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STATUS OF VISAS AND OTHER POLICIES FOR FOREIGN STUDENTS AND SCHOLARS

HEARING

BEFORE THE

SUBCOMMITTEE ON RESEARCH AND SCIENCE EDUCATION

COMMITTEE ON SCIENCE AND TECHNOLOGY

HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

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STATUS OF VISAS AND OTHER POLICIES FOR FOREIGN STUDENTS AND SCHOLARS

THURSDAY, FEBRUARY 7, 2008

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON RESEARCH AND SCIENCE EDUCATION,
COMMITTEE ON SCIENCE AND TECHNOLOGY,
Washington, DC.

The Subcommittee met, pursuant to call, at 2:05 p.m., in Room 2318 of the Rayburn House Office Building, Hon. Brian Baird [Chairman of the Subcommittee] presiding.

BART GORDON, TENNESSEE
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The Subcommittee on Research and Science Education

Hearing on:

Status of Visas and Other Policies for Foreign Students and Scholars

February 7, 2008
2:00 p.m. – 4:00 p.m.
2318 Rayburn House Office Building
Washington D.C.

WITNESS LIST

Mr. Stephen A. "Tony" Edson
Deputy Assistant Secretary for Visa Services
Bureau of Consular Affairs
Department of State

Dr. Harvey V. Fineberg
President
Institute of Medicine
The National Academies

Dr. Allan E. Goodman
President and CEO
Institute of International Education

Ms. Catheryn Cotten
Director
International Office
Duke University

HEARING CHARTER

SUBCOMMITTEE ON RESEARCH AND SCIENCE EDUCATION
COMMITTEE ON SCIENCE AND TECHNOLOGY
U.S. HOUSE OF REPRESENTATIVES

Status of Visas and Other Policies for Foreign Students and Scholars

THURSDAY, FEBRUARY 7, 2008
2:00 P.M.—4:00 P.M.
2318 RAYBURN HOUSE OFFICE BUILDING

1. Purpose

On Thursday, February 7, the Subcommittee on Research and Science Education will hold a hearing to review the status of visas and other policies governing the entry into the U.S. of foreign students and scholars and to examine any ongoing impediments to smooth implementation of the policies as well as the impact that such impediments may be having on the U.S. scientific enterprise. In addition, the Subcommittee will explore recommendations for changes or improvements to existing policy.

2. Witnesses

Mr. Stephen A. "Tony" Edson, Deputy Assistant Secretary for Visa Services, Bureau of Consular Affairs, Department of State.

Dr. Harvey V. Fineberg, President, Institute of Medicine, The National Academies.

Dr. Allan E. Goodman, President and CEO, Institute of International Education.

Ms. Catheryn Cotten, Director, International Office, Duke University.

3. Overarching Questions

- What is the current status of visas for foreign students? What difficulties remain for universities trying to recruit top science and engineering students from abroad? To what extent did significant backlogs in visa processing and the perception that the U.S. was unwelcoming to foreign students in the early years after 9/11 cause long-term harm to the ability of U.S. universities to attract top foreign students? Are there data on what is happening to foreign students who are accepted to U.S. universities but choose not to enroll? Are there differences across countries and regions?
- What is the current status of visas for foreign scholars? What difficulties do universities and faculty have in recruiting foreign science and engineering scholars for short-term appointments or research collaborations? What difficulties do scientific and professional societies have in planning technical meetings that include foreign scholars? What is the impact on U.S. universities and the scientific enterprise more broadly?
- Are current policies governing the flow of science and engineering students and scholars across our border considered to be adequate and are they being implemented smoothly? If not, what changes are being proposed by the stakeholders? How responsive has the Federal Government been to changes and improvements proposed by the higher education and scientific communities?

4. Background

Visa Policy and Process

The United States has explicitly allowed foreign students to study in U.S. institutions on temporary visas since the *Immigration Act of 1924.* The U.S. has also long been a magnate for foreign-born scientists and engineers, and many of the greatest

U.S. scientific achievements have depended on them. But even before September 11, 2001, in particular after the World Trade Center bombing in 1993, concerns were raised about certain foreign students in the U.S. as well as the courses they studied and the research they conducted. As a result, students and scholars from certain countries or those wishing to study sensitive technologies were required to go through additional security clearances.

To assist consular officers in determining who should be subject to this enhanced review,[1] the State Department maintains a Technology Alert List (TAL), which establishes a list of major fields of technology transfer concern, such as chemical engineering and lasers, as well as a list of designated state sponsors of terrorism. Following the September 11th terrorist attacks, the State Department increased the number of subjects included in the TAL list significantly and added such sub-areas as community development, geography and urban planning. As a result, consular officers are requesting security clearances for more foreign scientists and students whose research or education falls into one of the TAL categories. The extra security review triggered by TAL is known as the Visa Mantis review, and requires the application to be forwarded to State Department headquarters in Washington, DC, for a security advisory opinion. The Office of Consular Affairs forwards the application to the FBI, the Nonproliferation Bureau and other agencies to conduct investigations before preparing the security advisory opinion and replying to the consular officer. The visa is approved or denied based on this opinion.

Assuming the visa is approved by State, a foreign student is still processed by three more agencies under the Department of Homeland Security (DHS). First, the student is inspected at the border by the Customs and Border Protection (CBP). The student's arrival is reported to the Immigration and Custom Enforcement (ICE) for entry in to the Student and Exchange Visitor Information System (SEVIS). After entry, the student's academic institution is responsible for reporting information to the SEVIS database. The SEVIS information is then shared with State, CBP, and the U.S. Citizenship and Immigration Services (USCIS). The latter agency is responsible for adjudicating any adjustments in visa status the foreign students wishes to make.[2]

Foreign Students and Scholars in the U.S. Academic S&E Enterprise[3]

The overall numbers of foreign students enrolled in U.S. institutions at all levels increased steadily during the four decades prior to the September 11th attacks, from 50,000 (or 1.4 percent of our total student population) in 1959/60 to more than 586,000 (or 4.6 percent of our total student population) in 2002/03, just before creation of DHS. Congress put DHS, rather than the State Department in charge of establishing visa policy and reviewing its implementation. The resulting changes to policy and implementation, including the increased numbers of applicants subject to Mantis review, significantly slowed the visa process and made it more cumbersome for most students and scholars. Enrollment dropped to a low of 564,000 (or 3.9 percent of the total student population) in the 2005/06 academic year. The latest data show a rebound, with an enrollment of nearly 583,000 foreign students during 2006/07 academic year.[4] Of those, 40.5 percent were enrolled in engineering, physical and life sciences, social sciences or math and computer sciences (in that order).[5] The top

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[1] Before proceeding to further review, those applying for a J or F visa (the two most common categories for students and visiting scholars) must first demonstrate "non-immigrant intent" to the consular officer in one's home country. In other words, the applicant must convince the consular officer that he/she has every intention of returning home after completion of studies. This requirement is codified in the *Immigration and Nationality Act.* Proposals pending in the 110th Congress would do away with this requirement, at least for a newly created category of F visa for STEM students (see H.R. 1645 and S. 1639, or CRS report RL31146 for an overview). Applicants are also screened up front for ineligibility based on criminal history or for certain health conditions.

[2] One of the provisions in the pending legislation mentioned in the previous footnote would allow students to extend from 12 to 24 months the so-called Optional Practical Training (OPT) period, which gives them a grace period after graduation to seek sponsorship for and secure an H1–B visa, often while interning for the potential employer. However, a group of 19 Senators recently wrote to Secretary Chertoff claiming that DHS already has the authority to extend the OPT period without legislation: *http://www.nafsa.org/_/Document/_/proposal_to_extend_opt.pdf*

[3] All data in this section from either the Institute of International Education "Open Doors" 2007 report: *http://opendoors.iienetwork.org/* or NSF's 2008 Science and Engineering Indicators.

[4] For full timeline from 1959 to 2006, see *http://opendoors.iienetwork.org/?p=113122*

[5] Business and Management ranked first in top fields of study for foreign students, at 18 percent.

three countries represented were India, China (PRC) and South Korea, accounting for 36.7 percent of the total.

Nearly half of all foreign students are enrolled in graduate degree programs, and more than half of those enrolled in graduate programs are in S&E fields. In fact, foreign graduate student enrollment accounted for 25 percent of all U.S. S&E graduate students in 2005. The concentration of foreign enrollment was highest in engineering (45 percent), computer sciences (43 percent), physical sciences (40 percent) and mathematics (37 percent). High-tech employers are complaining that they can't find enough qualified U.S. citizens or permanent residents to fill certain high-skills jobs, and that the resulting demand for H1–B visas for foreign students educated in the U.S. far outstrips supply. The Science and Technology Committee, primarily through last year's COMPETES Act, has taken a lead in trying to increase the pipeline of U.S. students in S&E fields, but for the foreseeable future foreign students will continue to be represented in very high numbers.

Similar trends are seen among S&E faculty. In 2003, 15.6 percent of all full-time S&E faculty were foreign-born citizens and an additional 12.7 percent were non-citizens. Within research universities, 16.4 percent of S&E faculty were naturalized citizens and an additional 16.4 percent were non-citizens. As with students, foreign-born faculty are represented in even higher numbers in the physical sciences, mathematics, computer sciences, and engineering.

The higher education and research communities, foreign policy leaders and business leaders argue that educational and research exchanges actually enhance rather than threaten U.S. national security for the following reasons:

- Foreign students and scholars, especially those that remain in the U.S. beyond their initial studies or appointment, help fill the science and engineering talent pool that fuels innovation and keeps U.S. companies competitive.
- Foreign students help enrich the educational experience of their peers while foreign scholars bring different perspectives to their disciplines and to their American colleagues, often initiating new research directions that may lead to scientific or technological breakthroughs.
- Opening our doors to students and scholars who then return to their home countries helps the U.S. make friends around the world, and thus is an important tool in public diplomacy and foreign policy.
- International students and their dependents, because they are largely in the U.S. at their own expense, bring billions of dollars to their universities and surrounding communities.

Recommendations for improvements from the stakeholders

A joint State/DHS advisory panel just released a report that, while not addressing S&E exchange specifically, essentially makes the same argument about the benefits of open borders.[6] In the report the panel offers concrete recommendations to DHS and State for ways to improve the flow of foreigners across our border. They took a big picture view of the entire system, and their recommendations regarding visa policy and processing focus heavily on management practices and coordination between agencies.

The higher education and scientific communities (including the three non-governmental organizations represented on today's panel) issued a much narrower set of recommendations in May 2005 regarding policies for students and scholars.[7] Those recommendations addressed the duration of Visa Mantis security clearances, visa renewal policies, visa reciprocity agreements, the "non-immigrant intent" requirement for students, the absence of a national strategy to encourage academic and scientific exchange, and the restrictions on access to specialized scientific equipment for certain foreign nationals doing unclassified research.

The Science Committee last held a hearing on this topic in February 2004, when there were plenty of horror stories to go around and the overall numbers were still dropping. All of the stakeholders agree that the situation for students has improved greatly since then, with the numbers having rebounded to pre-9/11 levels. But concerns remain. Due to the lasting perception of a closed border and a cumbersome process, many top foreign students and scholars are simply turning to other countries from the start. Some countries in particular started recruiting heavily as the U.S. closed its borders after September 11th. There are questions, therefore, about the overall quality of foreign students entering the U.S. today, even though the

[6] *Secure Borders and Open Doors: Preserving Our Welcome to the World in an Age of Terrorism,* Report of the Secure Border and Open Doors Advisory Committee, January 2008.

[7] *http://www.aau.edu/homeland/05VisaStatement.pdf*

quantity is back up. In addition, scientific societies talk of having to move their conferences off-shore because too many visas for international scholars to attend conferences in the U.S. are still denied or delayed beyond the date of the conference. This leads to lost income for U.S. conference venues and surrounding communities. Perhaps more importantly, due to the increased cost of travel, it significantly reduces opportunities for U.S. graduate students in particular to attend these meetings at which they exchange research ideas with their peers and network for future career opportunities.

5. Questions for Witnesses

Mr. Edson

- How does the State Department balance potential security threats posed by visiting students and scholars with the benefits to the U.S. of welcoming foreign scholars to participate in the U.S. scientific enterprise? What steps has the State Department taken in the last few years to smoothly implement the resulting policy?
- What type of data do you collect on the number and the resolution of visa applications? To what extent has the frequency of visa problems, including delays and denials, for foreign students and scholars improved in the last few years? What policies or practices contributed to this change? How do you prioritize applications when backlogs occur?
- What type of data do you collect on applications that have triggered a Visa Mantis review based on the applicant's area of study or research? What guidance and training do you provide to consular staff so that they know they are applying the Mantis checks appropriately?
- What is the status of the Internet-based visa application system under development? What other changes to visa policies or implementation strategies are being developed or considered at this time?

Dr. Fineberg

- What are the benefits to the U.S. scientific enterprise and to the U.S. more broadly of welcoming foreign students and scholars?
- How have post-9/11 changes to policies that affect the flow of foreign students and scholars across our borders affected the U.S. scientific enterprise? To what extent has the Visa Mantis process and implementation of other federal policies restricting the flow of students and/or scholars improved in the last few years? Are the accumulated impacts from the first few years likely to be permanent or may they be reversed if the system continues to improve?
- Does the National Academies have recommendations for changes or improvements to current policies that would further improve the flow of students and/or scholars without compromising national security? How responsive has the Federal Government been in recent years to the concerns and recommendations of the National Academies and other representatives of the scientific community regarding these and similar recommendations?

Dr. Goodman

- What are the benefits to the U.S. scientific enterprise and to the U.S. more broadly of welcoming foreign students and scholars?
- Please describe the role of the Institute of International Education in promoting the exchange of students and scholars across our borders. How do you work with the university community and with the Federal Government in carrying out your mission?
- To what extent has the Visa Mantis process and implementation of other federal policies restricting the flow of students and scholars improved in the last few years? Does your organization have recommendations for changes or improvements to current policies that would further improve the flow of students and/or scholars without compromising national security? Have you made these recommendations directly to the relevant federal agencies, and if so, how have they been received?

Ms. Cotten

- How do foreign students and scholars contribute to the science and engineering enterprise at your university?

- How have visa delays or denials affected the ability of your university to recruit and retain top science and engineering students from abroad? How have they affected your ability to attract scholars for short-term appointments and research collaborations? To what extent has this process improved in the last few years? What difficulties remain? Did the significant problems for foreign students and scholars in the early years after 9/11 lead to long-term consequences for your university?
- Do you have recommendations for changes or improvements to current policies that would further improve the flow of students and scholars without compromising national security? How do you communicate your concerns and recommendations to the relevant federal agencies and how responsive are the agencies?

Chairman BAIRD. I want to welcome all our guests and visitors here. I am excited about this hearing. I think that I have had the chance to read the testimony last night, spoke with our witnesses a moment ago. We actually do read your testimony, and in this case it was quite rewarding. I can't say that for all the testimony received, but this was most informative, very thoughtful, and very well prepared, and we are grateful for the time you put into it and the expertise you bring to the hearing and to your comments today.

This is, as I have mentioned to you, is a friendly hearing and a friendly committee. We pride ourselves on bipartisanship. My Ranking Member, Vern Ehlers, will be here in just a moment, and so it is really, we look at this as an opportunity to learn from you what is being done that works well, what are problems, and what we can do better.

