challenges of the XXI century, including the adoption of modern technologies in the area of travel document protection, must be faced in a timely manner.

Should your Committee require any additional information related to this matter, please do not hesitate to call again on my staff or on me personally. For your ready reference, the Embassy officer in responsible for this matter is First Counselor Alberto Galluccio (Consular, Justice and Home Affairs). He can be reached by phone at (202) 612 4440; and by e-mail at washington.cons@itwash.org).

Sincerely yours,

Sergio Vento

SergioVento

EMBASSY OF THE REPUBLIC OF SINGAPORE

March 29, 2004

The Honorable F. James Sensenbrenner, Jr.
Chairman
Committee on the Judiciary
House of Representatives
Congress of the United States
2138 Rayburn House Office Building
Washington, D.C. 20515-6216
Fax: (202) 225-7686

Dear Congressman Sensenbrenner,

I refer to your letter of March 17, 2004 to Ambassador Chan, who is currently overseas.

Singapore supports efforts of the United States to introduce biometric identifiers to strengthen national security, and agrees that the inclusion of biometric identifiers in passports would enhance the security and effectiveness of the current immigration clearance process. The introduction of such measures is also in line with Singapore's efforts to enhance its own national security.

Singapore is committed to introduce passports with biometric identifiers within a more realistic deadline. Singapore has taken part in the various ICAO meetings to discuss the biometric passport standards. However, as ICAO can only confirm the technical specifications the soonest possible in May 2004, it would leave insufficient time for Singapore and

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other Visa Waiver Program (VWP) countries to implement the system before October 26, 2004.

Despite efforts taken by the relevant agencies to issue passports with biometric identifiers, Singapore will not be able to meet the deadline. Singapore would like to continue working closely with ICAO and the US authorities to put in place a system that is globally interoperable.

I am pleased to enclose the information that you requested. I hope that you and other Members of the Committee of the Judiciary of the House of Representatives of the United States will find the information useful.

Yours sincerely,

SUSAN SIM
Charge d'Affaires, a.i.

Enc.

Embassy of the Republic of Singapore, 3501 International Pl. NW, Washington DC 20008, Tel. (202) 537 3100 Fax (202) 537 0878

RESPONSE TO THE HONORABLE CONGRESSMAN MR F. JAMES SENSENBRENNER, JR's LETTER OF 17 MARCH 2004

Did the Department of State and the Department of Homeland Security provide your government with sufficient and timely information about the new requirements?

Will Singapore be able to issue legally compliant passports before Oct 26, 2004?

How will the proposed ICAO MRTD standards addressing global interoperability, reader technology and contactless chips anticipated to be adopted by the ICAO Technical Advisory Group on MRTD in May 2004 affect Singapore's passport revision plans?

Singapore fully supports the United States' (US) initiative for the use of biometrics to improve the identification of travelers. Singapore is committed to introducing biometric passports and has been actively participating in various ICAO New Technologies Working Group (NTWG) meetings to discuss the biometric passport standards.

2 However, to realise the full value of biometrics for international travel control, a consensus on a common standard is required so as to achieve global interoperability. We note that there are wide-ranging and uneven standards applied by different countries in the production and issuing of biometric passports. With only about seven months to the deadline, a comprehensive set of international technical standards has yet to be clearly defined.

3 Given the importance and magnitude of such a project, it is the Singapore Government's desire that sufficient time should be given to design and implement a reliable and globally interoperable system. We should not compromise security just to meet the Oct 2004 deadline.

4 Singapore's timeline for the implementation of the biometric passport depends on when the technical details/requirements are finalized. Singapore will require a lead-time of at least 12 months from the date ICAO finalizes the technical standards and form factor to introduce a robust, reliable and accurate system for issuing biometric passports. We need to consider the magnitude and impact each country's biometric passports will have on receiving nations (the country the holder of a biometric passport is traveling to), as well as the issue of a national Certification Authority to issue digital certificates to authenticate electronic documents.

5 Assuming that the ICAO Technical Advisory Group (TAG) can finalize the technical details during the coming meeting in May 2004, Singapore may be able to start issuing biometric passports some time after May 2005. Singapore will not be able to introduce legally compliant biometric passports before Oct 26, 2004. Mr Lock Wai Han, Commissioner, Immigration & Checkpoints Authority, has conveyed the above to Mr Douglas Ellice, Inspector General, DHS, at a working luncheon between Singapore Government officials and the US Embassy in Singapore, on 28 Jan 2004.

If not, has Singapore initiated a process to revise its passports at a later date? When is it anticipated that Singapore's passport will be compliant?

Singapore has submitted to the ICAO NTWG a proposal on an alternative form factor, which is currently being deliberated. In an attempt to expedite our project efforts, we have also developed a sample chip[1] and offered it to the DHS[2] for acceptance testing/certification in late Jan 04.

2 We are currently waiting for the US' reply on how to proceed with the testing/certification of the sample chip. It would not be prudent for Singapore to proceed with the full-scale project without the US' certification of the sample chip or ICAO's confirmation of the technical details since it is tantamount to pre-judging ICAO's decisions on the technical specifications/standards which include the form factors.

Does Singapore currently use electronic scanners at its international ports of entry to read Machine Readable Travel Documents (MRTDs) compliant with current ICAO's standards?

Singapore has deployed electronic scanners at its checkpoints to read MRTDs since 1991.

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[1] As an ICAO member, Singapore has offered inputs by developing a prototype biometric chip in a project called Smart Visa for Identification with Passport or "Smart VIP" as one of the options for ICAO's consideration to push developments along. The chip is high speed (32K or 64K versions), low cost (estimated US$3), uses elliptical curve cryptographic co-processor rather than more expensive RSA (RSA is an encryption system developed by 3 researchers, Ronald Rivest, Adi Shamir and Leonard Alderman.) and meets all ICAO requirements. It is secure as it leverages on facial and finger print biometrics, and yet it is configured to operate in a manner which can address issues concerning loss of privacy.

[2] Officers from Singapore's Ministry of Home Affairs met up with the United States Deputy Chief of Mission, Mr John Medeiros, and DHS official, Mr Douglas Ellice on 28 Jan 2004.

Faxed 03/31/04

EMBASSY OF ICELAND
Washington, D.C.

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Tel: +(202) 265 6653, fax: +(202) 265 6656

Congress of the United States
F. James Sensenbrenner, Jr.
Chairman
2138 Rayburn House Office Bldg.
Washington DC 20515-6216

Washington, March 18, 2004
Ref: UTN02020063/31.M.611

Dear Congressman,

Thank you for your letter of March 27, 2004, in which you raised issues regarding the visa waiver program.

I like to use this opportunity to mention the good relations which have existed between our countries in this field. It is the wish of the Icelandic Government to cooperate constructively with other states in order to enhance aviation security and secure border control, but also to try to avoid unnecessary restrictions and hindrances to tourism and easy travelling of people through borders.

Your questions have been forwarded to the Icelandic Ministry of Justice which is the relevant authority. It is my hope that the Ministry will give prompt answers.

Helgi Ágústsson
Ambassador

These are preliminary answers to the questions in Rep. Sensenbrenner's letter of March 17, 2004:

1) No. Icelandic auhorities were notified of the plans by the US Embassy in Reykjavík late summer 2003. At that time the deadline was 1 Oct. 2003, later to be postponed to 26 Oct 2004.

2) No.

3) Yes. Iceland has already initiated the process.

4) Compliance anticipated in 2005. Certainly before Nov. 2006.

5) Yes. Compliant with current ICAO standards. The scanners read MRTD´s, but do not have biometric identifiers.

6) Iceland has taken measures to fulfill the proposed ICAO MRTD standards.

Gudni Bragason
DCM
Embassy of Iceland
Tel. 202 285 3068.

AMBASSADE DU GRAND-DUCHÉ
DE LUXEMBOURG
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April 1st, 2004

The Honorable
F. James Sensenbrenner, Jr
Chairman
Committee on the Judiciary
2138 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Sensenbrenner,

I have the honor to refer to your letter from March 17, 2004, concerning the postponement of the deadline on October 26, 2004, for the compliance of Luxembourg travelers to present a machine readable passport containing at least one biometric identifier.

My authorities have asked me to inform you of the following:

The American authorities have provided very useful and ample information on the new requirements concerning the machine readable passports. However, the introduction of biometric elements in the passports is a very complex matter which cannot be dealt with in the time limit set by the American authorities. Therefore, Luxembourg will not be able to respect the deadline of October 26, 2004.

Luxembourg is working on a strategy on issuing traveling documents and on putting biometric elements in the passports. This plan can only be finalized after the adoption by the European Council of the European Commission's regulation proposal on the standard for security measures and biometric elements to be incorporated in the passports of the EU citizens.

Furthermore, as far as the aforementioned regulation allows it, Luxembourg would like to take into account the recommendations to be adopted by the Technical Advisory Group of the International Civil Aviation Organization this coming May.

It is difficult to set up an accurate calendar for the implementation of our strategy when the biometric elements to be included, the technology to include these elements on the passports and the technical interoperability are not yet defined. In a best case scenario and under the condition the aforementioned decisions will be made as soon as possible, Luxembourg could start issuing passports meeting the American requirements during the first half of 2006.

Sincerely,

Arlette Conzemius
Ambassador

Embassy of Australia
1601 Massachusetts Avenue NW
Washington DC 20036 USA
Ambassador

Telephone 1 202 797-3133
Facsimile 1 202 797-3209

2 April 2004

The Honorable F. James Sensenbrenner, Jr.
Chairman
Committee on the Judiciary
House of Representatives
2138 Rayburn House Office Building,
Washington DC 20515-6216

Dear Mr Chairman

I am writing in response to your letter of 17 March seeking information on a number of issues relating to the US requirement that Australia, as a Visa Waiver Program Country, introduce biometric passports by October 26, 2004.

The following is provided in response to the queries in your letter:

(a) Yes. Since June 2002, Australia has had good dialogue with the Department of State and Homeland Security on US legislative requirements. But the introduction of biometrics in travel documents requires the creation and introduction of new standards, and the development of new technologies and products. Issues of compatibility and interoperability between Australia and the United States also arise and cannot be settled until the United States decides what infrastructure and technology it will introduce at its own borders.

(b) (c) and (d) Australia will be in a position to produce compliant passports by 26 October. We cannot proceed however, to test or produce or issue them because the United States has not yet decided on its own passport reading/border infrastructure.

(e) Australia currently has ICAO compliant scanners at its international ports of entry, however they cannot read chips.

(f) Australia will comply with proposed standards for interoperability, reader technology and contactless chips that are scheduled for consideration and adoption at the ICAO Technical Advisory Group in Montreal in May. In fact, Australia is playing an integral part in writing and developing these standards in partnership with others, including the United States.

I understand that the Secretary of State and the Secretary of Homeland Security have written to you seeking new legislation, or a waiver to existing legislation, to defer for two years the requirement that Visa Waiver Program countries adopt biometric passports. The outcome of their approach is obviously important for our own plans.

In these circumstances, you will understand we are very reluctant to proceed with production of our own biometric passports, incurring considerable costs. We need to know that the United States itself will have the appropriate technical infrastructure in place, and that this infrastructure is compatible with Australian biometric passports.

Especially as Australia has made a considerable effort to be able to abide by the new US requirements, we would hope to avoid a situation where Australians were disadvantaged because of the failure of other countries to meet the US deadline or because the US agencies have not installed the infrastructure necessary to implement US requirements.