The issues before us today are dealing with the status of visas and other policies for foreign students and scholars. Our subcommittee is going to focus on the role that the Federal Government can play in fostering international scientific cooperation and science diplomacy.

As a scientist myself and as somebody who has been fortunate enough to travel a good bit, I think this is a critical element of our economic and, in fact, our defense security. Making sure that people interact in a constructive way worldwide around issues of scientific and scholarly exchange is one of the best things we can do to foster understanding and prosperity around the world.

I have come to believe that although we are not looked upon as highly as we once were in many respects, countries around the world still respect our leadership in science and technology, and they admire our openness to that, and the more we can embody that the better. One of the ways we do this is by fostering collaborative research between scientists here domestically and foreign scientists. However, it can also be done by bringing foreign scientists to our country to study. And many scientists and engineers who enter the U.S. on student and scholarly visas return home and rise to prominent positions in their own countries and then serve as important advocates for our country. At the same time as some of the testimony we are likely to hear shortly conveys, many of, "our own" Nobel Prize winners have come from foreign countries, and many of the outstanding teachers and contributors to our economic development are originally of foreign origin. And we need to actually, I think, publicize that a great deal.

While all of us on this committee, particularly Chairman Gordon and Dr. Ehlers are committed to increasing the pipeline of U.S. students in science and engineering fields, we also recognize that this does not necessarily mean that we should turn away the best and brightest from other countries. Foreign students help broaden and enrich the educational experience of their peers. Foreign scholars bring different perspectives to their disciplines and to their American colleagues, often initiating new research directions that may lead to scientific or technological breakthroughs.

Today we are going to look at the Federal Government's policies relating to foreign students and scholars at our education and research institutions, and it has been about four years since this committee last examined this. Happily from the testimony we will

hear there has been progress in that interim, and that was, of course, a fairly difficult time for this country to say the least. And so the progress is gratifying but also we will hear today constructive suggestions for improvement.

The hearing will serve as the first in a series of hearings on scientific diplomacy. Just for the notification of my colleagues on both sides of the aisle, on March 12 Ambassador Tom Pickering and other distinguished leaders of the foreign policy and scientific communities will be providing an informal briefing, not in a formal hearing setting, but an informal briefing on the history of U.S. efforts in scientific diplomacy; what has been done, what is being done. Dr. Goodman has provided some very helpful comments in his testimony as well as Dr. Fineberg and Dr. Cotten on this.

On April 2 current administration officials will participate in a hearing on current efforts within the U.S. Government on this area and opportunities for the future, and later in the year we will have a hearing with scientific organizations, private foundations, and representatives from foreign entities who are also involved in these efforts. So this is sort of the kickoff to one of the main, predominant themes of this committee for this calendar year.

Our universities and high-tech industries, as well as some of our prominent foreign policy leaders have long recognized the value of scientific exchange, but it will take a sustained effort by all stakeholders to make scientific diplomacy a cornerstone of our foreign policy.

I look forward to our subcommittee being part of that effort. In this regard, I recently had the privilege of flying a lead-in delegation of Members of this committee down to Antarctica. One of the, there is a lot of flight time, I can tell you, when you fly to Antarctica. Sixty-five hours in the air and one of the DVDs that I took was a story of Senator Fulbright's life, the importance, just the extraordinary achievements of his contribution to this country, not only the Fulbright Scholarship but many other ways. But that signature issue named after him has been of such benefit to not only the United States but to the world, and I want to make sure we keep that kind of spirit alive and that this committee continues this.

[The prepared statement of Chairman Baird follows:]

PREPARED STATEMENT OF CHAIRMAN BRIAN BAIRD

Good afternoon. Welcome to this Research and Science Education Subcommittee hearing on the *Status of Visas and Other Policies for Foreign Students and Scholars.*

This year, the Subcommittee is going to focus on the role that the Federal Government can play in fostering international scientific cooperation and science diplomacy. I have spent a great deal of time traveling around the world and have come to learn the potential that science holds for building and strengthening our relationship with other countries. I have come to believe very strongly that, although the United States is not looked upon as highly as it once was in many respects, countries throughout the world still respect and admire us for science and technology. We should build on this; we should use our standing in this area to develop relationships and build bridges with other countries.

Much of this can be done by fostering collaborative research between our scientists and foreign scientists. However, it can also be done by bringing foreign scientists to our country to study. Many scientists and engineers entering the U.S. on student and scholar visas return home and rise to prominent positions in their own countries and can serve as important advocates for the United States.

In addition to improving our standing and reputation in the world, foreign students and scholars play an important role in our universities' science and engineer-

ing departments. They help fill the talent pools that fuel innovation and keep the U.S. competitive. While all of us on this committee, particularly Chairman Gordon and Dr. Ehlers, are committed to increasing the pipeline of U.S. students in science and engineering fields, we also recognize that this does not necessarily mean that we should turn away the best and brightest from other countries.

Foreign students also help broaden and enrich the educational experience of their peers. Foreign scholars bring different perspectives to their disciplines and to their American colleagues, often initiating new research directions that may lead to scientific or technological breakthroughs.

So, today, we are going to look at the Federal Government's policies relating to foreign students and scholars at our educational and research institutions. It's been nearly four years since this committee last examined the Federal Government's policies in this area.

All of us on this committee recognize that the Federal Government must protect the American people from those who seek to do us harm. However, it is important that we review how the barriers we have created since 9/11 are impacting legitimate students and scholars who want to come to this country to study and scholars who want to come here for research collaborations or conferences. We must also examine what we are doing, or should be doing, to reduce those barriers. I am particularly concerned about the lasting perception that the U.S. is not welcoming to foreign visitors and welcome your input as to how we might also address that.

This hearing will serve as the first in a series of hearings on science diplomacy. We are currently working to bring in such distinguished experts as Thomas Pickering and Norm Neureiter for an informal discussion on international scientific collaboration with Committee Members. We will follow that with hearings with senior government officials, scientific organizations and private foundations involved in these efforts. Our universities and high-tech industries, as well as some of our prominent foreign policy leaders, have long recognized the value of scientific exchange. But it will take a sustained effort by all stakeholders to make science diplomacy a cornerstone of our foreign policy. I very much look forward to our subcommittee being a part of that effort.

I want to thank all of the witnesses for taking the time to appear before the Committee this afternoon and I look forward to your testimony.

Chairman BAIRD. At this point I would normally defer to Mr. Ehlers. Mr. Neugebauer, would you like to offer his commentary or that of your own?

Mr. NEUGEBAUER. I think he is on his way, and I will enter my own if that is all right, Mr. Chairman.

Thank you, Chairman Baird, and speaking of a very long flight, I had the privilege of accompanying the Chairman, and it was a very interesting flight, but there was a lot of airplane time on that trip.

Thank you, Chairman and witnesses, for appearing here today on this important subject. This issue is a small fraction but no less critical than of that which is the dilemma that this country faces regarding immigration policy. As we sit here today, our country remains strongly divided over who we should let in and from what country, and do we place a cap on certain skills, and what will be the ultimate cost in dollars and opportunities beyond the American taxpayers? But we also know that this committee is a committee of good ideas, one that where we can all agree that science has a place in our public policy, and I, for one, believe that public policy based on science and not emotion is the best policy.

The concerns I have over this issue do involve the scientific community and particularly the medical community. In my district of West Texas, like hundreds of other places, and others in Congress, it is considered rural America. Today we face a problem that is not just about the affordability of health care, but, also how to access that health care.

It was about six months ago when I was contacted by a very concerned constituent of mine who called not as one who needed better access to health care but one who found she was struggling to provide it. Dr. Leighann Jenkins is a Professor and Chief of the Division of Cardiology at Texas Tech University, School of Medicine, located in my district. She approached me about her concerns regarding this issue, and upon my request I asked that she put together her thoughts for me for today's hearing. With the Chairman's allowance I would request unanimous consent to insert her statement into the record. Thank you.

[The prepared statement of Dr. Jenkins follows:]

PREPARED STATEMENT OF DR. LEIGHANN JENKINS
PROFESSOR AND CHIEF
DIVISION OF CARDIOLOGY
TEXAS TECH UNIVERSITY SCHOOL OF MEDICINE

EXPANSION OF CONRAD 30 J–1 VISA PROGRAM TO MEDICAL SCHOOL FACULTY IS IMPORTANT TO TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER

- The provisions of the current Conrad 30 J–1 Visa program allowing states to waive maximum stay limits on foreign medical graduates who agree to practice in medically under-served areas has played an important role in the provision of medical services to needy patients who might not otherwise have access to care.
- Expanding the Conrad 30 J–1 Visa program waiver provisions to include U.S. medical school faculty would address a need faced by many schools that are finding it difficult and sometimes impossible to recruit sufficient numbers of U.S. trained medical specialists into medical school teaching and clinical positions.
- Insufficient numbers of required specialists on medical school faculties can limit the ability of schools to provide quality educational opportunities for residents and fellows and fulfill clinical service expectations.

Foreign medical graduates on J–1 visas are allowed to continue their training in the U.S. for seven years. At the end of that time, they are required to leave the U.S. unless they obtain a waiver to remain in the country. Currently, the Conrad 30 program allows states to waive J–1 visas to satisfy service needs in medically under-served areas. By allowing these physicians to extend their stay in the U.S., medical care is provided to many patients who might not otherwise have access to care. Currently U.S. teaching hospitals comprise one percent of the Nation's hospitals but render 55 percent of the indigent care provided.

It is important to note that these foreign medical students typically represent the top students from their medical schools and many have completed specialty training before arriving in the U.S. They are subjected to rigorous testing (ECFMG) in the U.S. before being accepted and undergo careful screening and personal scrutiny before being allowed to continue their education here.

Expanding the Conrad 30 program to include medical school faculties would be extremely beneficial to medical schools and their teaching and clinical service missions while fulfilling the aim of providing care to the medically under-served.

Mr. NEUGEBAUER. I will not read that statement, but I will just give you a few points. Leighann states, "Insufficient numbers of required specialists on medical school faculties can limit the ability of the schools to provide quality education opportunities for residents and fellows and fulfill the clinical service expectations. Currently the Conrad 30 Program allows states to waive J–1 visas to satisfy service needs in medically under-served areas. By allowing these physicians to extend their stay in the U.S., medical care is provided to many patients who might not otherwise have access to

this care. Currently U.S. teaching hospitals comprise one percent of the Nation's hospitals but render 55 percent of the indigent care provided."

So I think she brings up some extremely interesting points about the ability of hospitals and medical schools to be able to have the appropriate staffing levels to be able to continue to turn out medical students. And so these are medical students that are not necessarily foreign students, but these are foreign scientists and physicians in our universities that are helping us keep our medical schools accredited, and I think that is a very important point.

And so as we move forward with this issue, Ms. Cotten, I appreciate in your statement, you acknowledge that we cannot know all that we have lost, the successes that might have been. And clearly with 9/11 and the original issues of the World Trade Center in 1993, we found a need to look at the folks that are in our country and where they came from and those studying sciences and to make sure that it is their interest in sciences, for the benefit of the U.S. We also know that they can contribute to our country as well and that not all people that come into this country illegally are trying to do harm. But the unfortunate thing is we do have to know why they are here and what they are doing.

So, Mr. Chairman, I think this is going to be an interesting discussion, and I thank you for calling this hearing today.

[The prepared statement of Mr. Neugebauer follows:]

PREPARED STATEMENT OF REPRESENTATIVE RANDY NEUGEBAUER

Thank you Chairman Baird, and the witnesses for appearing today on this important subject.

This issue is a small fraction, but no less critical than that which is the dilemma this country faces regarding immigration policy. As we sit here today, our country remains strongly divided, over who we let in, from what country, do we place a cap on certain skill sets, and what will be the ultimate cost both in dollars, opportunities and beyond to the American taxpayer. But as we know, this is the committee of good ideas. One where we can all agree that science has a place in our public policy, I for one believe public policy be based on science, and not emotion.

The concerns I have over this issue do involve the scientific community, in particular the medical community. In my district in West Texas, like hundreds of others in the Congress, it's considered "Rural America." Today, we face problems not just about affordability for health care, but also access to health care. It was about six months ago when I was contacted by a very concerned constituent of mine, who called not as one who needed better access to health care, but one who found she was struggling to provide it.

Dr. Leighann Jenkins is a Professor and Chief in the Division of Cardiology at Texas Tech University School of Medicine located in my district. She approached me with her concerns regarding this issue, and upon my request I asked that she put together her thoughts for me for today's hearing, with the Chairman's allowance, I'd like to request unanimous consent to insert her statement into the record. I will briefly read some of her statement:

> *Insufficient numbers of required specialists on medical school faculties can limit the ability of schools to provide quality educational opportunities for residents and fellows and fulfill clinical service expectations.*
>
> *Currently, the Conrad 30 program allows states to waive J–1 visas to satisfy service needs in medically under-served areas. By allowing these physicians to extend their stay in the U.S., medical care is provided to many patients who might not otherwise have access to care.* Currently U.S. teaching hospitals comprise one percent of the Nation's hospitals but render 55 percent of the indigent care provided.

Ms. Cotton, I appreciated in your statement the acknowledgement that "We cannot know all that we have lost, the successes that might have been." Clearly after 9/11, and even the original bombing of the World Trade Center in 1993, we found

the need to take a look at foreigners studying hard sciences here in America, I think we may all agree that the last thing we want to do is train tomorrow's terrorist.

Chairman BAIRD. Thank you, Mr. Neugebauer. It was a pleasure to travel with you, a journey like that together.

We have been joined on the Democratic side by Mr. Carnahan and Mr. McNerney, Dr. McNerney, and Mr. Ehlers is recognized for an opening statement.

Mr. EHLERS. Thank you, Mr. Chairman. I apologize for being delayed on the way over here.

This is a very important issue. Sunday after church I was tackled by several of our church members precisely on this issue, but they were not talking about having scientists come here but in one case it was musicians, and in another case it was theologians. And the same principles apply. And so we should all recognize that.

International students and scholars are an important part of our science and technology economy and diplomacy. Whether U.S. scientists and engineers are traveling abroad or foreign scientists and engineers are coming here, the facilitation of global scientific exchange is necessary to overcome many of our global technology problems. In this flat world we must, indeed, figure out a way to keep our country safe but open; but, open only to those with no ill intent.

Only a small fraction of international students and scholars receive the opportunity to study or teach in the United States. The lucky ones often leave behind spouses and children to pursue multi-year programs and appointments. In recent years, some students have avoided returning home for long periods of time because they fear possible delays and the maze of red tape associated with getting back into the U.S.

Consequently, many of these students experience personal hardship and sacrifice to follow their dream of studying at one of our institutions. I think we are all aware of the impacts this can have on universities and scientific progress. But the human factor of this issue is often overlooked. I know many of our witnesses have been working on a solution to this problem.

In the post-9/11 world, the Department of Homeland Security and the Department of State have worked diligently to ensure that students who pose no security risk to the U.S. can still attend our higher educational institutions. Nonetheless, the last six years have been challenging for both students, scholars, and the government to find a critical balance of interests.

It is encouraging to see the numbers indicating that international student interest and attendance at U.S. universities has rebounded. I look forward to hearing from our witnesses today about the progress and challenges still facing our visa system.

I just want to add two more personal notes. First, when I was a student at Berkeley, we were, as scientists throughout the country, were eager to get Russian scientists into our nation, because they were very capable people, had much to contribute to our learning. And the Soviet government wouldn't let them go, and we thought it was just horrible. Now it is reversed. Although the union no longer exists, Russia allows their scientists to come here, we don't let them get in. And it is just absolutely ridiculous. Our country has gone 180 degrees on this.

I also have a personal interest in this. My son, who is a scientist, married a scientist from Europe, and they are having incredible problems with the United States in terms of her coming here, her staying here, her going back to Germany for the summer as they are doing, and whether or not she can get back in. It is just horrendous the hoops that anyone has to jump through. If we really want to attract scientists from other countries, we have to deal with these problems and deal with them properly.

Thank you.

[The prepared statement of Mr. Ehlers follows:]

PREPARED STATEMENT OF REPRESENTATIVE VERNON J. EHLERS

International students and scholars are an important part of our science and technology economy and diplomacy. Whether U.S. scientists and engineers are traveling abroad or foreign scientists and engineers are coming here, the facilitation of global scientific exchange is necessary to overcome many of our global technology problems. In this flat world, we must indeed figure out a way to keep our country safe but open to those with no ill intent.

Only a small fraction of international students and scholars receive the opportunity to study or teach in the U.S. The lucky ones often leave behind spouses and children to pursue multi-year programs and appointments. In recent years, some students have avoided returning home for long periods of time because they fear possible delays and the maze of red tape associated with getting back into the U.S. Consequently, many of these students experience personal hardship and sacrifice to follow their dream of studying at one of our institutions. I think we are all aware of the impacts this can have on universities and scientific progress, but the human factor of this issue is often overlooked. I know many of our witnesses have been working on a solution to this problem.

In the post-9/11 world, the Department of Homeland Security and the Department of State have worked diligently to ensure that students who pose no security risk to the U.S. can still attend our higher educational institutions. Nonetheless, the last six years have been challenging for both students, scholars, and the government to find a critical balance of interests. It is encouraging to see the numbers indicating that international student interest and attendance at U.S. universities has rebounded. I look forward to hearing from our witnesses today about the progress and challenges still facing our visa system.

Chairman BAIRD. Thank you, Dr. Ehlers. As always, very insightful comments and the personal experience, I think, is one that if you are having that experience and your family members are, though we have made some progress and the numbers I think that Mr. Edson will share with us suggests improvements, clearly a few anecdotes like that will circulate rapidly and what we won't see are the people who just don't even bother to apply and instead seek opportunities elsewhere. This committee has had hearings on the expansion of international, of U.S. universities overseas. We are well aware that increasingly foreign scholars are finding opportunities in the E.U., in Asia, in the Middle East, in Australia, et cetera, and whereas our country was once the destination perhaps most desired by scholars around the world, we are now, unfortunately, I think, not looked at that way. Not because our technological prowess is declined, but because it is just frankly oftentimes perceived to be a headache.

Again, we are making progress there, but more progress is needed.

As is the tradition of this committee, if there are Members who wish to submit additional opening statements, your statements will be added to the record at this point.

[The prepared statement of Ms. Johnson follows:]

PREPARED STATEMENT OF REPRESENTATIVE EDDIE BERNICE JOHNSON

Good afternoon. I want to thank Chairman Baird for holding today's hearing. Most of the Members of this committee have research universities and institutes in their districts, and the ability of international students to come the United States to study, unimpeded, is an important national issue.

Deputy Assistant Secretary Edson's testimony was interesting to note that the number of J–1 visas issued in fiscal year 2007 for Guangzhou, China, rose by 51 percent, relative to 2006.

One visit to our nation's premier universities confirms the fact that international students come here in record numbers. This trend is a testament to our nation's competitiveness in the research laboratories.

Although it is unlikely that these students pose a security threat, the Visa Service must walk a fine line to expeditiously process the visa requests and ensure that our nation is safe. I would be interested to know what the real risks are, when it comes to researchers who come into this country to do their work. I would also like to know why visas from the Middle East have declined so sharply: is it because students and workers from these areas are not trying to come to our nation, or because they are having difficulty entering the country.

In addition, I am glad that Dr. Fineberg of the National Academies has recommended that "Cuban scholars and researchers should not be denied U.S. visas simply because they are employed at universities operated by the Cuban government or because of their political ideology or nationality."

Congressional colleagues and I have made several trips to Cuba in the past few years and have witnesses the negative affects on the citizens there of the trade and other restrictions. It is a particular shame that the research community has now been affected. I agree with the National Academies recommendations and hope that my Congressional colleagues and the Administration will heed their advice.

Thank you, Mr. Chairman. I yield back the balance of my time.

Chairman BAIRD. And at this time I would like to introduce our witnesses, and I will apologize in order that we hear more from you we will keep your resumes shorter than they deserve. They, you are all extraordinarily impressive individuals, and so the introductions will be rather brief.

Mr. Stephen "Tony" Edson is the Deputy Assistant Secretary for Visa Services in the Bureau of Consular Affairs at the Department of State. Dr. Harvey Fineberg is the President of the Institute of Medicine at the National Academies. Dr. Allan Goodman is President and CEO of the Institute of International Education, which actually oversees the aforementioned Fulbright Program is my understanding. And Ms. Catheryn Cotten is the Director of International Office at Duke University and has had personal dealings with I don't know how many thousands it sounded like from your testimony of students dealing and scholars, dealing with the very issues we will hear from today.

As our witnesses should know, spoken testimony is limited to five minutes each, after which Members of the Committee will have five minutes each to ask questions, and we would like to start with Mr. Edson, and we appreciate, again, very much your time. Mr. Edson.

STATEMENT OF MR. STEPHEN A. "TONY" EDSON, DEPUTY ASSISTANT SECRETARY OF STATE FOR VISA SERVICE, BUREAU OF CONSULAR AFFAIRS, U.S. STATE DEPARTMENT

Mr. EDSON. Thank you very much, Chairman Baird, Ranking Member Ehlers, and Members of the Committee for allowing me the opportunity to give you an update on the status of the Department of State's visa procedures for foreign students and scholars.

I am happy to report that we are working diligently to streamline the process to attract the best and the brightest foreign stu-

dents and scholars to the United States while maintaining the high security standards vital to protect this nation. The Department is aware of the particular interest this committee has had with regard to these applicants, and we appreciate your support in our efforts to improve and expand visa services for them.

Foreign students contribute over 13 billion annually to the well-being of this country. Their work significantly boosts our academic and scientific research, and their exposure to our culture and freedoms is a crucial public diplomacy success. In fiscal year 2007, we issued over 10 percent more student and exchange visitor visas than in the previous year, in 2006, and we surpassed 2001 levels for student and scholar visas by 16 percent. At some of our busiest posts the number of student visas grew even more dramatically. For example, in China the numbers were up 38 percent in Beijing and 51 percent in Guangzhou over fiscal year 2006 totals, and in India, the largest source country for foreign students, student visa issuances in Mumbai increased by 55 percent and in Chennai by 34 percent.

We are moving quickly to make our entire visa process more electronic through an online visa application process, an online appointment system, which 70 of our posts are currently using in its first form, and online fee payment. A fully electronic process will provide for more accurate and verifiable information, allow for fraud screening in advance of interview when it is necessary rather than afterwards, and increases convenience for applicants, allowing them to make arrangements from the United States before they travel, for example, and standardizing the process worldwide.

We issued guidance in January of this year to allow consular officers to waive the visa interview for some categories of renewal applicants who have previously provided ten fingerprints, been interviewed, and received visas. This is an authority authorized under the Intelligence Reform Act that we are finally able to take advantage of because of our ten fingerprint collection process. Eligibility for the exception to interview includes student and exchange visitor visa applicants applying for the same program of study within one year of expiration of the previous visa, again, after the ten prints have been collected.

For the approximately three percent of our applicants who actually require additional review and clearance through the Washington agencies back here, that process now averages about 14 days for the Visas Mantis, which is the most common screening method that might be applied to students, and it is important to note that that interagency clearance process actually, although it is perceived to be a major issue, applies to a very small fraction of students and scholars around the world.

The State Department continues to coordinate an annual interagency review of the technology alert list, which is the tool that drives that Visas Mantis screening process, and established two years ago a permanent interagency Security Advisory Opinion Requirements Review Board, a mechanism that could formally look at that process and others on an ongoing basis to make sure that they are given the rigorous, continuous review and improvement that they deserve.

Since September, 2001, we have created 570 new consular officer positions around the world. It is about an 18 percent increase in our adjudication staff. We were able to work with our partners at DHS to increase to 120 days the amount of time before studies begin that a student can apply for a visa, thus moving that summer rush period earlier into the late spring, and we do post and update visa appointment wait times on the Internet for all of our applicants. We provide expedited appointments for students in any event so that they are able to get their visas or get their interviews in time to attend the beginning of classes.

We continue to look to the future, particularly efforts to further leverage technology and biometrics in the visa process, to further improve security and facilitation for legitimate travelers. And I am happy to discuss any of those initiatives, of course, that are of interest to the Committee.

We have shown steady increases in the number of students coming to the U.S. over the past several years through our efforts to work with the scientific and academic research communities, to be as responsive as possible to their need, which maintaining the integrity of the visa process.

And we appreciate your continued interest in our work.

[The prepared statement of Mr. Edson follows:]

PREPARED STATEMENT OF STEPHEN A. "TONY" EDSON

Thank you very much, Chairman Baird and Members of the Committee, for allowing me the opportunity to give you an update on the status of the State Department's visa policy and procedures for foreign students and scholars. My. colleague, the Consular Bureau's Principal Deputy Assistant Secretary Janice Jacobs, has presented testimony in 2003 and 2004 on this same subject. I am happy to report that, while our commitment to security has not diminished, we have worked diligently to streamline the process to attract and bring the best and brightest foreign students and scholars to the United States. The Department is aware of the particular interest this committee has with regard to these students, and we appreciate your support of our efforts to improve and expand visa services for students.

Foreign students contribute over $13 billion annually to the economic well-being of this country. Their work significantly boosts our academic and scientific research and their exposure to our culture and freedoms is a crucial public diplomacy success. Although foreign governments, prospective students, and educational associations continue to say publicly that the visa process is a serious hindrance to student and exchange visitors, the numbers tell a different story: we have issued more than ever before. In 2007, we issued ten percent more business, student, and exchange visitor visas than last year. In some of our busiest posts, the rate of increase has been far greater. And we have surpassed 2001 levels for student and scholar visas by 90,000, or 16 percent. All of this progress has come despite competition from schools in Europe, Canada, and Australia with lower tuitions and aggressive recruiting program.

Exchange visitor numbers have risen to historic highs. In FY 2007, we issued 343,946 J–1 visas, 11 percent more than the same period in FY 2006, and we have exceeded our FY 2001 levels by 82,000 visas. The same is true for vocational student visas, where we have exceeded our FY 2001 levels by an incredible 71 percent.

At some of our busiest posts, the number of student visas grew even more dramatically. For example, in China, the number of student visas issued increased by 38 percent in Beijing and 51 percent in Guangzhou over FY 2006 totals. In India, the largest source country for foreign students, student visa issuances in Mumbai increased by 55 percent and in Chennai by 34 percent. At another historically high student visa post, Seoul, Korea, the number of student visas issued increased seven percent. Student and exchange visitor visa issuances in many Middle East posts also continue to increase, though they are still about six percent below 2001 levels.

Let me specifically address the several questions you posed in your invitation letter. Then I will conclude with an overview of the current outlook for visa policies for students and scholars.

We pursue the dual goals of keeping our country safe and of welcoming qualified students, and both are important. A policy of "secure borders, open doors" is not a contradiction: we can and must guard our country against threats to our security and sensitive technology, while at the same time facilitating legitimate travel. In fact, the State Department supports facilitation of international education as a matter of national security. The value of the interpersonal exchanges and cross-cultural understanding that come about through international education helps to create a more stable world.

We employ the same safeguards against security threats from prospective students and scholars as we do for all visa applicants through a number of name-based and biometric checks: each applicant's fingerprints are checked against the interagency IDENT database of qualified travelers, suspected terrorists, international criminals and immigration violators, and, as of January 1, are also screened through the FBI's IAFIS criminal database. All visa applicant photos are also screened against a facial recognition database of suspected terrorists and visa violators. Each visa applicant's name and biodata are also checked against a name-based database with over 32 million interagency entries. In addition, for certain types of travelers, including students and scholars with expertise in fields of nonproliferation concern, we require an interagency analysis of their application data, called a Visas Mantis clearance.

We are also facilitating students and scholars by continuing to make our process more transparent and efficient. We have taken several steps to improve the process:

1. The State Department has instructed posts to make students a priority so that they may travel in time to begin their course of study. All posts have procedures in place to expedite student and scholar applicants, even on short notice. Having focused on cutting wait times for interviews, I can report that 90 percent of our posts have wait times of less than 30 days for student and business travelers. Our goal is to be closer to 100 percent of posts at the 30-day or less level by the end of this year.
2. We are moving quickly to make our entire visa process more electronic through an online visa application process (further discussed below), an online appointment system (which over 70 posts now use), and online fee payment. A fully electronic process provides more accurate and verifiable information, allows for fraud screening in advance of the visa interview, increases convenience for applicants, and standardizes the process worldwide.
3. We issued guidance in January 2008 to allow consular officers to waive the visa interview for some categories of renewal applicants, who have previously provided 10 fingerprints, been interviewed and received visas. Under INA 222(h), consular officers may waive the interview requirement for applicants applying at the consular post of their usual residence, who are applying for a visa in the same visa class as their current visa, who have not been refused a visa, and who present no national security concerns requiring an interview. Those eligible for the exception to the interview requirement include student and exchange visitor visa applicants reapplying for their same program of study within one year of the expiration of their existing visa. This means that if students or exchange visitors are eligible for a waiver of the interview and have already provided ten prints in a previous NIV application, the consular officer may waive the interview and issue a visa without requiring those applicants to appear in person or provide new prints. This process will allow us to focus our interviews on the highest-risk applicants while facilitating the visa renewals of legitimate travelers.
4. For the approximately three percent of our applicants requiring additional review and clearance, we improved the interagency clearance process, which now averages 14 days for the most common student clearance, the Visas Mantis. The State Department reviews the Technology Alert List each year, eliminating those items which do not appear to pose a risk and adding any new areas of concern. The Security Advisory Opinion Requirements Review Board (SAORRB) is a permanent interagency management structure to oversee and continually improve the process of visa issuance. For instance, in May 2007 the SAORRB agreed to change the Visas Eagle clearance (used for immigrants from certain former and current Communist countries, eliminating over a quarter of the total number of clearances yearly.

As the number of potential students continues to grow, we have to work harder to increase the transparency, efficiency, and predictability of the visa process across the board, with a special focus on student and exchange visitor visas. Here are just some of our initiatives:

- Since September 2001, we have created 570 new consular positions to handle a growing visa demand and the added security measures in our visa adjudication process.
- As part of the Rice/Chertoff Joint Vision, students can now apply for visas up to 120 days before their studies begin.
- We post and update visa appointment wait times on our Internet website. When our wait times increase, which often occurs in the busy summer months, all posts give students and exchange visitors priority.
- All of our Embassies and Consulates expedite student and exchange visitor visa applications, to ensure no qualified student is denied the opportunity to be issued a visa in time to start his or her program. In addition, student and exchange visitor applications are given top priority in the clearance process, should additional clearances be necessary.