Yours sincerely
Michael Thawley

Michael Thawley

AMBASÁID NA hÉIREANN
TELEPHONE: (202) 462-3939
FAX: (202) 232-5993

EMBASSY OF IRELAND
2234 MASSACHUSETTS AVE., N.W.
WASHINGTON, D.C. 20008

1 April 2004

The Honorable F James Sensenbrenner Jr.
Chairman
Committee on the Judiciary
House of Representatives
2138 Rayburn House Office Building
Washington DC 20515-6216

Dear Chairman Sensenbrenner

I have the honour to refer to your letter of 17 March concerning the readiness of Visa Waiver countries to meet the deadline in the Enhanced Border Security Act 2002 for the introduction of passports containing biometric information.

The following are the answers to your questions in respect of Ireland:

1. The Department of State and the Department of Homeland Security have provided sufficient information on the new requirements. As regards timeliness, Ireland, in common with all other Visa Waiver countries, has had to try and meet these requirements while the technical specifications for biometrics in passports were still being developed within the ICAO framework.

2. Ireland will not be able to produce passports containing biometric information by October 26, 2004.

3. The Government of Ireland have decided in principle to introduce biometric passports subject to a further investigation of the practical requirements for doing so. The Department of Foreign Affairs, which is responsible for passports in Ireland, is currently undertaking this investigation and it is hoped to complete this work by the autumn of this year. As you will be aware, the technology is still evolving and availability of suitable microchips is not yet confirmed.

   The European Union is also discussing the incorporation of biometrics in passports of EU citizens. In the Declaration on Combating Terrorism adopted in Brussels on 26 March 2004, the European Council agreed to complete the work on the adoption of the legislative proposal on this subject by the end of this year.

4. Depending on the results of the investigation referred to above, we hope to start producing biometric passports by the end of 2006 at the latest.

5. The MRTD scanners used at international ports are ICAO compliant.

6. Ireland will comply with the standards for incorporating biometrics in passports being developed by ICAO. Ireland will also encourage and support the inclusion of these standards in the draft EU Regulation on this matter, recently submitted by the European Commission to the Council of Ministers.

I hope that this information will be of assistance to your Committee. If you require any further clarification of our position on this subject, please do not hesitate to contact me again.

With best personal regards.

Yours sincerely

Noel Fahey
Ambassador

Embassy of Austria
Washington, D.C.

The Ambassador

Ref. # 6.5/21/04

April 05, 2004

The Honorable
Congressman F. James Sensenbrenner, Jr.
Chairman of the Judiciary Committee
House of Representatives
2138 Rayburn House Office Building
Washington, D.C. 20515-6216

Dear Congressman Sensenbrenner:

Thank you for your letter of March 17, 2004 regarding information about pending deadlines in connection with the U.S. Visa Waiver Program.

On behalf of the Austrian Ministry of the Interior, it is my pleasure to forward to you the answers to the specific questions posed in that letter. Please find them enclosed on the attached page.

It is my pleasure to be able to assist you with this legislative matter.

With my best regards,

Sincerely,

Eva Nowotny

Eva Nowotny
Ambassador

Enclosure

Reply to Questions on the U.S. Visa Waiver Program

Question (1):

Austria received the information regarding the new passport requirements in a timely and sufficient fashion.

Question (2) and (3):

Austria has already taken steps to allow for fulfilling the required standards. With regard to implementing measures still outstanding (see, for example, Question 6), it is becoming increasingly difficult to meet the deadline.

Question (4):

Austria intends to meet the deadline consistent with that of other Member States within the European Union.

Question (5):

Austria is currently using electronic scanners at all of its border crossings which are capable of reading Machine Readable Travel Documents (MRTD), compliant with the current International Civil Aeronautics Organization (IAO) standards.

Question (6):

Austria is required to fulfill these standards. The timely implementation of the ICAO MRTD standards are to a large extent dependent upon their anticipated adoption by May, 2004.

For the Federal Minister

Grosinger

EMBASSY OF JAPAN
WASHINGTON, D.C.

April 6, 2004

Dear Chairman Sensenbrenner:

Thank you for your letter dated March 17th regarding the introduction of biometric passports in visa waiver countries. I am pleased to have an opportunity to assist you in gathering information on this critical issue, which could greatly impact travel between the United States and Japan.

The answers to your questions are as follows:

Did the Department of State and the Department of Homeland Security provide your government with sufficient and timely information about the new requirements?

Since the enactment of the Border Security and Visa Entry Reform Act of 2002, we have had extensive communication with the U.S. government regarding the legal requirements of ICAO compliant biometric passports. However, due to the fact that ICAO has not completed finalizing its standards for biometric passports and its readers, we are still uncertain of the exact requirements of the Act.

Will Japan be able to issue legally compliant passports before October 26, 2004?

Unfortunately, this is difficult. We consider international interoperability to be of the utmost importance, and hence we feel it is crucial to issue biometric passports that are fully ICAO compliant. Currently, the ICAO has not finalized its standards, and although we hope that they can finalize the standard in this May, that would not leave enough time to develop, procure and deploy passport and passport printers that fulfill the stated legal requirement as well as its security intent.

If not, has Japan initiated a process to revise its passports at a later date?

Yes, we have. The government has commissioned the National Printing Bureau to develop a next generation passport booklet compatible with IC chips. We also have contracted the development of passport printers for IC chip-enabled passports. In addition, we have commissioned a domestic group of experts to consider the legal, technical and operational aspects of the application of biometrics to our passport. As this shows, we are making steady progress toward the issuance of biometric passports.

When is it anticipated that Japan's passports will be compliant?

We intend to introduce them in Japanese Fiscal Year 2005 (April, 2005 to March, 2006.) This was stated in the Foreign Minister's policy speech at the beginning of the current Diet Session, as well as in the "e-Japan Strategy II: the Acceleration Package," which is an initiative announced on February 6 by the IT Strategy Headquarters headed by Prime Minister Koizumi.

Does Japan currently use electronic scanners at its international ports of entry to read Machine Readable Travel Documents (MRTD) compliant with current International Civil Aeronautics Organization (ICAO) standards?

Yes. Japan uses electronic scanners to read ICAO compliant machine readable passports at all of its international ports of entry.

How will the proposed ICAO MRTD standards addressing global interoperability, reader technology and contactless chips anticipated to be adopted by the ICAO Technical Advisory Group on MRTD in May, 2004 affect Japan's passport revision plans?

As mentioned previously, because we consider international interoperability to be of the utmost importance, we intend to begin the development of the IC chips as soon as the finalized standard is adopted by ICAO this May. Hence, the adoption of standards is the primary and the most important prerequisite for our passport development.

I have enclosed a timeline and non-paper for your reference. Should more information be required, I would be pleased to make a personal visit bringing with me any further details that might be needed. Mr. Kazuya Nashida is also available at (202) 238-6724 to offer assistance in this matter.

Sincerely,

Ryozo Kato
Ambassador of Japan

The Honorable
F. James Sensenbrenner, Jr.
Chairman
Committee on the Judiciary
2138 Rayburn House Office building
Washington, DC 20515-6216

NEW ZEALAND EMBASSY

TE AKA AORERE

WASHINGTON

2 April 2004

The Hon. F. James Sensenbrenner
Chairman
Committee on the Judiciary
United States House of Representatives
2138 Rayburn House Office Building
Washington DC 20515-6216

Dear Chairman Sensenbrenner

I am writing in response to you letter of 17 March 2004, in which you requested information related to pending deadlines that will affect New Zealand citizens travelling to the United States. Answers to the specific questions raised in your letter are as follow:

Did the Department of State and the Department of Homeland Security provide your government with sufficient and timely information about the new requirements?

No. We believe that appropriate United States authorities should have consulted visa waiver countries during the drafting of the legislation to ensure the full impact of the proposed changes were understood. The Department of State informed us formally about the law change some months after the law was enacted. Most of the information gained by the New Zealand Government has been proactively sought informally at international fora such as ICAO.

The Department of Homeland Security has also provided details of the proposed border processes and how the required certification will be achieved slower than we would consider ideal. There are still a large number of outstanding issues to be resolved, e.g. how emergency documents will treated, and it is apparent that much of the detail has yet to be finalised by US-Visit.

Will New Zealand be able to issue legally compliant passports before October 26, 2004?

New Zealand plans to introduce a passport with the holder's biometric data encoded on a contactless chip by 26 October 2004. Contracts are being finalised for the supply of chip-enabled passport books and we are in the design phase for the operational systems

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37156

to support chip personalisation. While this e-passport project is progressing well our ability to meet 26 October 2004 is contingent on a number of factors:

- ICAO approval technical reports relating to the encoding of RF chips by the end of May 2004;
- Development of formal standards on the basis of these reports requires ISO approval – a process that takes at least 12 months;
- That the technical reports contain sufficient detail to allow vendors to provide both chips and compliant operating systems;
- That there are production quantities of chips and reader/writers available by early July 2004;
- That satisfactory operational and durability testing results are achieved; and
- That US-Visit puts in place a process that allows for certification of the New Zealand passport as meeting all requirements prior to operational production.

This is a high-risk project and there are many factors, as noted above, that are beyond New Zealand's control, and which will impact on our ability to meet the deadline.

If not, has New Zealand initiated a process to revise its passports at a later date?

The e-passport development programme will continue until full implementation is achieved, even if 26 October 2004 deadline is not met. If it becomes apparent that the target date is not achievable it is likely we would rollout in a phased manner rather than pursue full implementation on Day One as is currently planned.

When is it anticipated that New Zealand's passports will be compliant?

See answer to question 2 above.

Does New Zealand currently use electronic scanners at its international ports of entry to read Machine Readable Travel Documents (MRTD) compliant with current International Civil Aeronautics Organisation (ICAO) standards?

New Zealand has a computerised entry/exit system at all international ports. This system is supported by passport readers/scanners, which read the machine-readable zone (MRZ) of all ICAO-compliant travel documents at both entry and exit. The New Zealand Customs Service has full-page passport readers that include feature-analysis functionality, which are primarily used in secondary inspection. Additionally The New Zealand Immigration Service is currently implementing Advanced Passenger Processing (APP) systems to provide real-time assessment of travellers at check-in at foreign ports.

How will the proposed ICAO MRTD standards addressing global interoperability, reader technology and contactless chips anticipated to be adopted by the ICAO

Technical Advisory Group on MRTD in May, 2004 affect New Zealand's passport revision plans?

As noted above, the approval of the technical reports is a critical factor in relation to the introduction of a "compliant passport" by 26 October 2004.

I hope that this information is useful. Should the Committee require any further information on this issue, please do not hesitate to contact Winton Holmes on (202) 328 4842.

With kind personal regards,

Yours sincerely

John Wood

John Wood
Ambassador

cc: Brian Zimmer
Senior Investigator
House Committee on the Judiciary

37156

The Ambassador of Switzerland

Washington, D.C., April 8, 2004

Christ /
Brian Z

The Honorable
F. James Sensenbrenner, Jr., Chairman,
Committee on the Judiciary,
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, D.C. 20515-6216

Dear Mr. Chairman:

I refer to your letter dated March 17, 2004, concerning the approaching deadline for Visa Waiver Program countries to begin issuing machine-readable passports with at least one biometric identifier, and I am pleased to inform you of the following:

1. The Department of State and the Department of Homeland Security provided Switzerland with information about the new rulings on a regular basis and in a timely manner, especially with regard to the provisions of the Enhanced Border Security and Visa Entry Reform Act. However, there were and still are numerous open questions about the implementation of these provisions; in particular, the ICAO standards, which have been declared to be binding, are still incomplete. That is why we welcome the request made by Secretary of State Colin L. Powell and Secretary of Homeland Security Thomas J. Ridge for a two-year extension of the October 26, 2004 deadline for introducing biometric data in travel documents. That would give Switzerland and the other Visa Waiver Program countries a more realistic time frame for integrating biometric data.

2. Switzerland will not be able to issue passports with the required biometric data on October 26, 2004.

3. Yes. Shortly after the introduction of the new ICAO-compliant machine-readable Swiss passport in 2003, the competent Swiss federal offices began working on integrating biometric data in travel documents. Together with leading Swiss experts, the Federal Department of Justice and Police is conducting a feasibility study which will be completed in summer of 2004. Based on that study, the Swiss Federal Council will decide on the further steps.

4. After the Federal Council (the executive branch of Switzerland) has made its decision, the timely implementation will depend on two factors. First of all, the introduction of biometric data in passports requires a change in the Swiss legislation on identity documents which must be approved by the Swiss Parliament. Secondly, Switzerland attaches much importance to defining standards in a multilateral framework (ICAO), guaranteeing an internationally recognized system. In that regard, the implementation of the provisions is closely connected with the outcome of the May meeting of the ICAO Technical Advisory Group in Montreal. In view of both factors, the timing of which cannot be determined in advance, at the present time a binding answer cannot be given as to whether the requested two-year extension of the deadline will be sufficient.

5. Scanners for reading Machine Readable Travel Documents which are compliant with ICAO standards are in use at Swiss ports of entry today. In particular, the scanners are systematically used in checking entry visas. When travel documents are scanned in, an inquiry can be made simultaneously in the Swiss computerized watch list RIPOL and in the Central Register of Foreigners, as well as in other databases.

6. Switzerland actively participates in ICAO's decisive work on defining technical standards for producing passports with biometric data and is closely following the developments in this area. At its next session from May 17-21, 2004, in Montreal, the ICAO Technical Advisory Group on Machine Readable Travel Documents (TAG/MRTD) will decide on essential points of global standards which are of great importance to Switzerland. Binding ICAO standards will provide us with additional reference points for proceeding further and making concrete plans for the introduction of biometric data in Swiss passports. In particular, the standards connected with global interoperability, Logic Data Structure (LDS) and Public Key Infrastructure (PKI) have to be set beforehand.

Sincerely,

Christian Blickenstorfer

EMBASSY OF FINLAND
WASHINGTON, D.C.

WAS0129-19

April 8, 2004

The Honorable F. James Sensenbrenner Jr.
Chairman
Committee on the Judiciary
House of Representatives
108th Congress of the United States
Washington, D.C.

Dear Chairman Sensenbrenner,

The Embassy of Finland has the honour to refer to your letter dated March 17, 2004 concerning the readiness of Visa Waiver countries to meet the deadline in the Enhanced Border Security Act 2002 for the introduction of passport containing biometric information.

Please find herewith the answers to your questions in respect of Finland:

1. To fulfill the requirements on biometric standards on the schedule has been problematic to Finland due to the lack of international standards on some technical specification, e.g., microchips.

2. Changes in passports need to correlate with legislation and Finland is planning to submit a new passport bill in autumn 2004 to be able to fulfill international requirements. New passports will be issued after new international standards have been accepted and all the required computer systems installed. Finland will not be able to produce passports containing biometric information by October 26, 2004.

3. Issuance of passports with biometric information is planned to commence in spring 2005 in Finland and abroad at our Embassies in the beginning of 2006.

4. The MRTD scanners used in all Finnish international airports, all sea harbours and all international road and railroad borders are ICAO compliant.

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5. Finland will comply with the new ICAO MRTD standards concerning microchips and reader technology.

The Embassy hopes that this information is of assistance to the Committee on the Judiciary.

Sincerely,

Jukka Valtasaari
Ambassador of Finland

Ambassade van het
Koninkrijk der Nederlanden

19 April 2004

The Honorable F. James Sensenbrenner, Jr
Chairman
Committee on the Judiciary
2138 Rayburn House Office Building
Washington DC 20515-6216

Dear Mr. Chairman:

Thank you for your letter of 17 March about the introduction of biometric passports for travellers from visa waiver program countries. We are committed to introducing an effective biometric passports program as soon as possible but, like many other countries, we are unable to meet the October 26 deadline. I am pleased to herewith provide you with the responses to your specific questions. Hopefully this information leads to the conclusion to extend the deadline for introducing biometric passports until at least the year 2006.

Did the Department of State and the Department of Homeland Security provide your government with sufficient and timely information about the new requirements?

Both the Department of State and the Department of Homeland Security provided sufficient and timely information about the new requirements.

Will the Netherlands be able to issue legally compliant passports before October 26, 2004?

No, the Netherlands will not be able to issue passports with electronic biometric identifiers before October 26, 2004.

If not, has The Netherlands initiated a process to revise its passports at a later date? When is it anticipated that the Netherlands' passports will be compliant?

The Netherlands are planning to issue passports with electronic biometric identifiers by October, 2006.

Does the Netherlands currently use electronic scanners at its international ports of entry to read Machine Readable Travel Documents (MRTD) compliant with current International Civil Aeronautics Organization standards (ICAO)?

The immigration authorities at Amsterdam Schiphol Airport are using ICAO compliant MRZ-readers.

How will the proposed ICAO MRTD standards addressing global interoperability, reader technology and contactless chips anticipated to be adopted by the ICAO Technical Advisory Group on MRTD in May 2004 affect the Netherlands' passport revision plans?

The Netherlands will comply with biometric identifiers to be developed by ICAO.

I hope the above information will be taking into account during the upcoming deliberations to postpone the deadline of October 26, 2004.

Wim Geerts
Chargé d'Affaires, a.i.

ROYAL NORWEGIAN EMBASSY
WASHINGTON, D.C.
The Ambassador

April 8, 2004

The Honorable
F. James Sensenbrenner, Jr.
U.S. House of Representatives
2449 Rayburn House Office Building
Washington D.C. 20515-6216

Dear Mr. Sensenbrenner,

Reference is made to your letter of March 17, 2004, concerning the USA Patriot Act of 2001 and the deadline whereby travelers from visa waiver program countries must present a machine-readable passport containing at least one biometric identifier to enter the United States without a visa.

The answers to your questions as far as Norway is concerned are as follows:

1. The Department of State and the Department of Homeland Security provide the first information about the new requirements in March 2003.

2. Norway will not be able to issue legally compliant passports before October 26, 2004.

3. Norwegian authorities are currently working on plans for the implementation of biometrics in Norwegian passports.

4. According to current planning, which is still subject to decision at the government level, new Norwegian passports issued after a date late in 2005 should have biometric security features included.

5. Norway is currently using electronic scanners at international ports of entry. These scanners are also able read MRTD compliant with current ICAO standards.

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6. The ICAO standards will be taken into consideration, and the new Norwegian passports with biometrics will meet the standards recommended by ICAO. As the standards have only recently been adopted, it is difficult to say if and how these will affect the current planning.

Yours sincerely,

Knut Vollebaek

PORTUGUESE EMBASSY
WASHINGTON

March 31, 2004

Dear Mr. Chairman

In reference to your letter dated March 17th, regarding the Visa Waiver Program and the pertaining requirements established in the USA PATRIOT Act of 2001 and the Enhanced Border Security and Visa Entry Reform Act of 2002, we hereby wish to inform you of the following:

- To the best of our knowledge, the American authorities, through the Department of State, have been informing the Portuguese authorities of all the requirements that arise from the American legislation.

- The process of introduction of biometric information in Portuguese passports has been undergoing within an interministerial commission, which includes the Ministries of Foreign Affairs, Internal Affairs and Justice, created by the Portuguese Government for the purpose of conducting the mandatory legally binding procedures implied.

- This is a matter of great importance, but also of highest complexity both for technological and financial reasons, namely interoperability, production and procurement. So, in this context, Portugal will not be able to produce passports with biometric information by October 26, 2004.

- Furthermore, the biometric issue is also currently in an ongoing discussion within the European Union and Portugal, as its Member State, is part of the decision making process within the appropriate EU Institutions.

- All international ports of entry in Portugal are well equipped to read Machine Readable Travel Documents (MRTD), according to ICAO standards.

- The last revision of the Portuguese Law on passports dates of January 2001, meaning that as of that date the Portuguese authorities only issue MRTD. In order to introduce the new technology new legislation has to come in place and this is the main focus of the above mentioned Commission.

Additionally, we would like to emphasize that security concerns, especially after the tragic events of September 11, 2001 and March 11, 2004, are a priority for the Portuguese Government. The protection of our passports is one of paramount importance for our country.

Finally, Portugal would also like to stress the mutual advantages of the participation of our country on the Visa Waiver Program, allowing tourists and businessmen from both our countries to benefit from an expedited legitimate and safe travel.

Sincerely,

Embaixada de Portugal em Washington

Josefina Reis Carvalho
Chargé d'Affaires, a.i.

The Honorable
F. James Sensenbrenner,Jr.
Chairman of the Committee on the Judiciary
House of Representatives

Work translation

REPUBLIC OF SLOVENIA
MINISTRY OF INTERIOR
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Fax:01/432-51-25

No. 1333/08-920-219/2004
Date: 06.04.2004

Subject: UPGRADING THE SLOVENIAN PASSPORT WITH BIOMETRIC ELEMENTS - Reply to the request by the US Congress

Referring to the questions posed by the US Congress regarding the procedure of upgrading the Slovenian passport with biometric elements, we hereby clarify the following:

We estimate that the Department of State and the Department of Homeland Security notified the Republic of Slovenia of the new requirements in due time. However, there are many unclear matters and unresolved complex issues associated with the introduction of biometry to passports, which concern Slovenia, as well as other countries that decided to upgrade their passports with biometric data. Therefore, the mere information on the term of validity and the details of implementing the new regime cannot be assessed as sufficient. In relation to this, it must be mentioned that intensive debates are still underway, both within the ICAO organisation, as well as in the EU, on the issues of integrating biometry into passports. Individual solutions are not yet final, but a solution to all open issues is a prerequisite for ensuring interoperability of biometric data in passports. Such a passport system should include as large a number of countries as possible. These countries would then harmonise the procedures of taking biometric data, their transfer into the chip, and, this being especially important, the modalities of safe access to and control of data at border checks.

The Republic of Slovenia will be able, within 6 months after the adoption of the ICAO technical recommendations and the EU technical standards, to introduce a passport with an embedded contactless chip containing information on the biometric characteristics of its holder. As the respective recommendations are expected to be adopted in May, it is impossible, due to a delay in the adoption of the recommendations on ICAO standards, to implement the modification by 26 October 2004. An obstacle to a timely implementation is the availability of a chip with adequate data saving capacities (64 K or more). A further impediment is the fact that the European Commission has announced the adoption of a Regulation on standards for security features and biometrics in EU citizens' travel documents. The proposed regulation sets out that a special expert committee would decide on the respective standards and that these standards would become binding within one year after their adoption. Considering that the Republic of Slovenia will become an EU member on 1 May 2004, the mentioned regulation and the standards ensuing therefrom will also be binding upon Slovenia.

The Republic of Slovenia has prepared a timetable for the project of upgrading the passport with biometric data. The programme includes amending the Passports of Citizens of the Republic of Slovenia Act, supplementing the logistical support for the production and issuing,

as well as embedding the chip into the passport. We must underline again that realising the objectives within the planned timescale depends much on the decisions of the EU and ICAO, as well as on the market availability of a chip with adequate data saving capacities.