Applicants subject to the Visas Mantis process are required to provide additional documentation that helps Washington, DC reviewers obtain a clearer sense of an applicant's background and reason for travel. As appropriate in individual cases, these documents normally include:

(1) Complete resumes (and, if accompanying the applicant, a professional spouse's resume);
(2) Complete list of publications of the applicant (and, the spouse's publications if required);
(3) List of references in the applicant's country of birth or residence;
(4) Detailed descriptions of the applicant's proposed research or work in the U.S.;
(5) Letters of invitation from the U.S. sponsor;
(6) Letters of recommendation from a U.S. source or from abroad;
(7) Letters of support from the financial sponsor; and
(8) Detailed itinerary.

The Department provides a variety of training opportunities and other resources to our consular officers in Washington and in the field. A Visas Mantis component is included in the basic consular training course, and country-specific briefings are offered to officers en route to posts with significant Mantis volume. The Bureau of Consular Affairs, working with the Foreign Service Institute, is developing online consular refresher courses, including a module on the Visas Mantis process. These training modules will be rolled out in early 2008, and available worldwide.

In addition to formal training courses and briefings, the Department provides ongoing guidance to posts on Visas Mantis issues, including more than 25 video-conferences with dozens of Foreign Service posts. While most of the Visa Mantis dialogue takes place with the relatively small number of very active Visas Mantis posts, any post may query the Visa Office about a Mantis case or a more general Visas Mantis issue. The Visa Office also maintains a designated Visas Mantis web page available worldwide containing numerous online references.

We are continuing to put new systems in place to improve our visa processing efficiency. We are currently developing a Consolidated Visa System, which will incorporate all of our current non-immigrant (NIV) and immigrant visa (IV) processing systems into one. The consolidated visa system will improve information and work flow data reporting, thereby boosting the Department's ability to manage and standardize visa processing with our consular managers in the field.

We are also moving towards all-electronic correspondence. For instance, our National Visa Center already does the bulk of its communication with IV petitioners and applicants electronically, which saves hundreds of thousands of dollars on printing and postage costs. We hope to make correspondence for the Diversity Visa (DV) program fully electronic by 2009.

Once we have an online NIV application, we will have a wealth of electronic information about our applicants. We plan to perform some fraud and security screening in advance, for instance to verify the applicant's U.S. contacts, including company and petitioner checks. These checks could include automated corroboration of applicant data, searches of relevant DHS records, and searches in U.S. visa records to identify issues that require closer examination.

This online NIV application will be linked to an online appointment system and require fee payment online. In Mexico this year, along with the pilot of the online NIV application in Mexico, we will pilot the collection of ten prints off-site at a secure facility, another way we are working to simplify our procedures while keeping security paramount.

We are also developing procedures to interview by video-conference, or by sending an officer to perform some interviews off-site. Legal and practical issues need to be resolved before we can deploy these technologies, but we continue to explore strategies for deployment in the interim. Our work in this area has already provided solutions for expanding services we can offer through out-sourcing strategies.

We continue to discuss with DHS/USCIS the move toward a consolidated electronic process for handling visa applications requiring USCIS-approved petitions. We are working with USCIS' Transformation Program Office to be sure that our plans are aligned to create a uniform, person-centric immigration process. For instance, we already share USCIS petition information electronically with posts, through a program called PIMS.

Thank you again for the opportunity to be here. We appreciate the Committee's continued interest in our work. I would like to note that we publish general visa statistics on issuances and refusals, by category and region, each year on our public website: *www.travel.state.gov* and would like to submit for the record copies of our latest statistics. I am pleased to take your questions.

Statistics

Worldwide NIV Workload

FY 2001 through FY 2007

Fiscal Year	Issued	Refused	Total Applications	Overcome	Adjusted Refusal Rate	% Issuance Increase
FY 2007	6,444,246	2,098,744	8,542,990	467,702	20.2%	10.4%
FY 2006	5,836,718	1,915,266	7,751,984	435,706	20.2%	8.3%
FY 2005	5,388,937	1,958,018	7,346,955	431,712	22.1%	6.7%
FY 2004	5,049,099	2,004,480	7,053,579	433,218	23.7%	3.4%
FY 2003	4,881,632	2,208,776	7,090,408	550,924	25.4%	-15.4%
FY 2002	5,769,437	2,595,373	8,364,810	443,177	27.2%	-24.0%
FY 2001	7,588,778	2,879,474	10,468,252	370,859	24.8%	

Worldwide F-1 Workload

FY 2001 through FY 2007

Fiscal Year	Issued	Refused	Total Applications	Overcome	Adjusted Refusal Rate	% Issuance Increase
FY 2007	298,392	133,992	432,384	39,763	24.0%	9.0%
FY 2006	273,870	111,581	385,451	42,637	20.1%	15.1%
FY 2005	237,890	95,271	333,161	36,376	19.8%	8.7%
FY 2004	218,898	92,599	311,497	28,839	22.6%	1.5%
FY 2003	215,695	117,010	332,705	43,972	25.3%	-7.9%
FY 2002	234,322	118,856	353,178	30,500	27.4%	-20.1%
FY 2001	293,357	112,310	405,667	25,282	22.9%	

Worldwide J-1 Workload

FY 2001 through FY 2007

Fiscal Year	Issued	Refused	Total Applications	Overcome	Adjusted Refusal Rate	% Issuance Increase
FY 2007	343,946	48,600	392,546	25,946	6.2%	11.0%
FY 2006	309,950	39,645	349,595	20,056	5.9%	12.6%
FY 2005	275,161	36,567	311,728	19,645	5.8%	8.1%
FY 2004	254,504	35,248	289,752	14,959	7.4%	0.3%
FY 2003	253,864	47,875	301,739	26,405	7.8%	0.0%
FY 2002	253,841	31,049	284,890	14,181	6.2%	-3.0%
FY 2001	261,770	22,504	284,274	8,314	5.1%	

Worldwide M-1 Workload

FY-2001 through FY-2007

Fiscal Year	Issued	Refused	Total Applications	Overcome	Adjusted Refusal Rate	% Issuance Increase
FY 2007	9,221	2,790	12,011	998	16.3%	27.6%
FY 2006	7,227	1,762	8,989	921	10.4%	24.1%
FY 2005	5,822	1,677	7,499	1,007	10.3%	20.9%
FY 2004	4,817	1,253	6,070	649	11.1%	15.9%
FY 2003	4,157	1,670	5,827	1,111	11.9%	1.0%
FY 2002	4,116	1,827	5,943	663	22.0%	-23.4%
FY 2001	5,373	1,905	7,278	465	21.1%	

FY 2007 Comparison with FY 2006 and FY 2001

Worldwide	***Issued FY 2007***	***Increase from FY 2006***	***Increase from FY 2001***
F-1 Visas	298,392	+9.0%	+1.7%
J-1 Visas	343,946	11.00%	+31.4%
M-1 Visas	9,221	27.60%	71.60%
Total	**651,559**	**10.20%**	**+16.2%**

China Posts	*Issued FY 2007*	*Increase from FY 2006*	*Increase from FY 2001*
F-1 Visas	36,877	41.80%	91.80%
J-1 Visas	13,929	36.00%	+119.0%
M-1 Visas	740	+31.7%	1038.50%
Total	**51,546**	**+40.1%**	**+100.9%**

India Posts	***Issued FY 2007***	***Increase from FY 2006***	***Increase from FY 2001***
F-1 Visas	32,598	+32.6%	+51.5%
J-1 Visas	5,130	+38.5%	+55.9%
M-1 Visas	2,560	+381.2%	+1,690.2%
Total	**40,288**	**+39.8%**	**+61.4%**

Korea Posts	***Issued FY 2007***	***Increase from FY 2006***	***Increase from FY 2001***
F-1 Visas	44,809	7.70%	+63.7%
J-1 Visas	10,447	5.00%	+69.9%
M-1 Visas	313	-15.4%	+35.5%
Total	**55,569**	**+7.0%**	**+64.6%**

Middle East	*Issued FY 2007*	*Increase from FY 2006*	*Increase from FY 2001*
F-1 Visas	13,393	-17.3%	-20.3%
J-1 Visas	9,267	+14.0%	31.60%
M-1 Visas	157	-3.7%	-64.80%
Total	**22,817**	**-6.8%**	**-6.1%**

Brazil Posts	*Issued FY 2007*	*Increase from FY 2006*	*Increase from FY 2001*
F-1 Visas	7,377	+25.4%	-40.1%
J-1 Visas	18,011	+4.5%	122.70%
M-1 Visas	69	-17.9%	-25.0%
Total	**25,457**	**+9.7%**	**+24.2%**

Security Advisory Opinion Statistics, First Quarter, FY 2008

Refusals Under INA 212(a)3(B): Terrorist Activity

NIV:

3B refusals: 39

3B waivers: 30

IV:

3B refusals: 5

Security Advisory Opinions Processed

Clearance Type	Number
Visas Bear	1,905
Visas Condor	12,437
Visas Donkey	20,997
Visas Mantis	11,480
Visas Merlin	6,463
TOTAL	53,282

BIOGRAPHY FOR STEPHEN A. "TONY" EDSON

Stephen A. "Tony" Edson joined the United States Foreign Service in 1981 and is currently serving as Deputy Assistant Secretary of State for Visa Services in the U.S. State Department's Bureau of Consular Affairs. Prior to that, Mr. Edson served as Managing Director of Visa Services and Senior Advisor for Strategic Planning to the Visa Services Directorate from 2001 until 2005. He served as Consul General at the U.S. Embassy in Jakarta, Indonesia from June 1998 until January 2001. He has also held overseas diplomatic assignments in Naha, Tokyo, Bangkok, and Mumbai.

Mr. Edson graduated from the University of Kansas with a B.A. in East Asian Language and Culture in 1980. He holds a Master's in Management from the Sasin Graduate Institute of Business Administration at Chulalongkorn University, Bangkok, Thailand and a Master's of Science degree in National Security Strategy from the National War College, Ft. McNair, Washington, D.C.

Chairman BAIRD. Dr. Fineberg.

STATEMENT OF DR. HARVEY V. FINEBERG, PRESIDENT, INSTITUTE OF MEDICINE, THE NATIONAL ACADEMIES

Dr. FINEBERG. Thank you very much, Chairman Baird, Ranking Member Ehlers, and Members of the Committee. It is a pleasure for me to have the privilege to spend this time with you, and I want to use my oral testimony to supplement and reinforce the written testimony that I submitted previously.

Just this morning before coming over to the hearing I had a meeting at our offices at the National Academies with a delegation from Croatia. The delegation was here in part because the minister of science, education, and sports, a great collection of responsibilities I thought, was invited by the President to attend the prayer breakfast this morning. To the minister this was an enormous privilege and greatly appreciated. What struck me was that this minister was an individual who was trained in Croatia but had spent time as a student in the United States, had come back to spend some time on a faculty and to teach in the United States. He had taken back to his home in the position of responsibility that he now has, the values and the lessons, as well as the technologic expertise that he gained during his time in the United States.

That is a story which is repeated for me personally scores of times every year, and it is repeated around the world literally thousands of times. The good that we are doing, not just for the world, but in the enlightened self-interest of the United States in keeping our doors open to the kind of students, scientists, and scholars represented by this minister, is incalculably good in ways that vastly overshadow the $13 billion of revenues that the students from overseas bring to the United States.

It is imperative for our own interest that we maintain the opportunity for individuals around the world to spend this time in the United States, to gain not only their own professional knowledge, but to bring to us the benefit that they have in the ways that you, Mr. Chairman, and Mr. Ehlers both cited, as did Mr. Neugebauer in his opening remarks today.

We have done a lot of things better than had been true years ago after 9/11, and the improvements that Mr. Edson recited are notable and laudable. In particular, I want to take special note of the point he made of the decision in January to authorize our consular officers to issue to renewal applicants who satisfy certain criteria a visa without the requirement for an interview. This is an impor-

tant step forward, and it is an example of the kind of clear-headed, straightforward adjustments that we can make that will simultaneously keep our borders secure and open our doors to students and scholars from overseas.

The challenge that we have is great because we need to focus our resources where the risks are highest and not have a uniform approach to every applicant from every corner of the world. And it is by using this kind of selective decision-making that we can do that.

We should be doing more. For example, we should be able to find a way to domestically reissue student and exchange visitor visas for those who have remained here in the United States in status and are applying again for the same visa application. We ought not to require those individuals to leave the United States. It is hard for me to understand why they can be better assessed in Bulgaria than they can in Boston for the security interests of our country.

We applaud the review of the technology alert list. We believe that that review also should be conducted with the engagement of outside scientists, engineers, and experts so that the Department can take advantage of the best thinking of what really represents today a list of relevant expertise that ought to be carefully judged.

And we also believe that some of our requirements should be explained more clearly to applicants and to our consular officers, particularly what is called Section 214(b), a section that requires visitors to demonstrate that they do not intend to immigrate illegally.

Thank you very much, Mr. Chairman. I look forward to your questions and to the discussion today.

[The prepared statement of Dr. Fineberg follows:]

PREPARED STATEMENT OF HARVEY V. FINEBERG

Good afternoon, Mr. Chairman and Members of the Committee. My name is Harvey Fineberg, and I am President of the Institute of Medicine (IOM). Chartered in 1970 and a component of the National Academies (which also includes the National Academy of Sciences, National Academy of Engineering, and National Research Council), the IOM provides unbiased, evidence-based, authoritative information and advice concerning health and science policy to policy-makers, professionals, leaders in every sector of society, and the public at large.

I am pleased to have the opportunity to testify today to remind Members of this committee of the important contributions foreign-born scholars, scientists, and engineers have made and continue to make to this country. Foreign-born scientists and engineers have come to the United States over the years, stayed in large numbers, and we are more prosperous and more secure, in large part, because of them.

Importance of Foreign Scientists and International Collaborations

Fifty years ago, many of the United States' scientific leaders came from Europe. There are the famous names like Einstein, Fermi, and Teller (without whom we might not have been the first to build the atomic and hydrogen bombs), von Braun (without whom we would not be ascendant in rockets and space), and von Neumann (without whom we might not be leaders in computing and information technology). But there are dozens more names, like Bethe and Gödel, who may not be known to the general public, but who formed the backbone of American science and engineering—plus an enormous number of journeymen scientists and engineers whose individual contributions will never be celebrated, but without whom the United States would be neither as prosperous nor as secure as it is.

Today, it is not just Europeans who contribute to our prosperity and security; the names are like those of Praveen Chaudhary (former Director of Brookhaven National Lab), Venkatesh Narayanamurti (Dean of the Division of Engineering and Applied Sciences at Harvard), C.N. Yang, (Nobel Laureate physicist, from the Institute for Advanced Study in Princeton), Katepalli Sreenivasan, (recent Director of the Institute for Physical Science and Technology at the University of Maryland, and current Director of the Center for International and Theoretical Physics); and Elias Zerhouni (Director of the National Institutes of Health).

Importance of International Students

International exchanges of students and skilled professionals can benefit both the sending and receiving countries. Certainly, the U.S. science and engineering research enterprise depends critically on international students and scholars.

The United States has relied upon a steadily growing influx of graduate students and postdoctoral scholars from throughout the world. International students now constitute more than a third of U.S. science and engineering (S&E) graduate school enrollments, up from less than a quarter in 1982. More than half of the S&E postdoctoral fellows are temporary residents, half of whom earned a doctorate degree outside the United States.[1] Including undergraduates, more than a half million foreign citizens are studying at colleges and universities in the United States.

Many of the international students educated in this country choose to remain here after receiving their degrees. More than 70 percent of the foreign-born S&E doctorates who received their degrees in 2001 remained in the United States for more than two years.[2] These skilled migrants are an important source of innovation for the U.S. economy.

Importance of International Scientific Exchanges

Equally important, but often lost in this discussion, are short-term visits of international scientists to the United States. Many of these individuals are prominent researchers, officers in international scientific organizations, or members of their national academies of science. Many are invited speakers or presenters at scientific meetings or need to come to the United States to consult with partners on collaborative projects. Many have been to this country a number of times in the past. They are reasonable, intelligent people, and the kind of people our country wants as friends.

Unfortunately, we are alienating them one at a time. Some of our visa policies simply do not make sense to them, and they become irritated enough with their experiences that they vow not to return to the United States, and unfortunately, they tell their colleagues about their experiences.

When enough people have concerns, we lose the goodwill of our partners, and meetings begin to be held outside of the United States. Even before the ICSU President Goverdhan Mehta encountered difficulties obtaining a U.S. visa in 2005, the International Council of Sciences was reluctant to encourage meetings in the United States. In 2007, the International Union of Pure and Applied Chemistry (IUPAC) debated long and hard whether to hold the 2011 General Assembly in Puerto Rico or Turkey. Puerto Rico narrowly won, but the debate focused on U.S. visa policy, and particularly whether scientists, especially those from Cuba, will be able to get the necessary U.S. visas to attend.

The National Academies' International Visitors Office

The National Academies' International Visitors Office (IVO), funded by the presidents of the National Academy of Sciences, the National Academy of Engineering, and the Institute of Medicine, assists international scientists in their efforts to come to the United States for meetings and other collaborations. The office works closely with the Office of Consular Affairs at the State Department. Personnel there have been extremely responsive to our concerns, and we commend that office for its work.

The IVO collects information on large scientific meetings in the United States and forwards that information to the State Department for distribution to embassies and consulates worldwide. Since 2003, the IVO has registered 420 meetings, 104 in 2007 alone. The IVO also provides meeting organizers with general information on the visa process, advice on what applicants can do in the event of a visa delay or denial, and individual assistance to their attendees as needed.

In addition, the IVO:

- Maintains a Web-based questionnaire to collect information on visa difficulties experienced within the scientific community;
- Reviews and analyzes data collected to report relevant statistics on the nature and scope of the problem;
- Maintains contact with the Department of State, the Department of Homeland Security, and other agencies that either administer visa programs or work with visa-related issues; and

[1] National Science Board. 2004. *Science and Engineering Indicators, 2004* (NSB 04–2), Arlington, VA: National Science Foundation.

[2] M.G. Finn. 2003. *Stay rates of Foreign Doctorate Recipients from U.S. Universities, 2001.* Oak Ridge, TN: ORISE.

- Works directly with the State Department's Office of Consular Affairs to resolve specific cases.

From the fall of 2002 through the end of December 2007, 5,878 cases have been reported to the IVO, and almost 900 of these were in 2007 alone. One of our primary messages is APPLY EARLY, yet still there are problems. For example, the International Union of Pure and Applied Biology (IUPAB) will have its 16th International Biophysics Congress in Long Beach, California on February 2–6. As of January 25, many of the 30-member Chinese delegation were still awaiting their visas, including the head of the delegation, a man who will be on the ballot for IUPAB President.

I wish I could say that this delegation's experience is unique. Unfortunately, it is not. Over and over, we hear of prominent scientists who have not received a decision on their visas with only days left before a meeting. They end up canceling flights, and losing money on meeting registrations and hotel reservations. We also continue to receive regular reports from scientists who receive their visas after the meeting has passed. None of this engenders goodwill toward the United States.

Other complaints that we hear regularly are:

- Difficulty scheduling visa interviews, and long waits once scheduled;
- Denial of visas due to "lack of ties" to home country despite clear evidence of scientific employment;
- Delays due to security clearances;
- Delays despite all documents being in order;
- Inability to extend J–1 visas from within the United States; and
- Arrogant and rude treatment upon entry to the United States by immigration and customs officials.

The Impact of 9/11 and Globalization

To be sure, 9/11 and globalization have changed the balance point. Both have caused the United States to fundamentally rethink our policies, but we need to make sure that new policies put into place make sense and do not do more harm than good. The international image of the United States has been one of a welcoming "land of opportunity"; we are in the process, however, of replacing it with one of a xenophobic, suspicious, fearful nation. The policies that superficially appear to make us more secure also are, ironically, having the opposite effect.

Protecting Americans from threats obviously must be a high priority, but *real* security will be achieved only by a proper balance of excluding those who would harm us and welcoming those who would do us good, by a proper balance of openness and secrecy. With selected, thoughtful changes to U.S. policies, we can achieve *both* goals, making our homeland safer and our economy stronger.

Ensuring Security

The National Academies agrees that the Nation must take precautions to ensure security. If visits by foreigners to the Unites States are considered especially at risk, then the system must be protected with the technologies, information, and resources needed to do a proper job. Anything less, and the system remains vulnerable. Some visa applications must be carefully subjected to expert scrutiny to ensure our national security, but the level of security must be tailored to the magnitude of the risk. This can be done by educating and training staff and keeping security procedures focused and streamlined. We need to determine where protection is essential—and then protect those areas vigorously.

The current system:

- Fails to identify the most vulnerable points of the system (everyone interviewed);
- Spreads resources too thin by treating all applicants as equal threats (thereby preventing in-depth interviews);
- Does not manage information well—does not have necessary focus on identifying those who pose the biggest threat (more security does not make us more secure; better management does);
- Lowers people's sensitivity to the most critical elements of the system;
- Builds ill-will against the United States through repetitive processing of those with a good track record; and
- Diverts resources from monitoring those who pose a higher risk.

Security in the broadest sense must be achieved through accumulation of new knowledge and the wise application of it. If we include too many applicants in the security review procedures, then the bureaucratic burden in guarding the entire system becomes excessive—leading to inefficiencies, delays, and security risks. The United States needs to recognize what is important to secure and what is of limited or marginal significance, and respond appropriately. Not everyone is of equal risk.

Academic Visits and Exchanges With Cuba

I also would like to say a word about Cuba. Section 212(f) of the *Immigration and Nationality Act of 1952,* as amended, authorizes the President to deny entry "of any class of aliens into the United States [who] would be detrimental to the interests of the United States." President Ronald Reagan built on that policy, and, in Presidential Proclamation 5377, restricted the entry into the United States of officers or employees of the Cuban Government or the Communist Party of Cuba. Since all education and research institutions in Cuba are State entities, as are many public universities in the United States, scientists and scholars are denied entry into the United States solely because their employer is the Cuban state.

The policy has been unevenly applied through the years, but has been strictly enforced since 2004 when Congress and the Administration made democracy in Cuba a high national priority. From January through October 2004, only five professors from the University of Havana were granted visas to travel to the United States in response to invitations to give classes and lectures, or for research visits. Prior to 2004, approximately 25 university faculty members traveled each month to the United States for such visits.[3]

In fall 2004, more than 60 Cuban scholars were denied visas to attend the XXV International Congress of the Latin American Studies Association (LASA) held October 7–9, 2004 in Las Vegas, Nevada. Their applications had been pending since May. In early 2006, 58 Cuban scholars and researchers were denied visas to attend the XXVI LASA Congress in San Juan, Puerto Rico.

In explaining the 2004 decision, State Department spokesman Richard Boucher made clear that the visas had been denied "as a group" on political grounds:

> [T]he primary purpose of denying these visas is . . . to bring the pressure on the Cuban Government and on people who are employed by the Cuban Government so that they understand that their treatment of people in Cuba has implications. . .[4]

Denials of Cuban visa applications have become routine. A letter from Bengt Gustafsson, Professor of Theoretical Astrophysics at the University of Uppsala, Sweden and Chairman of the International Council for Science's Committee on Freedom and Responsibility in the Conduct of Science, expressing concern about this situation and two recent cases involving prominent Cuban scientists was published in the October 22, 2007 issue of *Chemical and Engineering News.* Dr. Gustafsson wrote:

> I am writing to express my grave concern as to the current policies and practices of the U.S. Government with regard to visas for scientists from Cuba. The President-Elect of the Federation of Latin American Chemical Societies, Alberto Nuñez, was invited by American Chemical Society to attend its recent meeting in Boston on Aug. 18–24. He applied for a visa in good time and made his arrangements to fly to Boston from Havana immediately after returning from a series of International Union of Pure & Applied Chemistry (IUPAC) meetings in Europe. He received notification from the U.S. State Department on Aug. 14, when he was still in Europe, that his visa application had been denied.
>
> The reasons for the visa refusal for Nuñez, who has previously visited the U.S., were not communicated. However, his case mirrors that of another eminent Cuban scientist, Miguel García Roche, who is President of the Latin American Regional Group for Food Science, which is affiliated with the International Union for Food Science & Technology. He was refused a visa in June to attend a meeting of the American national affiliate to the union.
>
> In both of these cases, the result is that the Latin American scientific community has been excluded from representation in meetings of American scientific societies. This is in clear breach of the principle of universality, as articulated in the International Council for Science statute 5, which is adhered to by IUPAC and all affiliated unions:

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[3] *Retreat from Reason: U.S.-Cuban Academic Relations and the Bush Administration.* Latin America Working Group Education Fund, Washington, DC, 2006.

[4] State Department Daily Press Briefing, Washington, DC, October 7, 2004, *http://www.state.gov/r/pa/prs/dpb/2004/36917.htm*

> "The principle of the Universality of Science is fundamental to scientific progress. This principle embodies freedom of movement, association, expression and communication for scientists, as well as equitable access to data, information and research materials. In pursuing its objectives in respect of the rights and responsibilities of scientists, the International Council for Science (ICSU) actively upholds this principle, and, in so doing, opposes any discrimination on the basis of such factors as ethnic origin, religion, citizenship, language, political stance, gender, sex or age. ICSU shall not accept disruption of its own activities by statements or actions that intentionally or otherwise prevent the application of this principle." [5]

While every country has the discretion to decide who it will allow to enter its borders, the Universal Declaration of Human Rights, the International Convention on Civil and Political Rights, and the American Convention on Human Rights all preclude discrimination on the grounds of political belief or association. As affirmed by the American Association for the Advancement of Science,

> [t]he power of nation[s] to exclude aliens seeking to enter their territory on a temporary (visitor) basis . . . must be exercised reasonably [under international law], without discrimination, and without arbitrariness. Under the non-discrimination standard, governments must ensure that their laws, regulations and administrative practices do not use race, sex, religion, nationality, color, political beliefs or other invidious classifications as a basis for denying entry.[6]

While the United States Government may believe that the current policy toward Cuban academics is a reasonable one, it has become a serious concern within the international science community. As mentioned earlier, the U.S. policy of refusing entry to Cuban scientists on political grounds combined with the difficulties that foreign scientists continue to experience in attempting to secure visas or gain entry into this country are actively discouraging foreign scientists from applying for visas and international scientific organizations from holding meetings here.

Action Agenda

The National Academies has been actively involved in discussions on U.S. visa policy with the higher education community, scientific societies, and the Federal Government, including the Departments of State, Homeland Security, and Commerce. Important changes in Administration policy have been made to meet a number of the concerns of the research community; however, further improvements in policies and their implementation are needed.

1. **Congress should relax the requirement that all visa applicants be interviewed.** We need to avoid repetitive processing, especially of those with a proven track record. Many visa applicants invest considerable time and effort to travel to and apply for U.S. visas at our nation's embassies and consulates. Consular officers should again be given the discretion to waive the interview requirement for those who have been to this country multiple times and who have established reputations and strong professional connections in their home countries. This is especially needed for China because visas issued to Chinese citizens are of particularly short duration due to reciprocity agreements. Current agreements result in a higher percentage of repeat applicants.

2. **The Technology Alert List (TAL) should be reviewed regularly by scientists and engineers outside the government, and scientifically trained personnel should be involved in the security-review process.**[7] The Technology Alert List was originally developed as a screening tool to prevent nonproliferation. Now, however, it is also used to screen scientists and students in scientific fields. Visas Mantis security reviews are triggered by matches against the TAL. The list is no longer public, but when it was, the science community noticed that much of the information on the TAL was already in the public domain or could be obtained from multiple countries

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[5] *http://pubs.acs.org/isubscribe/journals/cen/85/i43/html/8543letters.html*

[6] Alastair T. Iles and Marton Sklar, *The Right to Travel: An essential Freedom for Scientists and Academics,* Washington, DC: American Association for the Advancement of Science, Science and Human Rights Program, February 1996.

[7] This recommendation was contained in two recent NRC reports: *Policy Implications of International Graduate Students and Postdoctoral Scholars in the United States,* National Academy Press, NRC, 2006. *Science and Security in a Post 9/11 World,* National Academies Press, NRC, 2007.

and sources. The National Academies and the higher education and scientific communities have offered to assist with the revision of this list.

3. **The State Department should find a way to domestically reissue student and exchange visitor visas for those who have remained in status and are applying for the same visa classification.** This has long been a priority of the higher education and scientific communities, and was included in the 2004 and 2005 joint community statements.[8] This recommendation was also included in the Department of Homeland Security's Secure Borders and Open Doors Advisory Committee's recent report.[9]

4. **Section 214(b) should be revisited as a screening tool, and explanations for denials should be clearer.** Section 214(b) of the Immigration and Nationality Act requires that applicants for student or visitor visas prove to the satisfaction of consular officials that they do not intend to immigrate illegally to the U.S. Because the criteria for proof of non-intent are not clear, either to visa applicants or to consular officials, this provision has been the cause of many problems. Denials are often form letters that simply refer to Section 214(b), a reference not helpful to applicants. One could remove this burden of proof from science students and scholars who participate in qualified academic programs, exchanges, and meetings by allowing consular officials to accept certified statements of intent not to immigrate.

5. **The politicization of decisions about the entry of Cubans using Section 212(f) of the Immigration and Nationality Act should end.** Cuban scholars and researchers should not be denied U.S. visas simply because they are employed at universities operated by the Cuban government or because of their political ideology or nationality.

Finally, I would like to end with an observation from *Secure Borders and Open Doors*:

> Today's visa process is not necessarily more error-prone than in the past; however, the omnipresence of telecommunications and news media, as well as enhanced global competitiveness, magnifies the impact of actual and perceived errors. While any specific category of error may be small, their impact can be great on individuals and specific groups, and on the cumulative perception of the process.[10]

The United States must continue to encourage and welcome talented students, scholars, and scientists from around the world. While progress has been made with respect to granting visas for foreign students and scholars, we must continue to work to ensure that policies and practices are in place that encourage the free movement of foreign students and scholars to and from the United States.[11]

Thank you for the opportunity to testify. I would be pleased to answer any questions the Subcommittee might have.