At its border crossing points, the Republic of Slovenia uses optical readers of the OCR-B data. Namely, the standard of equipping border crossing points at the EU external borders provides that each checkpoint must have a computer workstation enabling direct access to data bases, while the entry point is represented by a scanner that enables reading the OCR-B data. We would like to add in this context that the first Slovenian passports with machine-readable OCR-B data were already issued in 1991. The second generation of Slovenian passports, the one that is currently valid, has been made in accordance with the international ICAO standards in the area of travel documents and the security-protection standards in the EU.

The Republic of Slovenia has been closely monitoring the work of the group which within the framework of the ICAO has been drafting technical recommendations to the ICAO 9303 (MRTD) standard. The mentioned recommendations refer to interoperability, the technology of data reading and the contactless chip. Representatives of the Republic of Slovenia also participate in the third group of the European Commission Committee laying down a uniform format for visas. The mentioned group examines how the biometric data are taken, how they are integrated into the visa document and how they are controlled. The biometric data will be integrated into the Slovenian passport in accordance with the mentioned technical recommendations. In doing this, Slovenia will also comply with the unitary approach to solving the issues of integrating biometry into the European passport in accordance with the guidelines set by the European Commission in the Proposal for a Council Regulation on standards for security features and biometrics in EU citizens' passports. The Republic of Slovenia will endeavour to introduce biometry in its passports in accordance with the ICAO recommendations and the EU guidelines, for which it has made a time schedule of upgrading the Slovenian passport with biometric data.

Best regards

dr.BOJAN BUGARIČ
STATE SECRETARY

ROYAL DANISH EMBASSY
Washington, DC

The Right Honorable
F. James Sensenbrenner, Jr.
Chairman of the Committee on the Judiciary
Congress of the United States
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Enclosure

File
36.E.1.

Date
20 April, 2004

Dear Chairman Sensenbrenner,

Thank you for your letter dated March 17, 2004, to Ambassador Federspiel concerning i.a. deadlines that will affect citizens of Denmark travelling to the United States. The letter has been submitted to the relevant Danish agencies for review. On this back-ground, the Dept. of Justice has provided the following information:

1) The information received concerning the new requirements has been satisfactory.

2) The Danish Ministry of Justice has decided not to include biometric identifiers in the Danish passports, which will be introduced October 1, 2004.

   The decision should primarily be viewed in the light of the EU-Commission's proposition of February 18, 2004, concerning common security elements and biometric identifiers in EU-passports.

   Further, according to the US Embassy in Denmark, the Administration has asked Congress to bring about the necessary legislation to postpone the deadline until December 2006 for the production of passports with biometric identifiers as a condition for entering the United States.

   On this background, the Ministry of Justice found it most appropriate to await the results of the determination of biometric standards within the context of the European Union, before deciding to introduce biometric identifiers into the Danish passports.

3) Denmark is using electronic scanners at airports and at seaports with any significant entry.

4) So far, the planning in Denmark has been based on the condition that the proposed standards must be met.

Sincerely,

Karsten Ankjær Jensen
Minister, Deputy Chief of Mission

GERMAN EMBASSY
Peter Gottwald
Deputy Chief of Mission

Washington, April 20, 2004

German Embassy 4645 Reservoir Road, N. W. Washington D.C. 20007

The Honorable
James Sensenbrenner Jr.
Chairman, Committee on the Judiciary
House of Representatives
2138 Rayburn House Office Building
Washington, DC 20515-6216

by fax: 202-225 7686

Dear Mr. Chairman:

In the absence of Ambassador Ischinger, it is my honor to respond to your letter of March 17, 2004, concerning the introduction of machine-readable passports with biometric identifiers by the Federal Republic of Germany within the context of the U.S. visa waiver program.

In mid-2003, the EU Commission and EU member states agreed on placing biometric identifiers on passports. The Commission was charged with presenting an appropriate proposal, which it did on March 19, 2004.

With that, responsibility for the issue was transferred to the European Union. Consequently, the individual member states no longer have regulatory responsibility. The Commission, in exercising its responsibility for international cooperation under European law, is in direct contact with the United States regarding this issue.

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Following the terrorist attacks in Madrid, the political decision to use biometrics was expressly reaffirmed and the timetable was further specified with the aim of expediting the process.

The Council and the Committee of European Justice and Interior Ministers are following the process very closely.

The EU Commission and the member states are currently working on the technical specifications. Three working groups have been formed to deal with the design of the documents, the storage of data on those documents, and the technical equipment aspects.

A decision on the regulation governing European passports and biometric identifiers is to be taken by the end of this year. The ICAO standards, if adopted by then, will be taken into account.

The German Government, specifically the German Federal Minister of the Interior, has extensively discussed Germany's positions and planned measures in this matter with the competent U.S. authorities. In addition, there is close coordination at the executive working level.

Germany anticipates that it will be able to begin issuing passports with biometric identifiers in accordance with EU standards in 2005.

As you can see, Mr. Chairman, the process is well underway.

Peter Gottwald

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Ambassade de France
aux Etats-Unis

L'Ambassadeur
n° 830

Washington, April 23, 2004

Dear Mr. Sensenbrenner,

Following your letter dated March 17 concerning the introduction of biometric passports, please find hereafter the answers prepared by the French Ministry of Domestic Affairs.

1. Information provided by the American authorities

The French authorities have been regularly and properly notified of U.S. deadlines and requirements, notably by the diplomatic note of October 14, 2003 from the American Embassy in Paris, with which the Ministry of Foreign Affairs and the Ministry of the Interior, Domestic Security and Local Liberties (MISILL) maintain excellent ties. They are even more informed in that the obligation to introduce biometric identifiers is part of a European and international process, not only for passports, but other documents such as visas and European residency cards (TSE). (Initial reflections on this subject began after September 2001.)

2. Will France be able to meet the October 26, 2004 deadline for the introduction of biometric passports?

On May 22, 2003, the ICAO Air Transport Committee endorsed the ICAO recommendation adopted at the TAG/MRTD in May 2003 providing for the obligatory and standardized use of a digital photographic image on a medium embedded into the passport, preferably an electronic chip, leaving it up to individual nations to use additional and optional biometric data (fingerprints or images of the iris). Nevertheless, it seemed difficult, if not imprudent, to then begin producing biometric passports given that a certain number of technical points remained to be resolved.

Mr. Jim Sensenbrenner
Chairman
Committee on the Judiciary
2138 Rayburn House Office Building
Washington, DC 20515-6216

The many meetings that have been held within the framework of the ICAO's NTWG over the past year, which France has systematically attended and which have resulted in the drafting of technical reports, have demonstrated the absolutely necessity of expanding the work currently under way before embarking on a process that, while strengthening passport security, will also considerably increase production costs.

All of these questions have not yet been fully resolved to date, notably those relating to the memory capacity of chips without contact, their lifetime, the securing of data, the infrastructure for the international management of certification procedures, and the compatibility between chips and scanners that presently do not possess all of the same technical characteristics, given that the equipment is produced by different manufacturers.

Furthermore, France could not embark alone on a project that would not have complied with the provisions currently being developed by the European Union through the draft regulation recently submitted by the Commission on the introduction of biometric passports for EU citizens. Of course, this regulation obviously takes into account the ICAO's work and recommendations. Thus the European Council of heads of states and governments of March 25, 2004, tasked the Council with adopting, by the end of the year 2004, Commission proposals dealing with the incorporation of biometric elements in visas and passports with a view to developing technical specifications that the Commission must adopt within the same time frame.

The rules being developed on the European level with regard to the introduction of biometric passports will be adopted in compliance with European provisions relating to the protection of personal data (in this case, directive 95/46 CE relating to the protection of personal data and the free circulation of such data). Moreover, in France, the establishment of files and the registration of personal data cannot take place without prior notification from the National Commission on Information Technologies and Liberties (CNIL).

3. Has France begun the process that will result in the establishment of biometric passports?

The Ministry of the Interior, Domestic Security and Local Liberties, in coordination with other pertinent ministerial departments (the foreign ministry and justice ministry), has initiated technical, legal and logistical studies relating to the production of biometric passports. Working groups were established within the MISILL and numerous contacts were made with industry.

In addition, the introduction of biometric passports is part of the ambitious "Basic Document" project launched in 2001, whose objective is not only to secure the document itself but to improve the security of the entire procedure (securing individual civil registry certificates). The French project is aimed at achieving a "secure electronic national identity" (I.N.E.S.), from its sources at the civil registry to the delivery of the document to the bearer. It goes beyond simply introducing one or several pieces of biometric data into the certificates that are issued: The objective is to achieve an I.N.E.S. guaranteed by the State, making it possible to use a single procedure for issuing national documents to French citizens (passports and/or electronic national ID cards), which would be in accordance with international and European standards.

4. When will France be ready to produce biometric passports?

Given the European Council's decision of March 25, 2004 (see point 2), it would have been difficult for France to begin, alone, producing biometric passports before October 26, 2004.

Moreover, given that France has decided to centralize passport production, this requires totally re-thinking the entire process for producing and issuing such documents.

The date for beginning production at pilot sites could not be envisioned, a priori, before late 2005. It would become widespread only in 2006.

5. Use of equipment for the optical reading of passports in French airports

In 2003, this type of equipment was notably installed in the airports of Paris (Roissy-Charles-de-Gaulle and Orly), Lyon-Saint-Exupéry and three international railway stations. All French airports serving the United States from Continental France should be equipped by the end of 2004.

6. The impact of ICAO biometric proposals on future French biometric passports

That impact is very strong, because it forces us to re-think the entire process for issuing and manufacturing French travel documents, even though reflections were already well underway for the other reasons mentioned above (the launch of a Basic Document in 2001 and reflections at the European level, not only on passports but also on visas and the European residency card). The ICAO's recent work has accelerated this process.

Yours sincerely

Jean-David Levitte

LETTER FROM JONATHAN FAULL, EUROPEAN COMMISSION

EUROPEAN COMMISSION
DIRECTORATE-GENERAL JUSTICE AND HOME AFFAIRS

The Director General

07 AVR. 2004

Brussels,
JAI A/1/SK D(2004) 3349

Dear Mr Kiko,

Thank you very much for your letter of 9 March 2004 recalling the meeting we had during my visit to the US and requesting some information on the status regarding individual Member States in relation to their progress towards new passports.

I am pleased to hear that you intend to hold at least one hearing in the near future in which Members of your Committee will examine the case for extending the 26 October deadline.

In this context I understand that at the same time, a letter signed by your chairman, Mr Sensenbrenner has been sent out to all Visa Waiver Countries in order to receive more information on their schedule for issuing biometric passports in compliance with US legislation. As far as I am informed, some Member States have already replied, some others will do so in the near future. You will have a detailed overview of the state of play in all of the Member States.

Moreover, as you know, the Commission has presented a proposal on the introduction of biometric identifiers in line with ICAO standards into EU Member States' passports. The Commission proposal provides for the mandatory storage of the facial image as a primary biometric identifier in order to ensure interoperability. As the secondary optional biometric identifier, the fingerprint has been chosen as it still seems to be the most reliable biometric identifier for "one-to many" checks in databases. Once this proposal is adopted, it will oblige all Member States to issue their passports in compliance with these standards.

However, this will mean that we cannot meet the 26 October 2004 deadline, which is causing us great concern. If the deadline and the related requirements remain unchanged, vast numbers of EU citizens, who have until now enjoyed visa free travel (as tourists) to the US, will have to apply for a visa.

We are eager to explore with you, on the basis of our proposal, ways of finding a mutually satisfactory and workable time scale to resolve this situation. We would argue that our proposal, once adopted by Member States, together with the Commission

Mr Philip G. Kiko
Chief of Staff/General Counsel
Congress of the United States
House of Representatives
Committee on the Judiciary
2138 Rayburn House Office Building
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decision on the technical specifications for the implementation of the measure, should be certified as "a programme" as required by US legislation for continued participation of EU Member States in the Visa Waiver Programme.

The European Council on 25/26 March 2004 instructed "the Council to adopt by the end of 2004 the Commission's proposals for the incorporation of biometric features into passports and visas, with a view to the finalisation of the technical specification to be adopted by the Commission by the same deadline."

This sets out a clear time frame for the introduction of biometric passports within the whole European Union. Should the Commission proposal be adopted as it currently stands, Member States will be obliged to issue biometric passports one year after the adoption of the technical specifications, i.e. at the end of 2005.

I hope this information may be of help for your Members in their considerations.

Sincerely

Jonathan FAULL

RESPONSES TO QUESTIONS POSED DURING THE HEARING FROM THE HONORABLE COLIN POWELL

United States Department of State
Washington, D.C. 20520

November 18, 2004

Dear Mr. Chairman:

Please find enclosed the transcript inserts of the April 21, 2004 hearing at which Secretary of State Colin L. Powell testified. The transcript was previously edited as requested.

If we can be of further assistance to you, please do not hesitate to contact us.

Sincerely,

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
As stated.

The Honorable
F. James Sensenbrenner, Jr, Chairman,
Committee on the Judiciary,
House of Representatives.

April 21, 2004
Secretary Colin Powell

Transcript Page: 65
Lines 1483-1488

Mr. Watt:

Is it true that Zacarias Moussaoui, the so-called 20th hijacker from the September 11th hijackers, came to the United States as a French national under the visa waiver program?

Secretary Powell:

It is true that French national, Zacarias Moussaoui, was admitted to the U.S. under the Visa Waiver Program.

Transcript Page: 68
Lines 1494-1500

Mr. Watt:

Is it true that Richard Reid, the shoe bomber, came in under a French Government or British passport that the French Government believes to be legitimately issued and he came in under the visa waiver program?

Secretary Powell:

On December 22, 2001, Richard Reid, a British citizen, was allowed by an airline to board a flight from France to Miami with an onward connection to the Caribbean. He was traveling on his British passport. He was taken into custody following his unsuccessful attempt to detonate the explosive located in his shoes. He pled guilty to all charges in 2003.

Transcript Page: 80
Lines 1794-1807

Mr. Coble:

Given that there are a finite number of biometric identifier manufacturers and questions have been raised by many about the durability and the security of the identifiers, do Homeland Security and State have confidence that the manufacturers will be able to meet the worldwide demand with a reliable product in time for the visa waiver countries to meet the deadline?

Secretary Powell:

Based on discussions with manufacturers and VWP participating countries, we expect that the private sector will be able to meet this demand. There are several major sources of the integrated chips needed for this program. In addition, companies throughout the world are busy developing the means of securing the integrated chip into the passport as well as the capability to read and write to the chip.

Transcript Page 89
Line 1968

Question:

Now that citizens of visa waiver countries will be subject to this requirement (US-VISIT fingerprints and photograph), will Mexican citizens holding border crossing card be subject to it as well?

Answer:

In response to your question on whether Mexican citizens using border crossing cards to enter the U.S. would be subject to fingerprinting through US-

VISIT, I yielded the answer to Secretary Ridge and added that we would provide a detailed answer for the record. Secretary Ridge also responded that he would provide an answer for the record. As the Department of Homeland Security has sole authority over the US-VISIT program, they can provide the best and most informed answer to the question. We have consulted with our colleagues at DHS and they will provide a response for the record.

Transcript Page 94
Line 2023

Mr. Gallegly

Visa waiver countries are also required to report all stolen passports, but there is some indication that this requirement is not consistently adhered to. What plans are there to increase compliance with this requirement?

Secretary Powell

Section 307(a) of the Enhanced Border Security and Visa Entry Reform Act (EBSVERA) of May 2002 established the reporting of stolen *blank* passports on a timely basis as a requirement for VWP participation. Collection of foreign lost and stolen blank passport information is handled through direct communications between U.S. posts abroad and host governments or nationals. Posts report data on lost and stolen blank passports to the Bureau of Consular Affairs, Office of Fraud Prevention Programs (CA/FPP), which prepares an Intelligence Alert on the documents and ensures that the data is promptly entered into the Consular Lookout and Support System (CLASS).

Personalized passports reported lost or stolen are entered directly into CLASS by posts. CLASS lookouts on lost and stolen passports, whether U.S. or foreign, are automatically forwarded to the Treasury Enforcement Computer

System (TECS/IBIS) for use at U.S. ports of entry. For any large electronic lists obtained of issued lost and stolen passport data, posts may submit the data in an Excel spreadsheet via e-mail to the CA Overseas Support Desk for bulk entry into CLASS.

The Department is not aware of any regular problems in complying with this requirement to report stolen blank passports. The Department has been in an ongoing dialogue with nations around the world, including the VWP countries, encouraging them to report stolen passport information immediately. Most recently, we instructed our Embassies in VWP nations to deliver formal demarches to the host governments stressing the importance of cooperation in this area. All have agreed to cooperate.

RESPONSES TO POST-HEARING QUESTIONS FROM THE HONORABLE COLIN POWELL

United States Department of State
Washington, D.C. 20520

May 26, 2004

Dear Mr. Chairman:

Following the April 21, 2004 hearing at which Secretary of State Colin L. Powell testified, additional questions were submitted for the record. Please find enclosed the responses to those questions.

If we can be of further assistance to you, please do not hesitate to contact us.

Sincerely,

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
As stated.

The Honorable
F. James Sensenbrenner, Chairman,
Committee on the Judiciary,
House of Representatives.

Questions for the Record Submitted to
Secretary of State Colin L. Powell by
Rep. Howard Coble
Committee on the Judiciary
April 21, 2004

Question 1:

Should information on US-VISIT concerning visa applications/issuance be available to U.S. law enforcement agencies?

Answer:

US-VISIT is a program of the Department of Homeland Security, which currently collects biometric data on travelers who hold visas when they request admission at a U.S. port of entry. Information on visa applications and issuances is automatically available to US-VISIT from the Department of State Consolidated Consular Database (CCD), which replicates visa data from our consular posts who have the authority to process and issues visas.

The Department of State supports the sharing of visa information with the law enforcement community. Some visa data will eventually be shared via US-VISIT and the Terrorist Screening Center, but the majority is now shared directly between the Visa Office in the Bureau of Consular Affairs and law enforcement authorities. We have an agreement with the FBI for the sharing of their criminal history records with Consular Affairs, and we have negotiated a Memorandum of Understanding, which we expect to sign soon, for the regular sharing of visa records with the Bureau.

Questions for the Record Submitted to
Secretary of State Colin L. Powell by
Rep. Howard Coble
Committee on the Judiciary
April 21, 2004

Question 2:

Does DHS view the information as more pertinent to law enforcement agencies while the foreign visitor is in the U.S.?

Answer:

I defer to DHS to respond to this question.

Questions for the Record Submitted to
Secretary of State Colin L. Powell by
Rep. Elton Gallegly
Committee on the Judiciary,
April 21, 2004

Question 3:

The "Enhanced Border Security and Visa Entry Reform Act of 2002," required that visa waiver countries issue only passports with biometric identifiers after October 2004. For how many years will there be valid passports in circulation that do not contain this information?

Answer:

Nations that participate in the VWP have strong passport security programs that affect both the decision to issue a passport as well as the security features of the passport. For example, all VWP countries already issue passports that are machine readable.

There are several VWP countries that issue 10-year validity passports to adult citizens. This is the same validity as a U.S. passport.

These passports will be valid travel and identity documents throughout their validity period, even though they do not contain embedded biometric identifiers.

Questions for the Record Submitted to
Secretary of State Colin L. Powell by
Rep. Elton Gallegly
Committee on the Judiciary,
April 21, 2004

Question 4:

Visa waiver countries are also required to report all stolen passports, but there is some indication that this requirement is not consistently adhered to. What plans are there to increase compliance with this requirement?

Answer:

Section 307(a) of the Enhanced Border Security and Visa Entry Reform Act (EBSVERA) of May 2002 established the reporting of stolen *blank* passports on a timely basis as a requirement for VWP participation. Collection of foreign lost and stolen blank passport information is handled through direct communications between U.S. posts abroad and host governments or nationals. Posts report data on lost and stolen blank passports to the Bureau of Consular Affairs, Office of Fraud Prevention Programs (CA/FPP), which prepares an Intelligence Alert on the documents and ensures that the data is promptly entered into the Consular Lookout and Support System (CLASS).

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The Department is not aware of any regular problems in complying with this requirement to report stolen blank passports. The Department has been in an ongoing dialogue with nations around the world, including the VWP countries, encouraging them to report stolen passport information immediately. Most recently, we instructed our Embassies in VWP nations to deliver formal demarches to the host governments stressing the importance of cooperation in this area. All have agreed to cooperate.

Questions for the Record Submitted to
Secretary of State Colin L. Powell by
Rep. Steve King
Committee for the Judiciary
April 21, 2004

Question 5:

I would appreciate a further explanation of the criteria for allowing a country to participate or continue to participate in the Visa Waiver Program (VWP). Specifically I would like to know: 1) how the law enforcement and security interest criteria for the VWP are being used to keep terrorists out of the United States; 2) an explanation of the thoroughness of the review of each country in the VWP every two years and 3) whether the security risk that the citizens of a particular country might be linked to terrorism has been grounds for exclusion from the VWP?

Answer:

The Department of Homeland Security has responsibility for administering the Visa Waiver Program and conducting the biennial reviews of the participating countries. DHS should be able to provide you with a more complete answer to this question. However, State is working closely with DHS on VWP issues, including the reviews, and we are happy to share our perspective with you.

Border security is built into VWP in a two-pronged approach, examining first the country, then the individual traveler. The program was established, in part, to facilitate travel by citizens from countries that the Attorney General (now the Secretary of Homeland Security) and the Secretary of State have determined pose low risk to U.S. national security. Prior to admission to the program, a country must satisfy a legislatively mandated list of requirements. These include political and economic stability, secure travel documents, law enforcement cooperation with the U.S., low refusal rate of visa applicants, and other factors that identify the country as low risk for illegal migration and national security threats.

The individual traveler is then scrutinized at a port of entry (POE) by DHS immigration officers. Prior to arrival, passenger manifests and bio-data on the individuals are transmitted to POEs, which then run lookout checks on all arriving passengers. Should a passenger be ineligible for entry or be turned around for any reason by a DHS officer, the statute does not provide for an appeal. The traveler acknowledges that s/he has no right to contest the immigration officer's decision on the I-94W that must be filled out and signed prior to immigration inspection.

The Department of State's TIPOFF staff has assisted immigration officers at ports of entry in handling lookout entries pertaining to terrorism for many years. The experience throughout the VWP program demonstrates that classified information can be used to deny entry to the US to a traveler who may pose a threat. Given that the traveler seeking admission to the US under the VWP has no right to a hearing, the traveler cannot insist on knowing the nature of the derogatory information that the US Government has developed. The sensitive nature of US intelligence information is thoroughly protected. The traveler is denied admission to the US by DHS and promptly sent back to his/her port of embarkation.