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[8] The presidents of the National Academy of Sciences, the National Academy of Engineering, and the Institute of Medicine signed onto the May 18, 2005 joint community statement on visa policy. A similar statement issued in May 2004. Both proved extremely effective in stimulating action on a set of common issues. See *http://www.aau.edu/homeland/05VisaStatement.pdf* and *http://www.aau.edu/homeland/JointVisaStatement.pdf*

[9] *Secure Borders and Open Doors: Preserving Our Welcome to the World in an Age of Terrorism.* Secure Borders and Open Doors Advisory Committee, Department of Homeland Security, 2008.

[10] *Ibid,* page 27.

[11] *Science and Security in a Post 9/11 World,* National Academies Press, NRC, 2007. Report recommendation number 5.

Attachment 1

International Visitors Office
Visa Questionnaire Statistics
As of December 31, 2007

http://www7.nationalacademies.org/visas/Visa_Statistics.html

NOTE: Cases reported to the International Visitors Office represent a fraction of the total number of visa applications. In addition, because these are self-reported "hard" cases, it should not be assumed that they are representative of all visa applications.

Total cases reported to IVO since fall 2002: **5878**
Number of cases for which IVO has assisted: **5457**

Statistics for IVO assisted Cases

Pending cases (as of December 31, 2007)

189 Pending/Delayed Cases

83% pending less than 3 months
13% pending 3-6 months
3% pending over 6 months

203 cases current status unknown
Note: IVO has not received an update on these cases. Some of these applicants may have recently received visas.

Closed cases

5254 Resolved Cases

84% Granted
2% Canceled
5% Denied
9% Other/Final status unknown

Average Visa Delays for 2003-2007

2007 figures are as of December 31 2007

Average Delay (in days) = Date Visa Granted minus Date of Visa Interview
Note 1: The number of cases below does not include all cases reported to the IVO office. It only includes cases for which the following information is known for 2003-3/31/2007 cases: 1) date of the visa application/interview, and 2) date the visa was

granted

Note 2: The visa interview date was used to calculate the data summarized by year and/or month. For example, if an applicant applied in December 2003, his case was included in the 2003 data even if the case was not reported to IVO until 2004.

Average Delay by Year of Application/Interview

Year	# Cases	Average Delay
2003	856	148
2004	941	75
2005	495	52
2006	849	66
2007	1298	72

Percentage of Cases by Delay Period

2003-2006 Comparison: Percentage of cases delayed for more than 90 days (3 months)
2003: 69%
2004: 25%
2005: 11%
2006: 22%
2007: 19%

Days Delayed	% of 2003 Cases	% of 2004 Cases	% of 2005 Cases	% of 2006 Cases	% of 2007 Cases
>180 (>6 months)	30%	7%	3%	6%	5%
150-179 (5-6 months)	11%	4%	1%	2%	2%
120-149 (4-5 months)	15%	5%	2%	4%	5%
90-119 (3-4 months)	13%	9%	5%	10%	7%
60-89 (2-3 months)	9%	16%	11%	14%	17%
30-59 (1-2 months)	18%	51%	49%	41%	44%
<30 (<1 month)	4%	9%	28%	23%	19%

Average Delay by Visa Category

Visa Category	2003	2004	2005	2006	2007
B1/B2 visitor for business/tourism	149	101	63	58	114
F-1 student	142	56	41	48	85
H-1B temporary specialty worker	153	106	74	108	114
J-1 exchange visitor	163	91	49	41	88
Other/Unknown	159	93	64	53	168

Average Delay by Field of Research or Study

Field	2003	2004	2005	2006	2007
Bioscience	151	72	46	91	97
Chemical Sciences	145	61	46	43	53
Computer Science	123	93	74	35	51
Engineering	136	63	42	58	143
Geosciences	153	45	35	59	37
Information and Communication Sciences	86	60	55	71	28
Medicine/Health	191	105	88	98	91
Physical Sciences and Mathematics	155	86	44	31	63
Social Sciences	189	76	118	52	48
Non-science	81	114	68	15	103
Not answered	163	81	35	20	7

BIOGRAPHY FOR HARVEY V. FINEBERG

Harvey V. Fineberg is President of the Institute of Medicine. He served as Provost of Harvard University from 1997 to 2001, following thirteen years as Dean of the Harvard School of Public Health. He has devoted most of his academic career to the fields of health policy and medical decision-making. His past research has focused on the process of policy development and implementation, assessment of medical technology, evaluation and use of vaccines, and dissemination of medical innovations.

Dr. Fineberg helped found and served as President of the Society for Medical Decision-Making and also served as consultant to the World Health Organization. At the Institute of Medicine, he has chaired and served on a number of panels dealing with health policy issues, ranging from AIDS to new medical technology. He also served as a member of the Public Health Council of Massachusetts (1976–1979), as Chairman of the Health Care Technology Study Section of the National Center for Health Services Research (1982–1985), and as President of the Association of Schools of Public Health (1995–1996).

Dr. Fineberg is co-author of the books *Clinical Decision Analysis, Innovators in Physician Education,* and *The Epidemic that Never Was,* an analysis of the controversial federal immunization program against swine flu in 1976. He has co-edited several books on such diverse topics as AIDS prevention, vaccine safety, and understanding risk in society. He has also authored numerous articles published in professional journals. Dr. Fineberg is the recipient of several honorary degrees and the Joseph W. Mountin Prize from the U.S. Centers for Disease Control. He earned his Bachelor's and doctoral degrees from Harvard University.

Chairman BAIRD. I think you are right on the money. That is excellent. Thank you very much.

Dr. Goodman.

STATEMENT OF DR. ALLAN E. GOODMAN, PRESIDENT AND CEO, INSTITUTE OF INTERNATIONAL EDUCATION, NEW YORK, NY

Dr. GOODMAN. Thank you, Mr. Chairman, Ranking Member Ehlers, and the Committee. We administer your Fulbright Program on behalf of the Bureau of Educational and Cultural Affairs at the State Department, and I know Harriet Fulbright will be absolutely delighted when I tell her you watched the video 65 times.

Since our founding in 1919, the institute has done a census of international students in the United States and Americans going

abroad. In the last half century there have been just two periods of decline; one in the early 1970s as a result of global recession and upheaval in Iran, and the second period in the wake of 9/11. As I highlight in my testimony, that period of decline is now over.

Overall last year international students in America rose by three percent, new enrollments in our graduate and undergraduate programs increased by 10 percent, and in the science and engineering fields new enrollments increased by 16 percent.

Turning the corner took the hard work of everybody represented at this table and in this body and in the Senate. We were fortunate to have a very important tone set at the top by the President, the Secretary of State, Secretary of Homeland Security, the head of the consular service, public diplomacy, and the Assistant Secretary for Educational and Cultural Affairs. I think we are the only government in the world where so many top officials said in the wake of 9/11, we welcome international students.

Mr. Edson talked about the heroic effort on behalf of increasing consular services. The Bureau of Educational and Cultural Affairs also made tremendous effort to get the word out through Study Abroad, through Education USA offices around the world, and to provide free advice so that students could access both the new procedures and opportunities for study here. International student advisors and all the major campuses reached out to international students, helped them with their, both application and visa process, and a series of very strategic delegations were conducted by university and college presidents by the Secretary of State and the Secretary of Education to key-sending countries to make the word clear that America really welcomes its international students. During international ed week U.S. ambassadors in the key-sending countries also spoke out and got a very important message across; we welcome international students.

The market for international students and scholars is very sensitive to misperception abroad and very sensitive to mistreatment at home. In my statement and recommendations I focused heavily on the Department of Homeland Security and the treatment that international students and scholars receive at our borders. As you said, Mr. Chairman, one anecdote circulates rapidly and widely and tarnishes an entire image.

I also had a personal experience with the Department of Homeland Security returning from Saudi Arabia a few months ago. I was inspected at the border, and the first thing I was told was that Americans shouldn't go to Saudi Arabia. The second thing I was asked was what was my business there, and I mentioned international educational exchange and Fulbright, and the officer was skeptical that America should support international students coming here. Then he noticed in my passport that I had been to Iran twice, and I said, no, actually I have been to Iraq twice to visit the Unites States ambassador and to help with the starting of the Fulbright Program for Iraqis to come here. For the next 15 minutes he turned every single page of my passport. The sweat started rolling down my sides, and I could imagine how an international student or scholar would feel just asked a series of questions or giving an opinion.

We have been training foreign service officers at the Foreign Service Institute since 9/11 on the value of international students and scholars to America. We have a similar proposal at no cost to the Government to do that training for the Department of Homeland Security, and we believe if we could do that, and they would accept the training, they would understand and appreciate as this committee does and as our consulars do, that international students and scholars are the most closely vetted and screened and monitored group of any coming to the United States and are of, as my fellow witnesses all highlight, inestimable benefit to our progress in science and technology and also our commerce, something that Homeland Security is also designed to protect.

Thank you very much, Mr. Chairman.

[The prepared statement of Dr. Goodman follows:]

PREPARED STATEMENT OF ALLAN E. GOODMAN

Mr. Chairman and Members of the Subcommittee, thank you for inviting me to testify at today's hearing on the subject of visas for foreign students and scholars. My name is Allan Goodman and I am the President and CEO of the Institute of International Education (IIE). Thanks to the work of many U.S. Government officials and university leaders and their international student advisors, there is good news to report. Overall international student enrollments in U.S. colleges and universities increased in the 2006/2007 academic year by over three percent from the previous year, ending several years of decline in the wake of 9/11. New enrollment figures rose by 10 percent in all fields and by 16 percent for international graduate students in science and engineering. In a country that produces more undergraduates with degrees in the visual and performing arts than in engineering and science, our future progress depends on these trends continuing and there are good prospects that they will.

The Institute follows these developments closely. Founded in 1919, IIE is among the world's largest and most experienced international education and training organizations. Our mission is to promote closer educational relations between the people of the United States and those of other countries, strengthen and link institutions of higher learning globally, build leadership skills and enhance the capacity of individuals and organizations to address local and global challenges, and rescue scholars—many of whom are in the science and math fields. While we are perhaps best known for administering the flagship Fulbright program on behalf of the U.S. Department of State, we also administer the Benjamin A. Gilman International Scholarship Program and the National Security Education Program on behalf of the Department of State and the Department of Defense respectively, as well as more than 200 other education or exchange programs sponsored by organizations, corporations and foundations. All in all, more than 18,000 men and women from 175 nations participate in IIE programs each year. Applications this year are at record levels in all these programs.

In addition to administering programs, IIE identifies emerging trends in international academic mobility through its *Open Doors* report. This report is supported by the Department of State and released annually during International Education Week in November. Through "Open Doors" data which we have been collecting since our founding year, we can analyze the changes in flows of international students to the U.S. and U.S. students abroad, and help policy-makers address the factors affecting those shifts in numbers, destinations, and fields of study.

The Benefits of Welcoming International Students to the U.S.

You have asked me to articulate the benefits to U.S. scientific enterprise and to the U.S. more broadly in welcoming foreign students and scholars. But let me start with a quick overview of all international students studying in the U.S. because I think the facts are compelling. In academic year 2006/07, 582,984 international students studied in the United States, up 3.2 percent from the prior year and up 10 percent in terms of new students entering their U.S. campus for the first time in fall 2006. These students contributed $14.5 billion to the U.S. economy through their expenditures on tuition and living expenses. In fact, the U.S. Department of Commerce ranks international education as the U.S.'s 5th largest service sector export.

But these students don't just benefit our national economy. Their presence diversifies our campuses—particularly important since only one percent of American students studied abroad in the past year and yet will have careers that require global perspectives. International students help Americans gain a critical understanding of other cultures and languages such as Arabic, Korean and Farsi. They help to develop long lasting relationships between the U.S. and other nations—some notable examples of exchange students who studied in the U.S. are former Prime Minister Tony Blair, former UN Secretary General Kofi Annan, and Afghan President Hamid Karzai. Having tomorrow's leaders live and learn in the U.S. assists our long-term foreign policy goals and is indeed one of this country's strongest diplomatic assets.

It is important to note that these international students study at accredited institutions of all types—whether they are studying at community college, specialized institutions, or are working toward a Baccalaureate, Master or Doctoral degree. They also study in all regions. Twenty three percent of these students (over 132,000) study in the Pacific Northwest, Mr. Chairman, while 22 percent (over 126,000) study in the Midwest region from which the Ranking Minority Member hails.

The Benefit of International Students to the U.S. Scientific Enterprise

The impact of international students and scholars on U.S. scientific enterprise is quite significant. Over 35 percent of all international students in the U.S. study in science or engineering-related fields. American campuses and graduate departments increasingly rely on international students to provide valued research or assistance in teaching. Today, more than one-third of U.S. engineering and computer science faculty are foreign-born, many of whom came to the U.S. first as an international student. Nearly 50 percent of the U.S. doctorates awarded in engineering and computer science go to international students and many foreign students are serving as teaching or research assistants especially in Science and Technology graduate departments to which American students are simply not applying. These students and scholars further contribute through patent applications and innovation.

And there is a further ripple effect—more than 50 percent of Ph.D. engineers working in the U.S. are foreign born. 45 percent of math and computer scientists, as well as life scientists and physicists working in the U.S. are foreign-born. More than one-third of Nobel Laureates from the United States are immigrants. Over 60 percent of finalists in the 2004 Intel Science Talent Search, which are the top high school science students in America, were the children of immigrants with 20 percent of those parents coming to the U.S. as international students.

Because international students and scholars bring so many benefits to U.S. scientific research, we must pay close attention to the impact our immigration and visa issuance policies have. The new policies and procedures put in place after 9/11 did have a chilling effect and we did see the number of students coming here drop, if even only by one to two percentage points. Those numbers were magnified by the stories students and scholars told about visa waiting time, denials, and hostile treatment at our ports of entry and grew into a virtually worldwide perception that international students were no longer welcome in America. The U.S. Foreign Service and the higher education community responded vigorously to correct that misperception and all of us will have to continue to be proactive in assuring the international community that America has found a way to secure our borders and still promote international educational exchange. The Fulbright International Science and Technology Fellowships, launched by the State Department in 2006, sent an important signal to outstanding graduate students around the world that the U.S. welcomes these talented individuals and offers them unparalleled opportunities to advance their careers and contribute to scientific research.

The Institute of International Education: Promoting the Exchange of People and Ideas

As I mentioned earlier, the mission of the Institute of International Education is to promote, foster, and support the exchange of people and ideas. The Institute was founded in the wake of World War I under the premise that there could be no lasting peace without greater understanding between nations—and that international educational exchange formed the strongest basis for fostering such understanding.

The Institute was then, and is now, a catalyst for educational exchange. It serves as a central point of contact and source of information both for U.S. higher education and for foreign nations interested in establishing educational relations with the United States. In fact, it was IIE's President that persuaded the government to create non-immigrant student visas, bypassing post-war quotas set in the *Immigration Act of 1921.*

Today, the programs under our stewardship continue to educate future leaders from the United States and around the world but also work to find new ways to

reach out to those countries and regions that are least understood by Americans, have some of the lowest exchange numbers and are suffering some of the most entrenched and complex challenges. Our work now encompasses every region of the world and nearly every country. We have a network of offices worldwide and six regional centers in the United States to encourage and facilitate robust exchange.