To our knowledge, no formal studies have been done on abuse of the VWP program by individual travelers, but DHS uses statistics on turnarounds and problems with VWP travelers in its reviews (again, legislatively mandated) of VWP countries when determining their continued participation in the program. The Enhanced Border Security and Visa Entry Reform Act requires each participating country to be reviewed every 2 years.

It is also worth noting the VWP status does not allow every citizen of a VWP-participating country to enter the U.S. visa-free. Travelers must be arriving in the U.S. for 90 days or less, and for B1/B2 purposes (travel for purposes of business or tourism). All other

travelers from VWP countries -- those staying longer than 90 days as well as those with other intentions, such as students -- must undergo consular processing and obtain visas. As a result, some of our consular sections in VWP countries like London, Frankfurt and Paris are among our busiest European posts.

DHS is currently leading an inter-agency working group (IWG) that is conducting the biennial reviews of the remaining 25 of the current 27 VWP countries due for review in this cycle. This includes Belgium, which was placed in a "provisional" status as a result of the last review. The reviews will be extremely thorough, culling information from foreign governments, our consulates and embassies overseas, and from a variety of agencies in Washington. State is but one participant in the IWG, which also includes all relevant entities from DHS, plus ATF, DEA, Justice, DHS' Forensic Document Laboratory, and other agencies. The IWG is examining in-depth each country's passport production and issuance controls, reporting of lost and stolen blank and issued passports, a broad spectrum of law enforcement measures and cooperation with the U.S., political and economic security, demographic trends, POE statistics, fraud trends, cooperation in counter-terrorism measures, cooperation in immigration law enforcement, nationality and citizenship laws, and other factors affecting their continued eligibility. In addition, an inter-agency team will perform a site visit in each of the 25 countries being reviewed, receiving briefings from the embassy, asking tough questions of the host country officials about a variety of issues, and viewing first-hand the physical security of a number of sites relevant to determination about continued qualification for VWP, including passport production and issuance facilities, air and sea ports, and land borders.

To date, no country has been excluded from VWP solely on the ground that its citizens may be linked to terrorism. However, from the beginning of the program some of the principal

criteria evaluated in determining a country's eligibility have focused on factors that would exclude potential terrorists. For example, we have looked carefully at the ease of obtaining a country's citizenship, the visa refusal rate of the country's nationals, and the physical security of a country's airport departure facilities. Countries that do not meet these basic qualifications do not qualify for the program; only countries that do can be considered for the program because they, and by extension their citizens, present a lower level of risk to U.S. border security.

Questions for the Record Submitted to
Secretary of State Colin L. Powell by
Rep. Steve King
Committee for the Judiciary
April 21, 2004

Question 6:

I would like to know, how many people from foreign countries enter the United States each year? I would like statistics that are broken down by country and visa type. In addition, I would like the data to include estimates of how many people have entered illegally, overstayed their visa or are otherwise illegally present in the United States. Finally, I would like these nations ranked by security risk. I firmly believe that in order to assess the validity of the Visa Waiver Program we must have this information. We must be able to assess the security risk that the VWP presents.

Answer:

Twenty-seven countries currently participate in the Visa Wavier Program (VWP), including Andorra, Australia, Austria, Belgium, Brunei, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland, and the U.K.

Countries are admitted for participation in VWP only after a thorough review of numerous legislatively mandated criteria including demonstrated law enforcement cooperation with the U.S., political and economic stability, secure borders, and others. Their continued participation in the program is contingent upon being able to demonstrate that they still meet these qualifications. We therefore consider all VWP countries, by definition, to be low risk, and they are our partners in combating international terrorism, serious crime, trafficking, etc. The on-going biennial reviews of VWP countries stress continued law enforcement effectiveness and cooperation, and will thoroughly examine a wide variety of risk factors before making determinations about each country's continued eligibility for VWP participation.

Data on entries broken down by nationality and type of visa, illegal entries and overstays are maintained by the Department of Homeland Security.

Questions for the Record Submitted to
Secretary of State Colin L. Powell by
Rep. Steve King
Committee on the Judiciary,
April 21, 2004

Question 7:

On May 13, 2003, the Immigration Border Security and Claims Subcommittee held an oversight hearing on "John Allen Muhammad, Document Fraud, and the Western Hemisphere Passport Exception." Disturbing facts about our national security vulnerabilities due to document fraud and the Western Hemisphere Passport Exception came to light in this hearing. I would like to know what steps have been taken by the State Department in response to this hearing.

Answer:

Recognizing that requiring a passport or similar travel document for all travel to the U.S. could enhance border security and facilitate border crossings, the Bureau of Consular Affairs convened a Department of State working group to examine this issue. The working group identified the steps that would need to be taken to implement this change. We also engaged the services of Bearing Point to quantify the associated increase in demand for passports that would result. That information is crucial in order for us to assess the additional resources that will be required to meet demand if the exception is removed.

While no decision has been made, the Department, in consultation with other interested federal agencies, is nearing completion of a preliminary study on removing the Western Hemisphere exception. As soon as our interagency consultations are complete, we would welcome the opportunity to brief you and your staff on this idea in more detail and receive your feedback.

Questions for the Record Submitted to
Secretary of State Colin L. Powell by
Rep. Sheila Jackson-Lee
Committee on the Judiciary,
April 21, 2004

Question 8:

It appears that the need for further development in facial recognition technology is causing delays in bringing a biometric passport from design to production. Why were photographs chosen as one of the biometric devices?

Answer:

The Enhanced Border Security and Visa Entry Reform Act (EBSA) established a deadline of October 26, 2004, by which VWP countries must begin issuing their nationals only passports that incorporate biometric identifiers that comply with standards established by the International Civil Aviation Organization (ICAO). The standards are intended to promote document security and global interoperability. ICAO began its formal process of studying and assessing biometrics technology for use in machine-readable travel documents in 1999.

A key premise for the selection of a biometric technology for passports was the need for global interoperability. U.S. passports and passports of other nations must be machine-readable by all countries to which passport bearers may travel. Because passports require a globally interoperable solution, it is important to consider a biometrics and document authentication solution that can work for all passports.

In October 2001, ICAO endorsed an NTWG technical report that looked at various biometric identifiers for use in travel documents. The report provided the categories of requirements that a globally interoperable biometric must satisfy. These included compatibility with passport issuance, renewal, and inspection processes. For example, the biometric needed to

support such functions as enrollment via mail-in renewal processes in addition to enrollment at initial document issuance facilities. Other factors considered in the report included accuracy of the biometric, global public perception including privacy and social concerns, speed, redundancy, maturity, and operational efficiency of enrollment and verification. The report concluded that face, finger and iris technology were most compatible with requirements of issuance and inspection authorities.

ICAO then encouraged its Member States to conduct biometrics testing of the three, targeted technologies. Most States favored the testing of facial recognition since it was a steadily improving technology and issuance authorities already collected facial images and had extensive facial databases to rely upon. Independent country testing indicated clearly that facial recognition technology could meet the needs of Member States and could be successfully used in verifying the bearer of the document as the rightful holder of the document.

At its Berlin meeting in June 2002, the ICAO TAG-MRTD/NTWG endorsed the use of face recognition as the globally interoperable biometric for machine assisted identity confirmation of machine-readable travel documents. This resolution was expanded to include the use of contactless chip technology as the globally interoperable storage media for MRTDs. ICAO TAG accepted this expanded resolution known as the New Orleans Resolution in May, 2003. The 2003 ICAO-TAG also approved fingerprint and iris images to supplement facial images as additional biometrics, if a country so desires.

Questions for the Record Submitted to
Secretary of State Colin L. Powell by
Rep. Sheila Jackson Lee
Committee on the Judiciary,
April 21, 2004

Question 9:

Fingerprints are collected already by the various intelligence and police agencies, and they are unique to each individual. Why are other biometric devices necessary?

Answer:

In order to maximize the benefits of machine-readable passports (both to move large numbers of travelers rapidly and to identify those needing closer scrutiny) both U.S. and other nations' passports must be machine-readable by all countries to which passport bearers may travel. In other words, passports must be globally interoperable. The International Civil Aviation Organization (ICAO), which establishes standards for travel documents to promote document security and global interoperability, has indicated that facial images best meet this need since the face is already captured as part of the passport application process of many nations and use of facial photographs are readily accepted by the traveling public.

Some nations' laws will not permit the collection and storage of their citizens' fingerprints in databases and will not use fingerprints in their passports. In some countries, the association of fingerprints with criminal connotations still remains.

The use of full images of fingerprints on travel documents creates a privacy vulnerability and may be resisted by privacy advocates in the United States and other nations. From a privacy perspective, full fingerprint images present a threat to the personal privacy of an individual unless adequately protected by data encryption techniques such as Public Key Infrastructure (PKI).

Questions for the Record Submitted to
Secretary of State Colin L. Powell by
Rep. Sheila Jackson Lee
Committee on the Judiciary,
April 21, 2004

Question 10:

You have said in your statement that the State Department will need to divert personnel from other vital functions to meet the increased workload if 5 million additional visas are needed. What problems do you anticipate in the event this becomes necessary?

Answer:

All nationals of Visa Waiver Program countries issued a non-biometric passport after October 26, 2004 will need a biometric U.S. visa to enter the U.S. This has enormous resource implications for the Department, although we will respond aggressively if the deadline is not extended. Without an extension of the deadline, we could face an estimated 5.3 million additional visa applications in FY 2005. This represents a 76% rise in worldwide workload, but amounts to an increase in VWP countries of an average of 900%, ranging from 130% in Luxembourg to 1450% in the Netherlands. We estimate 2.7 million additional cases in FY2006.

A surge in visa applications of this magnitude could lead to visa processing backlogs that would deter travel to the U.S., with negative domestic economic and political impact, and friction in relations with our closest allies. Current resources would not be able to handle such a surge in the nonimmigrant visa workload. We are reviewing a number of strategies for reallocating resources to mitigate the potential damage to U.S. interests. That said, all strategies available to us involve taking resources away from other, competing programs. In fact, without an extension of the deadline, we are concerned that U.S. interests will suffer on many fronts. We are unlikely to meet full visa demand, but by attempting to do so will cause other vital programs to suffer.

Questions for the Record Submitted to
Secretary of State Colin L. Powell by
Rep. Robert Scott
Committee on the Judiciary,
April 21, 2004

Question 11:

Exactly what are the technological barriers to meeting the October 26, 2004 deadline and are we sure they will be overcome within the proposed two-year deadline?

Answer:

The barriers to meeting the October 26, 2004 deadline are international standards, technology and supporting infrastructure.

International Standards

To function efficiently and effectively on a wide, multi-national scale biometric passports must be standardized, as are current machine-readable passports (MRPs). The International Civil Aviation Organization (ICAO) has, since 1968, taken the lead in developing MRP standards, modifying them periodically as technology advanced, travel grew and more serious security threats emerged. ICAO standards for biometric passports have been in development for several years and will approach completion in May 2004 with final international approval of several important elements key to biometric MRP universal interoperability.

To assure international interoperability of their biometric MRPs, most countries have very reasonably delayed development and implementation pending ICAO's completion of the standards. With the completion of ICAO standards most States can be expected to conclude

biometric MRP system development, acquisition, testing and fielding within 24 months.

Technology

Early in its development of biometric MRP standards, ICAO concluded that biometric data could be most effectively included in MRPs with the use of contactless Integrated Circuits (IC) (memory and microprocessor devices). Since that time, the technologies associated with such devices have advanced rapidly. But, only recently have economical, contactless ICs with sufficient capability become available.

The various biometric technologies also have been in a state of rapid development. In the view of many States, appropriate biometric technology has only recently matured to the needed levels of reliability and performance.

Supporting Infrastructure

A biometric MRP system can require a significant supporting infrastructure including the upgrade of secure digital storage and transmission systems and the design, acquisition, testing and fielding of a Public Key Infrastructure (PKI) based Digital Signature system.

The upgrade of secure digital storage and transmission systems is not a difficult or challenging task. However, until details of the ICAO standards for biometrics and IC data storage were final, upgrades were risky to initiate. States have begun those upgrades, and can be expected to complete them within 12 to 18 months.

PKI-based security technologies are another rapidly maturing area. ICAO has only recently completed its standards and requirements for PKI-based biometric MRP digital signing. The design, acquisition, testing and fielding of a Digital Signature system for biometric MRPs is

a complex undertaking, and there is not a widespread capability for doing so. A large State such as the UK or Germany can be expected to take up to 18 months to accomplish that undertaking.

The maturity of standards and technologies has only recently reached a point where States can initiate full-scale development of a biometric MRP and its associated supporting system. The complexity of such systems will demand up to 24 months time to fully implement.

Questions for the Record Submitted to
Secretary of State Colin L. Powell by
Rep. Robert Scott
Committee on the Judiciary,
April 21, 2004

Question 12:

Have you evaluated the possibility of false positives and or false negatives in identification?

Answer:

The Department has been working closely with the National Institute of Standards (NIST) and other Government agencies in the evaluation of facial recognition. Through this work we have developed a good understanding of the current state of facial recognition, the expected performance (including statistical possibilities of false positives and false negatives), and what factors contribute to facial recognition performance.

We continue working with facial recognition, including various aspects that we now know contribute to better performance. For example, we have already taken steps to improve the quality of passport photos that will be used to create the facial image stored in the passport. To that end, we have prepared a photo quality brochure for passport photographers to upgrade to our requirements for the quality of photographs to be submitted for use in the passport. The better the quality of photos received, the more accurately facial recognition technology will work.

The concept for the use of facial recognition technology in passports is for one-to-one matching of a live capture of the bearer standing in front of the border inspector with the photo stored in the passport. The use of facial recognition on a one-to-one matching basis makes the issue of false positives versus false negatives less of a concern. Border inspectors will still be relying on the physical inspection of the other security features of the passport. One-to-one facial recognition will provide another security feature to assist the inspector in matching bearers to documents. We also, working with NIST, continue to conduct tests and practical pilots targeted at improving our implementation of this technology.

Questions for the Record Submitted to
Secretary of State Colin L. Powell by
Rep. Robert Scott
Committee on the Judiciary,
April 21, 2004

Question 13:

What privacy concerns have you evaluated and what are your conclusions?

Answer:

Ensuring the privacy of data written to the integrated circuit as part of the biometric passport process has been a key issue since this process began. The data privacy issue is one of the key reasons that the U.S. has worked with other governments to ensure that the only data that must be written to the integrated circuit is the same data as is found on the "data page" of the passport.

We are aware that ICAO specifications allow for the use of biometrics such as fingerscans or iris scans to augment the facial image that is the globally interoperable biometric. The United States has no current plans to incorporate either of these biometrics in our passports. We should add that at least one of the countries considering the inclusion of fingerscans as a biometric intends to encrypt that data so that it can only be read by authorized security and border inspection agencies of that government. In other words, the biometric in this case will not be globally interoperable.

Questions for the Record Submitted to
Secretary of State Colin L. Powell by
Rep. Robert Scott
Committee on the Judiciary,
April 21, 2004

Question 14:

What provisions have been made to make the biometric passports tamper-proof?

Answer:

The tamper resistance of biometric passports is a function of several elements, not just its biometric features. For example, the United States has a process through which passport designs, security features and production technologies are adjusted frequently to ensure the overall integrity of the passport. In terms of the integrated chip to which the biometric information will be written, all of the data stored on the chip will be protected by a form of Public Key Infrastructure (PKI) that will require that the data be digitally signed by a highly protected and secure private digital signing key and read by an official public key. The use of the PKI scenario is an ICAO requirement to ensure the security of all of the data on the chip.

RESPONSES TO POST-HEARING QUESTIONS FROM THE HONORABLE TOM RIDGE

Questions for the Record
House Judiciary Committee
21 April 2004
Hearing on "Machine Readable and Biometric Requirements for Passports and Visas: The Capability of the Department of State and of Foreign Nationals to Meet the Deadlines Set by the Border Security Act and the USA PATRIOT Act"
Witness: Secretary Tom Ridge

Majority questions for Secretary Tom Ridge

Rep. John Hostettler

- **Q01517:** During your testimony to the Judiciary Committee, you stated that US VISIT will be utilized by DHS on VWP visitors even after VWP countries implement machine-readable passports in accordance with ICAO standards as called for by the Enhanced Border Security and Visa Reform Act of 2002 and the USA Patriot Act. I believe your words during the hearing on April 21, 2004 were"...in perpetuity." I believe this is a valid policy given the superiority of fingerprints to the encoded face as a biometric, especially in an era of widespread access to reconstructive surgery. Do you believe Congress should enact a statutory requirement that fingerprint data of foreign visitors is captured on their arrival and subsequently employed to conform the identity for returning visitors as US VISIT now does, to protect against policy whims of future administrations that might lower this protective shield?

  Answer: Thank you for your offer of support. We do not believe a statutory requirement is needed. The Immigration and Nationality Act provides the Secretary of Homeland Security with the authority to prescribe, by regulation, the conditions for the inspections of aliens and the terms of admission for any alien. It is under this authority that DHS is requiring Visa Waiver Program applicants to enroll in US-VISIT. This authority is sufficient to adjust conditions of admission for all categories of aliens in accordance with changing threats, immigration and security concerns, and emerging technologies.

  The Enhanced Border Security and Visa Entry Reform Act of 2002, Section 307, provides additional authority.

Rep. Howard Coble

- **Q01518:** Should information in US-VISIT concerning visa applications/issuance be available to U.S. law enforcement agencies?

Answer: The information integrated by US-VISIT includes appropriate biographic, biometric (i.e. fingerscans and digital photographs), and other immigration-related information. Sharing the information in a timely manner with appropriate decision makers, those charged with ensuring the integrity of our immigration system, ensures that they can make the best decisions possible. These decision makers include consular officials from the

Department of State, Customs and Border Protection officers, Immigration and Customs Enforcement agents, and U.S. Citizenship and Immigration Services officers from the Department of Homeland Security. The vast majority of individuals whose information we collect are legitimate travelers, who comply with U.S. laws. US-VISIT has established a data sharing environment that specifies the security, privacy-related, and retention requirements that must be implemented by entities using US-VISIT information on a routine basis to protect the information provided by these individuals.

This critical information on foreign nationals must be shared, as appropriate, with other law enforcement and intelligence agencies as they, too, bear responsibility for protecting our country. This information can be shared appropriately with law enforcement and intelligence agencies based on a reason compatible with the US-VISIT mission. US-VISIT has implemented a process by which state, local, or federal law enforcement, or other interested entities, may request US-VISIT information within the current US-VISIT security and privacy policies.

- **Q01519:** Does DHS view the information as more pertinent to law enforcement agencies while the foreign visitor is in the U. S.?

  Answer: We think that law enforcement should be involved whenever it is appropriate. Managing the pre-entry, entry, status, and departure of alien visitors is a major component of controlling our borders and requires collecting information regarding the movement of aliens in, through, and out of the United States. Such information allows the federal government to make informed policy and management decisions; to identify and take action against those who violate the law; to locate individual aliens of interest to law enforcement entities; to validate the immigration status of aliens so that only eligible persons receive immigration benefits; and to intercept terrorists and other malafides. Information should be made available to law enforcement entities when appropriate.

Rep. Elton Gallegly

- **Q01520:** President Bush announced that US VISIT would not be used to fingerprint and photograph Mexican nationals entering the United States with Border Crossing Cards. Reportedly, the President acceded to the demands of Mexican President Vicente Fox, who was concerned that it is unfair that Mexican nationals would be processed through US –VISIT while citizens of visa waiver countries would not. Now that citizens of visa waiver countries will be subject to this requirement, will Mexican citizens holding Border Crossing Cards be subject to it as well?

  Answer: Most of the Mexican citizens who travel to and from the U. S. regularly apply for and are issued a multi-use travel document, which is a combination Border Crossing Cards (BCC) and a B1/B2 visa. When used as a BCC, a Mexican citizen can stay in the U.S. for up to 72 hours and travel within the "border zone" (within 25 miles of the border in Texas, California, and New Mexico, and 75 miles from the border in Arizona). When Mexican citizens use the document as a BCC, adhering to these terms of admission, they will be exempt <u>initially</u> from US-VISIT processing. As part of the process to be eligible to receive a BCC, Mexican nationals undergo a rigorous screening process, including

biographical and biometric background check, and have their photograph and fingerprints embedded into the BCC card. DHS has deployed equipment and software to ports of entry that will allow DHS officers, when appropriate, to confirm the validity of the BCC presented and the identity of the BCC holder. This deployment will be completed this fall.

If BCC holders are using the card as a B1/B2 nonimmigrant visa (traveling outside the "border zone" or staying longer than 72 hours in the United States), they are currently required to be processed in the secondary inspection area and now will be processed through US-VISIT.

Rep. Steve King

- **Q01521:** I would appreciate a further explanation of the criteria for allowing a country to participate or continue to participate in the Visa Waiver Program (VWP). Specifically I would like to know: 1) how the law enforcement and security interest criteria for VWP are being used to keep terrorists out of the United States; 2) an explanation of the thoroughness of the review of each country in the VWP every two years; and 3) whether the security risk that the citizens of a particular country might be linked to terrorism has been grounds for exclusion from the VWP?

  Answer: Section 217 of the Immigration and Nationality Act provides statutory criteria for a country's participation in the VWP. These criteria include: low nonimmigrant visa refusal rates; a machine-readable passport program; and the effect of the country's designation in the law enforcement and national security interests of the United States. While no country has been excluded from VWP solely on the grounds that its citizens may be linked to terrorism, country assessments evaluate an array of issues that speak to the security threat posed by the country's citizens or security practices. DHS is currently leading an interagency working group (IWG) that is conducting the biennial reviews of the remaining 25 of the current 27 VWP countries due for review in this cycle. The reviews are very thorough, and they consider the country's political and economic trends; visa requirements, citizenship, naturalization, and residency requirements; document issuance and security, including passport feeder documents; border processing and control; and law enforcement programs, including programs dealing with terrorism activities. The IWG collects information from the participating government, our consulates and embassies overseas, and from a variety of U.S. federal agencies. The IWG includes representatives from appropriate DHS directorates as well as representatives from the Department of Justice including the Bureau of Alcohol, Tobacco, and Firearms and the Drug Enforcement Adminstration, DHS's Forensic Document Laboratory, and other agencies. Site visits are currently under way and the assessments should be completed by October 2004.

- **Q01522:** I am concerned about the growing problem of document fraud and the steps we can take to address the situation. It is my understanding that fraudulent U.S. issued birth certificates and driver's licenses are used to gain entry into the United States. I am also concerned about the practical effects of the western hemisphere passport exception on our

border security. If document fraud is widespread, then there is a great deal of potential for violation of our immigration laws. We need to know who is in our country and why they are here. False names and false documents hinder our law enforcement and homeland security efforts. Secretary Ridge, Is a state-issued drivers license a secure document? Is a birth certificate a secure document? Do you have concerns about the Western Hemisphere Passport Exception, particularly with respect to securing the homeland and enforcing our immigration laws?