You have asked how we work with both the university community and the Federal Government in promoting exchange. We work extraordinarily closely with both.

A Resource for Institutions and Students Alike

The Institute is a resource for domestic and international academic communities. The IIENetwork serves colleges, universities, and international exchange agencies worldwide and offers its 900 member institutions a thriving online community (*www.iienetwork.org*), an electronic newsletter, and comprehensive print and electronic directories including *www.StudyAbroadFunding.org* and *www.FundingUSStudy.org*, Intensive English USA and the heavily used *IIEPassport.org* study aboard website and publications. Our IIENetwork also conducts seminars and workshops in the U.S. and overseas, including our annual IIE Best Practices Conference in the U.S. and workshops such as "Internationalizing Your Campus: Global Resources for Local Universities." IIE honors the most outstanding initiatives that are being conducted by member colleges and universities with the Andrew Heiskell Awards for Innovation in International Education. More than 50 such outstanding programs were recognized in the past seven years, including one for faculty exchanges at Congressman Carnahan's alma mater.

IIE helps international students gain information on studying in America, assists educators in recruiting international students and establishing linkages with overseas partners. Our signature "IIEPassport" website and books are a resource for both students and advisers, offering listings of over 7,000 study abroad programs worldwide, and advice on how to select the right program for each student's needs, and how to fund financial support as well. The Institute also coordinates events on the ground connecting students and parents to higher education representatives. For instance, IIE organized eleven U.S. Higher Education Fairs throughout Asia with more than 100 U.S. campus officials on-site to present objective and timely information to more than 10,000 students and parents in countries such as Indonesia, India, Japan, Thailand and Vietnam.

In 2006, the Department of State selected the Institute to manage the global Regional Educational Advising Coordinators (REAC) program on behalf of the Bureau of Educational and Cultural Affairs. The ten REACs support 450 EducationUSA advising centers around the world, providing leadership and expertise to educational information centers and U.S. embassies and serving as a liaison between ECA staff in Washington and the advising centers overseas. There is significant outreach that goes on under the REAC program. Just one example is IIE's Southeast Asian regional center in Bangkok which ran workshops with the American University Alumni Association (AUA) to help English teachers from Thailand and neighboring countries prepare their students for the new TOEFL exam and other U.S. standardized tests.

IIE's Work With the Federal Government

Our relationship, cooperative agreements, and work with the Federal Government are longstanding. We are honored to have administered the flagship Fulbright program on behalf of the U.S. Government since the program's inception in 1946. This includes the U.S. and foreign student and scholar programs, as well as the Hubert H. Humphrey Fellowship Program.

We also administer the Benjamin A. Gilman International Scholarship Program and the National Security Education Program (NSEP) on behalf of the Department of State and Department of Defense respectively. The Gilman program helps American students with high financial need to study abroad in non-traditional destinations and NSEP helps U.S. undergraduate and graduate students study critical language and then "pay-back" through up to a year of service in one of the federal agencies related to our national security, or in an educational organization if no appropriate position exists in the relevant federal agencies. The Humphrey program brings accomplished professionals from designated countries to the U.S. at a midpoint in their careers for one year of study and related professional experiences. They return home to leadership positions in public service fields, bringing a deep appreciation of American values and ways of doing business. It is important to know that each and every one of these programs are experiencing record numbers of applications. The thirst for international study and training continues to grow, and the study abroad student population is more diverse than ever before in our history.

In addition to supporting and encouraging student study abroad, IIE has a long tradition of rescuing scholars who are threatened with persecution or death due to their scholarly pursuits. The Institute has rescued thousands of students and scholars beginning with those caught in the crossfire of the Bolshevik Revolution. That work continued throughout the 20th Century as IIE rescued persecuted scholars fleeing Europe in WWII and during the Hungarian Revolution, and resettled them on U.S. campuses. In 2002, these efforts were formalized in the Scholar Rescue Fund, a permanent endowment supported by both private and public funds which allows for more rapid response in times of crisis.

Through the Scholar Rescue Fund, scholars are temporarily resettled at a host university anywhere in the world where they can resume their work guest lecturing, teaching, researching and writing. The host university shares in the expenses of supporting a scholar and has the benefit of their participation in the university community. I mention the Fund because often these scholars have science or engineering degrees. For example, today in the U.S., Rice University is hosting a scholar from Belarus who teaches Biomedical Optics and Thermal Physics, the University of Florida is home to a Thermal Hydraulics professor from Iraq, Kent State hosts a Computer and Electrical Engineering scholar also from Iraq, the University of Oklahoma is temporarily home to an Iraqi professor of Geology and Micropaleontology. The U.S. Government supports not only the global work of the Fund but also a more specific mission to rescue Iraqi scholars currently under threat.

The Visa Mantis Process and an Improved Flow of International Students

The number of international students enrolled in colleges and universities in the United States increased by 3.2 percent to a total of 582,984 in the 2006/07 academic year. This is the first significant increase in total international student enrollments since the numbers began declining after 9/11. This past year saw an even bigger jump in the number of "new" enrollments—that is students who were enrolled at a college or university for the first time in the fall of 2006, which rose 10 percent from the previous year—this is a marked increase.

I took the opportunity to take a closer look at the numbers of international students from the alma maters of Members of the Subcommittee. For the 2006/2007 school year, all the numbers are up. For example, the University of Wyoming hosted 478 international students—an increase of 8.6 percent over the previous year and the University of California at Berkeley hosted 3,167 international students, an 18 percent increase.

An examination of first time foreign students in graduate science and engineering programs also shows an increase. According to the results of a National Science Foundation (NSF) survey released just last week enrollment of first-time, full-time foreign graduate students on temporary visas studying science and engineering (S&E) grew by 16 percent in 2006, following a four percent increase in 2005. These increases reflect a reversal of the declines in enrollments of new foreign S&E graduate students in the wake of September 11th, which had declined by 19 percent between 2001 and 2004. The National Science Foundation credits a variety of factors for the increases including improvements in the quality and attractiveness of science and engineering education in other countries as well as application and approval rates for student visas.

However, according to NSF, despite the recent increases, both first-time, full-time and total enrollments in 2006 for foreign S&E graduate students are still somewhat below the levels earlier in the decade. Foreign students represent 29 percent of all science and engineering graduate students—this is down from 31 percent in 2003. These numbers from the National Science Foundation's Science Resources Statistics division closely parallel IIE's *Open Doors* findings.

The turnaround and improvement achieved in the last few years reflect substantial progress by the Department of State to make the visa process more predictable for students and scholars. The change in the Visa Mantis process announced in February of 2005 and a redoubling of efforts by the Department of State and its Bureau of Educational and Cultural Affairs to attract international students to U.S. campuses was instrumental in helping to achieve this change in the enrollment numbers. They launched a consistent and multi-pronged push to make the visa process more predictable for students and scholars and to attract or re-attract international students. This has included efforts such as the first U.S. University Presidents Summit on International Education that brought together 123 presidents or chancellors. It was there that Secretary Rice announced; "America's mission in this new century must be to welcome more foreign students to our nation and send more of our citizens abroad to study. To be successful, our government and our universities must forge a new partnership for education exchange, a partnership that rest on new thinking and action." This was a very important tone to set from the top and was

buttressed by outreach conducted together by university presidents or chancellors along with high-ranking members of the State Department to critical regions of the world.

In addition, the Department placed a high priority on increasing consular personnel—adding 570 new consular officers since September 2001, to expedite the visa process. They were also quick to accept our offer to brief all consular officers undergoing training at FSI on the concerns that we consistently heard from international students and officials at American host campuses, as well as the importance of international education to the U.S. economy, its impact on national security, and progress in the STEM fields.

The extent of improvement has been substantial and is due not only to efforts by the State Department but also by the increased outreach undertaken by American college and university officials to reassure international students and their parents that they are welcome on America's campuses. We know from our Open Doors survey of higher education institutions enrolling international students that 60 percent of responding institutions have taken special steps to ensure that the number of international students on their campuses does not decline. And that special steps included new international programs or collaborations (33 percent), as well as new staff or additional staff time devoted to international recruitment (26 percent), new funding for international recruitment trips (23 percent), and new funding for marketing and promotion of programs (21 percent). Institutions that devoted more resources for international student recruitment trips seem to have concentrated mainly on Asia. Of course, we can always all do more and must ensure that we keep up our efforts to attract the world's brightest students to U.S. campuses. But it is clear that there is significant interest and effort among institutions of higher learning to attract, keep and nurture foreign students.

What More Needs to Be Done?

We can all imagine how circumstances might impact international students coming to the United States. Many of us have helped our own children negotiate entering college and understand that it can be a time of great anticipation and excitement but also nervousness and trepidation for young people. Mr. Chairman, you along with your colleagues, the Ranking Member Mr. Ehlers, Mr. Bartlett and Mr. Lipinski, can better understand the challenges faced by *any* university student leaving home for the first time given your backgrounds as a professors. But, imagine the incredible fortitude, drive and courage to leave your home country, fly to the United States, navigate the non-immigrant visa review and border entry processes and enter an institution of higher learning here in America. We owe it to these students and to their parents to make the process as accessible, predictable, and respectful as we can while also protecting our national security and insuring that only legitimate students are granted the privilege to study in the United States.

The most immediate need now is to better train Department of Homeland Security border inspectors. All too often we hear of unpleasant and extremely harassing treatment of incoming students and scholars, particularly of those who come from the Middle East or whose name identifies them as an adherent of Islam. Sometimes the inspector does not appear to understand the process by which international students are admitted to our colleges and universities, and end up questioning the student about issues that have already been decided by the visa-granting officer back in the home country. This treatment can be particularly intimidating for students who may be traveling abroad for the very first time and who may be confused of what is being asked of them. Some students hail from countries or cultures where figures of authority are never questioned or talked to—even if trying to clarify a request or order. And, of course, there are cultural or religious issues to be bridged. For instance, some Muslim women are not allowed to talk to men outside their family. Some cultures do not encourage direct eye contact with strangers, and hence the student may appear evasive or non-forthcoming in responding.

We have offered to provide similar training to Homeland Security border officials, at no cost to DHS, as we now do routinely for newly trained consular officers at the Foreign Service Institute, and are awaiting DHS approval.

Attached to my statement is a PowerPoint we have already provided to Department of Homeland Security to use in their computer based training.

IIE and our network of 900 colleges and universities is deeply committed to sustaining and expanding the flows of talented international students in the science and technology (S&T) fields, who continue to see America as the destination of choice for their overseas training. We also are working hard to expand opportunities for Americans from all backgrounds and in all fields, particularly the challenging fields of S&T, to study abroad at some point in their academic career and to gain the international perspectives and global experience that will be vital to their suc-

cess and to our country's competitiveness, in the 21st century. Through the Global Engineering Education Exchange, a consortium of 32 U.S. engineering schools and over 50 outside the U.S. is helping several hundred engineering students each year study outside their country on a tuition-swap basis, and several other programs that IIE has the honor to administer also provide opportunities for young American scientists and engineers to study and do research abroad.

Mr. Chairman and Members of the Subcommittee, thank you for your interest in international exchange and for inviting me to testify today. I look forward to answering any questions you might have. I also look forward to the day when we will read in our headlines that cancer has been cured or a vaccine developed to prevent HIV. America's open academic doors may already have brought the international graduate student or researcher here who will hasten the day when that good news will be possible.

International Students in the U.S: Why We Want Them and Challenges in Getting Them Here

Produced by
The Institute of International Education
for
The Department of Homeland Security

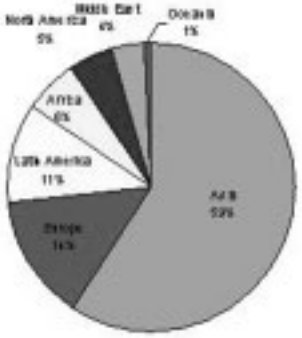
INSTITUTE OF INTERNATIONAL EDUCATION

Background and Statistics

- Data Source: IIE's *Open Doors Report on International Educational Exchange 2007*

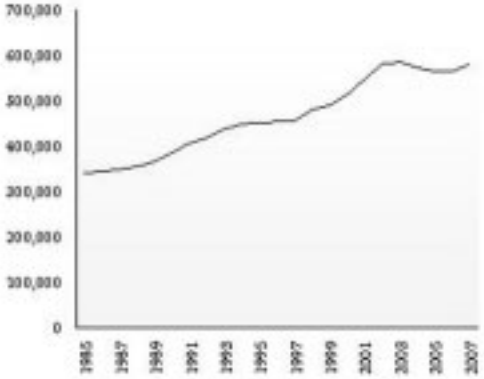
Where do they come from?

Nearly 60% of international students in the US come from Asia, but altogether from over 200 countries.



How many study in the US?

Total international enrollment increased 3% to 582,984 international students in 2006/07.



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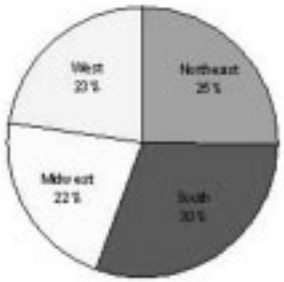
Background *continued*

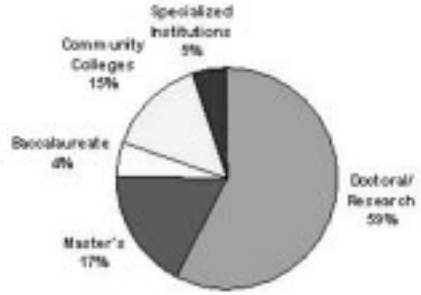
Where do they study? – U.S. Regions

International students study in all regions of the US. California is the top US state, hosting almost 78,000 international students.



Where do they study? – Institutions

International students study in all types of accredited institutions in the United States, including community colleges.



International Student Enrollments in the US by Type of Institution, 2005.06

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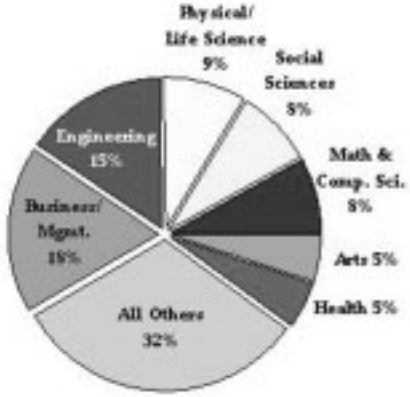
Background *continued*

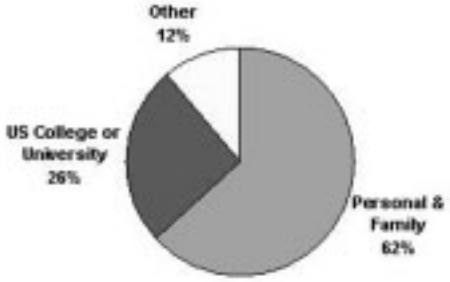
The top 2 fields of study:

Business & Management and Engineering, account for 33% of all international students



How do they pay?