Answer: Neither state-issued driver's licenses, nor birth certificates are, per se, secure documents. The documents are only as secure as the procedures used to issue them. At the border, CBP officers do not accept or rely on a State-issued driver's license as the sole or sufficient proof of legal presence in the U.S., even though a person will often present his or her license as an identity document. Officers regard a validly issued driver's license as one piece of the total information considered when making a judgment about a person's right to have a legal basis to reenter the U.S.

Our inspectors are also charged with detecting look-a-likes or impostors who attempt to use valid documents which belong to another person. This is one of the fastest growing phenomena in travel document abuse. Document vendors solicit genuine, unaltered documents and match them up with "look-a-likes." Both Immigration and Customs Enforcement (ICE) and CBP have developed a training program to detect impostors, which they have conducted for both U.S. and foreign immigration and border officers around the world.

- **Q01523:** I am concerned about the possibility of terrorists exploiting the Visa Waiver Program. Please explain to me the steps that you have taken to minimize this risk.

  Answer: In order to minimize the risk, the Department has several initiatives in place and is working to implement even more. First, the Department requires all commercial carriers to provide electronic passenger and crew information prior to an international flight's arrival. These passenger and crew manifests are run against our name check or biographic watch list. Second, the CBP's National Targeting Center runs these incoming manifests through a variety of security checks. If these security checks and intelligence information warrant further questioning, then a person's record is flagged for additional processing upon arrival. Third, by September 30, 2004, the Department will incorporate Visa Waiver Program passengers arriving at air and sea ports into US-VISIT, including fingerprint biometric verification and watch list checks.

- **Q01524:** According to the Immigration and Nationality Act, Section 217, the law enforcement and security risks of VWP countries are evaluated. Please describe to me the criteria for this evaluation and give examples of acceptable and unacceptable security risks.

  Answer: Section 217 of the Immigration and Nationality Act provides statutory criteria for a country's participation in the VWP. These criteria include: low nonimmigrant visa refusal rate; a machine-readable passport program; and the effect of the country's

designation on the law enforcement and national security interests of the United States. While no country has been excluded from VWP solely on the grounds that its citizens may be linked to terrorism, country assessments evaluate an array of issues that speak to the security threat posed by the country's citizens or security practices. DHS is currently leading an interagency working group (IWG) that is conducting the biennial reviews of the remaining 25 of the current 27 VWP countries due for review in this cycle. The reviews are very thorough, and they consider the country's political and economic trends; visa requirement, citizenship, naturalization, and residency requirements; document issuance and security, including passport feeder documents; border processing and control; and law enforcement programs, including programs dealing with terrorism activities. The IWG collects information from the participating government, our consulates and embassies overseas, and from a variety of U.S. federal agencies. The IWG includes representatives from appropriate DHS directorates as well as representatives from the Department of Justice including the Bureau of Alcohol, Tobacco, and Firearms and the Drug Enforcement Administration DHS's Forensic Document Laboratory, and other agencies. Site visits are currently under way and the assessments should be completed by October 2004.

- **Q01525:** When a citizen of a VWP country enters the United States, how do you know if this person is a terrorist or poses a danger to the United States? Do you have adequate intelligence information to know who the terrorists or associates of terrorists are in visa waiver countries? I am concerned that if a situation arises where, unbeknownst to the United States intelligence, a person is a terrorist from a VWP country and is otherwise admissible to the United States, they would be admitted to the United States without a consular interview. It is my understanding that this was the case with Zacarias Moussaoui with a French passport, the putative 20th hijacker on September 11th, and Richard Reid , the shoe-bomber, with a British passport.

  Answer: Persons who are known terrorists or are strongly suspected of terrorist activities are placed on watch lists. By September 30, 2004, the Department will enroll Visa Waiver Program passengers arriving at air and seaports into US-VISIT, enabling the Department to conduct biometric and biographic watch list checks for all visa waiver arrivals at air and seaports. Although VWP travelers are not interviewed at the consular posts, they must still go through an inspections process. The information that is now provided to the inspector, including passenger manifest data, watch list information, and the ability to match this against the passport information, provides the inspector with some very good tools to use in the inspections interview.

  However, without good intelligence and other targeting information and techniques, it is very difficult to know if a person is a suspected or known terrorist. The Department is working to provide the best information and tools to frontline officers to assist them in preventing the entry of known or suspected terrorists. The Department does this through the use of information gathered by both U.S. intelligence and our allies. In addition, the Department requires all commercial carriers to provide passenger and crew information prior to an international flight arrival. These passenger and crew manifests are run against our name check or biographic watch lists. Furthermore, CBP's National

Targeting Center runs these incoming manifests through a variety of security checks. If the security checks and intelligence information warrants further questioning then the person's record is flagged for additional processing upon arrival.

Minority questions for Secretary Tom Ridge

Rep. Sheila Jackson Lee

- **Q01526:** What specific steps will be taken to ensure that our security is not compromised by a delay in implementing the new biometric passport standards?

  Answer: The principal advantage of the e-passport is that it will improve our capability to identify a traveler trying to enter the United States with fraudulent travel documents. With an e-passport, the facial photo of the traveler can be automatically compared to a digital photo of the person, which is stored by the issuing nation on a smart chip embedded in the passport. This reduces the opportunity for "photo-substitution" in travel documents.

  US-VISIT also provides the capability to detect document fraud. After initial enrollment, an individual's claimed identity is verified upon each entry by comparing his or her fingerprint biometric to the enrollment record. US-VISIT also enables watch list checks. In order to fully benefit from these capabilities, we will begin processing travelers from Visa Waiver Program countries through US-VISIT beginning by September 30, 2004, in order to reduce the opportunity for a known terrorist or malafide individual to enter the United States by checking individuals against biometric and biographic watch lists. In view of the significant capabilities provided by US-VISIT, there will be no compromise of our security by implementing the delay.

- **Q01527: I have heard that the integrated circuit chip that will be used in biometric passports is already being used in the United States. Have there been any problems in using this chip?**

  Answer: Contact-less integrated circuit chips have been successfully used in specialized applications in both the United States and in other nations. However, these have typically been used in "closed application" where the vendor supplies both chips and readers. The challenge facing the issuers of e-passports is that the chips will be manufactured by several different companies for use in e-passports in different nations, and the readers used by those nations will not be identical. Interoperability of chips and readers using a specified standard has become a paramount issue.

  In February 2004 an initial test of available integrated-circuit chips was performed in Australia (Australia, New Zealand, Japan, the United States, and Germany participated). During this test it was determined that there were interoperability issues associated with these chips and that the international standards needed to be revised to resolve these

issues. The International Civil Aviation Organization has revised the standards, and chip manufacturers and chip reader manufacturers are working to enhance their products to accommodate the modified standards and to ensure interoperability.

- **Q01528:** I am concerned about the reliability of facial recognition technology. What problems have been encountered in developing this technology for use on passports?

  Answer: Facial recognition has proven to be very accurate for identity verification - that is, for comparing the image of a person, captured in a controlled environment, against a good quality stored image. When a facial recognition algorithm digitally compares a person's photograph to a single image ("one to one" matching), it usually makes a correct determination. When the algorithm compares a person's photograph to a small set of images ("one-to-few" matching), a correct match, if any, can usually be found among the two or three top-scoring matches determined by the algorithm.

  Today's facial recognition technology does not perform well, however, when searching for a match within a large database ("one-to-many" matching), especially where the original images captured are of lesser quality.

  Another challenge is that the accuracy of facial recognition technology is dependent upon the quality of the photographic input. It works best under controlled lighting situations, with the subject having a full-frontal pose, and with sufficient resolution in the image to perform the automated analysis.

  The standards for facial recognition data storage and transmission have been incorporated into the e-passport standards adopted by the International Civil Aviation Organization. These standards ensure that the photographs stored on the e-passports are of the optimum quality and conform to the best practices for facial recognition systems. The U.S. is working with Australia, New Zealand, Germany, the United Kingdom, the Netherlands, and Japan in a joint testing project in which the images stored on e-passports will be compared against live images. This will involve tests in both laboratory settings and in a controlled test situation at port of entry.

Rep. Robert Scott

- **Q01529:** Exactly what are the technological barriers to meeting the October 26, 2004, deadline and are we sure they will be overcome within the proposed two-year deadline?

  Answer: Because international standards governing biometrically-enabled travel documents have just recently been finalized, manufacturers of integrated circuit chips and chip readers are only now beginning to modify their products to accommodate the specialized technical requirements associated with these documents. The availability of these products in sufficient quantity and quality, and the short window of time between now and October 26, 2004, make it unfeasible for all of the Visa Waiver Program nations to be capable of issuing biometrically enabled International Civil Aviation Organization

compliant passports by the deadline. According to the VWP nations and product manufacturers, a two-year extension would allow sufficient time to enable them to develop, test, produce, and issue biometrically enabled travel documents. Sufficient time to perform testing is vital to ensure that the integrated circuit chips are interoperable, reliable, and capable of being read by the newly manufactured chip readers.

Another key technical issues is the durability of the chip-antenna device in the passport. Many passports are issued for a 10-year period, and based on current product specifications, it remains highly uncertain whether the chip-antenna combination will survive that full period intact. Durability studies are currently underway at several locations to investigate this issue and to determine the extent of the required design improvements.

- **Q01530:** Have you evaluated the possibility of false positive and/or false negatives in identifications?

  Answer: Yes. The US-VISIT program has worked with National Institute of Standards and Technology (NIST) to perform a matching performance test for the US-VISIT Automated Biometric Identification System (IDENT). In the independent controlled testing environment of NIST, the performance of the system is monitored, optimized, and tested prior
  to being implemented. NIST has provided configuration points that have been used to minimize the delay imposed on the traveler while a fingerprint examiner reviews "false positives," while at the same time maximizing the security of the system by limiting the "false negatives" of missing a person of security interest. NIST has proven to be an invaluable resource in providing independent analysis of the system.

- **Q01531:** What privacy concerns have you evaluated and what were your conclusions?

  Answer: US-VISIT has been successful in safeguarding travelers' privacy. We conducted a Privacy Impact Assessment (PIA) and published it in the Federal Register and on the US-VISIT website at www.dhs.gov/us-visit. The PIA was hailed by many in the privacy community as an excellent model of transparency because it includes detailed information about the program, the technology, and privacy protections. As US-VISIT is further developed and deployed, this PIA will be updated accordingly.

  US-VISIT has a dedicated privacy officer. US-VISIT has also established a redress process giving foreign nationals processed through US-VISIT a fast and easy way to have their records accessed and data corrected. With over four million travelers processed through US-VISIT, less than 50 have inquired about their records or requested data correction. We have established a successful track record, but we continue to be vigilant in ensuring privacy protection going forward.

- **Q01532:** What provisions have been made to make the biometric passports tamper-proof?

Answer: In the same way that physically readable data, such as the passport data page, is secured from wrongful alteration or substitution by physical security features, data stored electronically on a chip embedded in a travel document must be protected against alteration and manipulation. One of the most effective ways of doing this is by using Public Key Cryptography to digitally sign the data stored on the chip. These digital signatures are intended to permit authentication of basic data stored by the issuing State, such as the Machine Readable Zone (MRZ) of the passport, digitized biometric measurements, and other relevant personal data of the bearer. Since only the issuing State has knowledge of the private key, States using the corresponding public key to check the digital signature can verify that the data was in fact stored by the proper issuing authority, and that the data has not been altered.

The International Civil Aviation Organization Public Key Infrastructure (PKI) initiative is developing standards and a simple international infrastructure to support digital signatures used in travel documents.