Nearly two-thirds of international students relied on personal and family funds as their primary source of funding for their US education.



Sources of Funding for International Students in the US, 2006/07

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Economic Impact of International Students

- *International Students in the US contribute $14.5 billion to the US economy, through their expenditures on tuition and living expenses.*
- *Top US States: International Students contribute $2.19 billion to the economy of California; $1.86 billion in New York State; and $995 million in Texas.*
- *International Education ranks as 5th largest service-sector export, according to the U.S. Department of Commerce.*
- *International students and scholars further contribute to the US economy through their innovation and patents applications*

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Academic Impact of International Students

International students and scholars are integral to higher education, especially to graduate education. US campuses and graduate departments, especially in the sciences, rely on international students who contribute valued research and teaching assistantship.

- ***More than one-third of U.S. engineering and computer science faculty are foreign-born, many of whom are coming to the US first as international students.*** *(1)*
- ***Nearly 50% of the U.S. doctorates awarded in engineering and computer science go to international students (60% of doctoral degrees in engineering were conferred to international students)*** *(2)*
- ***Many foreign students serve as teaching or research assistants, especially in Science and Technology graduate departments, to which American students are not applying.***

Sources:
1. National Science Foundation, *Science and Engineering Indicators 2003*.
2. National Science Foundation, *Science and Engineering Indicators 2006*.

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Impact of International Students and Scholars on U.S. Global Competitiveness

The combined contributions of international students to the US workforce and to the research & development and innovation, showcase the critical role of foreign scientists and engineers and have a significant impact on ensuring the global competitiveness of the United States.

Workforce:

- ***More than 50% of Ph.D. engineers working in the U.S. are foreign born. (3)***
- ***45% of Ph.D. math and computer scientists, as well as life scientists and physicists working in the U.S. are foreign-born. (4)***

Research & Development and Innovation

- ***More than one-third of Nobel Laureates from the United States are immigrants. (5)***

The Next Generation:

- ***Over 60% of finalists in the 2004 Intel Science Talent Search (top high school science students in America) were the children of immigrants. 20% of those parents came to the U.S. as international students. (6)***

Sources:
3. National Science Foundation, *Science and Engineering Indicators 2003*.
4. National Science Foundation, *Science and Engineering Indicators 2006*.
5. http://www.migrationinformation.org/Feature/display.cfm?id=271
6. [illegible], "The Multiplier Effect of International Students", October 2004.

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Impact of International Students on U.S. National Security

The international exchange of people and ideas helps US national security. The diverse perspectives of international students help internationalize American classrooms and enhance the quality of teaching, research and discussion on campus.

- ***Exchange can deter terrorism by developing long-lasting relationships between the US and other nations.***
  - *Many foreign leaders, who support the war on terrorism, participated in exchange programs to the US (Tony Blair, Kofi Annan, Hamid Karzai, and others).*
- ***Exchange is one of America's strongest diplomatic assets.***
  - *Much anti-Americanism is based on misperceptions about American values and society. Exchange dispels stereotypes by initiating first-hand encounters with Americans and their families and institutions*
- ***Communication and trust fortify national security.***
  - *Exchange Programs broaden mutual respect and understanding, and advance productive cooperation in diplomacy, business and critical research. Hundreds of current or former world leaders and heads of state came to the US as a foreign student and thus contribute to better understanding.*
- ***International Students and Scholars help educate Americans.***
  - *They help increase understanding of critical cultures and help teach critical foreign languages on US campuses (such as Arabic, Korean, etc), part of the President's National Security Language Initiative, launched in December 2005.*
- ***They help internationalize US classrooms, campuses, and communities.***
  - *Less than 1% of all Americans get to study abroad. International students on US campuses allow US students to experience other cultures.*

Institute of International Education

INSTITUTE OF INTERNATIONAL EDUCATION

The Admissions Process

The U.S. higher education system, with over 4,000 accredited colleges and universities, is highly decentralized, and each institution establishes its own recruitment and admissions policies.

- ***U.S. Colleges Actively Recruit International Students***
  - ***Institutions invest significant resources in the recruitment of international students via a variety of mechanisms including traveling to key countries, using linkages with higher education institutions in other countries, using international alumni to interview international applicants, maintaining internet and email contact with prospective international students, and using alumni and traveling faculty to meet with prospective students and applicants.***
- **The admission review process is the same for both domestic and international students with the same admission requirements needing to be met.**
  - ***Institutions weigh the following criteria: Academic preparedness, Personal qualities and interpersonal skills, future potential and leadership and, in addition, international students need to demonstrate English proficiency, generally by submitting a TOEFL score.***

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Visa Review Process in Words

- ***DS-2019 Production***
  - Sponsor (US campus or other DoS-designated sponsor) collects and reviews:
    - Signed acceptance of award/admission
    - Copy of valid passport
    - dates of program
    - financial resources
- ***Entry visa interview***
  - F,M,J visa applicant pays SEVIS fee
  - Schedules interview at Consulate
  - Review DS-156 (Nonimmigrant Visa Application), DS-157 (Supplemental Nonimmigrant Visa Application) and DS-158 (Contact Information and Work History for Nonimmigrant Visa Application): http://foia.state.gov/FORMS/visa/ds0157.pdf
  - Interview to determine:
    - language proficiency
    - intent to return home
    - suitability of program

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Visa Review Process in Words

- ***Visa Processing***
  - Name is checked against several databases.
  - Assuming all is in order visa is processed.
  - Stamp is placed in passport.
  - May be used for entry to the U.S.
- ***Upon Arrival in the US***
  - Passport, Entry Visa and DS-2019 or I-20 are shown at Port of Entry to CBP.
  - CBP gives status to participant

    J-1 D/S or F-1 D/S

    Non-immigrant visa sponsor has 30 days to validate program participation and add the actual physical location address information in SEVIS
- ***Campus Monitoring***
  - Full-time enrollment each semester is required for F & M visas.
  - Full-time program participation is required for all exchange visitors.
  - Compliance is monitored by authorized personnel, Alternate Responsible Officers (ARO) or Designated School Official (DSO) and reported to SEVIS.
  - Changes in address are immediately reported.

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Struggles of International Students Coming to the US

International students coming to the United States face unique challenges that affect how they interact with others, including representatives of authority.

- ***International Students***
  - For many students, attending university in the US is their first trip outside of their home country, much less to the US. Therefore, they are not 'experienced' travelers in the ways and manners of security at our ports of entry at our borders.
  - For many students, this is the first time being away from their family and social support structure.
  - Many students are not fluent in speaking or reading English, therefore, they may be confused about what questions are being asked of them by the officers.
  - Many students' only knowledge of the US is what they have read in their home countries' papers or heard from others.
  - Many students come from areas where authority and/or authority figures are never questioned or talked to, even if trying to clarify a request/order.
  - There are many cultural and religious differences (i.e., Muslim women not allowed to talk to men outside of family members). These differences are compounded when combined with the other challenges international students face when coming to the US.
  - Some students may have medical needs that may or may not be overtly recognized. Again, combined with the other challenges international students face, this can create confusion and miscommunication.

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Conclusion

- *International Students are vital to the US, through their contributions to our economy, society, academia and research, and to US global competitiveness.*
- *We must ensure that international students continue to apply to and enroll in US colleges and universities, and that they feel welcome on US campuses.*

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Resources

Resources

Accredited Institutions in the US
www.ope.ed.gov/accreditation/
www.chea.org/search/

International Students in the United States
http://opendoors.iienetwork.org

State Department: Foreign Students Yesterday, World Leaders Today
http://exchanges.state.gov/education/educationusa/leaders.htm

US Department of State: Study in the USA
http://educationusa.state.gov

SEVIS: U.S. Immigration and Customs Enforcement
www.ice.gov/sevis/index.htm

BIOGRAPHY FOR ALLAN E. GOODMAN

Dr. Goodman is the sixth President of IIE, the leading not-for-profit organization in the field of international educational exchange and development training. IIE administers the Fulbright program, sponsored by the United States Department of State, and 200 other corporate, government and privately-sponsored programs.

Previously, he was Executive Dean of the School of Foreign Service and Professor at Georgetown University. He is the author of books on international affairs published by Harvard, Princeton and Yale University Presses and *Diversity in Governance,* published by the American Council on Education. Dr. Goodman also served as Presidential Briefing Coordinator for the Director of Central Intelligence and as Special Assistant to the Director of the National Foreign Assessment Center in the Carter Administration. He was the first American professor to lecture at the Foreign Affairs College of Beijing. Dr. Goodman also helped create the first U.S. academic exchange program with the Moscow Diplomatic Academy for the Association of Professional Schools of International Affairs and developed the diplomatic training program of the Foreign Ministry of Vietnam. Dr. Goodman has also served as a consultant to Ford Foundation, the Woodrow Wilson National Fellowship Foundation, the United States Information Agency, and IBM. He is a member of the Council on Foreign Relations. Dr. Goodman has a Ph.D. in Government from Harvard, an M.P.A. from the John F. Kennedy School of Government and a B.S. from Northwestern University. Dr. Goodman also holds an honorary doctorate from Toyota University. He has been awarded honorary doctor of laws from Mount Ida and Ramapo Colleges and an honorary Doctor of Humane Letters degree from the State University of New York to recognize his work in rescuing threatened scholars, and he has received awards from Georgetown, Johns Hopkins, and Tufts universities. Dr. Goodman was awarded the title "Chevalier" of the French Legion of Honour on April 23, 2007.

STATEMENT OF MS. CATHERYN COTTEN, DIRECTOR, INTERNATIONAL OFFICE, DUKE UNIVERSITY

Ms. COTTEN. Good afternoon, Chairman Baird, and Ranking Member Ehlers, and the Subcommittee Members. I really appreciate the opportunity to be here today and speak with you on behalf of Duke University, the American Council on Education, and the Association of American Universities.

Duke University Medical Center and Health System is a major teaching and research facility and a teaching hospital. We have approximately 1,800 international students, about 1,000 scholars, most of whom are involved in the sciences, although we do have our smattering of other areas as well. We use the F–1 visa, the J–1, the H–1B, the O–1, the TN, even the occasional R–1 theology person, to come to Duke and do research and study and teach.

We cannot speak for all of the universities in the U.S., but we can certainly say that our issues are similar to other issues of universities and research facilities around the country.

We have been asked to respond to three questions. We would refer you to our written testimony for the first two, and we will focus on the third, which has to do with the recommendations we would have for some changes that could be done now and that would not necessarily require statutory changes.

We have already spoken among this group about stateside visa extensions and how important that would be to our people. We cannot overemphasize the fear that people have in returning home or outside the U.S. to get a new visa stamp. The first experience is often a very difficult one. Even though it turns out fine in the end, it is very painful as far as the process goes, often requires travel from some distance to the local consular post. We have been very pleased with the advances that have been made in the last few years in giving F–1 and J–1 students the opportunity to have ear-

lier appointments, in giving consular officers the permission to give them the benefit of the doubt to come into the country in terms of their non-immigrant intent. We would like to look a little more at that area as well.

But once they arrive here, they are very frightened to go back. They are afraid that this time they won't get the visa stamp, and so the discussion that we have had among the panelists here regarding stateside processing is one that would be of tremendous help to all of our international students and scholars.

In addition, many of our researchers and our faculty, when they travel as part of the work that they do for us, need to travel short-term. They go to a conference that is a three-day or a four-day conference. They really can't afford to spend three weeks. Even though they get expedited processing, it could take two or three weeks to get a visa to come back. And so they are choosing not to go to these important conferences, not to represent our institutions at these important meetings because of the fear of either taking too long to get back or not being able to come back at all.

We know that stateside visa processing is possible. It has been done before, and we especially applaud the Department of State's efforts recently to waive the interviews for visa extensions and to go to the online filing system, which means that not only can you just print it out, but you can truly press a submit button and file on line and have information go where it needs to go.

With this kind of technology, there really is no point in forcing the body to be outside the country to get the visa stamp issued, and so we would encourage any efforts in the direction of stateside processing for visa extensions.

And in conjunction with that is the non-immigrant intent issue and that discussion. It is an important law, but it is an old one. Non-immigrant intent is the assumption that anyone applying is an intending immigrant, and they must prove otherwise. With our F–1 and J–1 students and scholars they have already shown that they are worthy of coming to the U.S., or they wouldn't be getting the documents that we have given them. They will have gone through security clearances before they get their visa stamps. It is very difficult for them, for any student coming into an undergraduate or graduate program to swear where they will be in the next three or four or five years. Our own domestic students don't know that. Certainly the international students don't.

And the issue of non-immigrant intent is one that we could deal with in terms of policy and looking at some bright-line areas to define. For example, have these people filed for immigrant visas, have they filed labor certs, has anyone done anything to get them green cards? If not, can we not simply assume, barring any other major indications, that they have non-immigrant intent? We could do that without changing the law, although we would not be adverse to some legislative changes as well.

Another area that has caused some difficulty among the educational community and the research community is the exchange visitor program professor and research scholar category. The J–1 Program is one of the finest examples of international exchange that this country has ever produced, and it has been going on for

over 50 years. We have brought many thousands of international students and scholars in and out of the U.S. on that program.

In particular, the professor and research scholar category is used by our educational institutions as the work-horse visa to move people in and out of the country and to move them around the country so that they can do all of the visiting lectures, the guest professorships, the collaborative research.

For reasons that we don't understand, the Exchange Visitor Program has given the professor researcher category a five-year limit, which we applaud, but only if that five years is continuous and uninterrupted. If we bring someone in to teach for one year, to do research for one year, then that person is barred from returning in the J category, professor researcher, for two years. If they come for three weeks, two days, four hours, and they come in the professor researcher category, and they end that activity and go home, they are barred for two years from returning, not just to our institution but to any educational institution in America.

We don't understand the philosophy behind this, and we would welcome the opportunity to have a more in-depth discussion of that particular characteristic of the J Program.

We would also like to talk about the F–1 student employment. We understand that Department of Homeland Security is considering giving F–1 students optional practical training, not for 12 months, which is true now, but for up to 29 months, and we would certainly encourage that, to give particularly our post-doctoral students the opportunity to work longer in the U.S. in their post-doctoral training after they graduate.

One of the difficulties, though, with the OPT is that it must be adjudicated by Homeland Security unlike the other student working options and the scholar working opinions which we manage on the campus. This one in particular requires an adjudication. It is something that we could handle on the campuses through SEVIS, through a reporting system. We are doing that now with numbers of other kinds of work authorizations, and we could do this as well.

We had students at Duke affected last year because of the July green card situation, which some of you may have heard of. Homeland Security got many hundreds of thousands of applications for green cards, and our students were filing their OPT work permissions after graduation or before graduation in anticipation of working for the summer. Those applications sat in storage facilities in Homeland Security for months. They were not only not adjudicated, they were not opened. The checks were not cashed. It was as if they did not exist. There is a regulation in Homeland Security that if they take more than 90 days to issue a work permission, a person should be able to walk into a local office and get interim work permission. Homeland Security announced that it had elected not to follow its regulation in that regard. We had numbers of students who lost jobs, who had filed months in advance. These were not students who waited until the last minute. They had filed properly, and they lost jobs because they could not say to an employer when they would be able to start, couldn't even track their application because it had never been opened and a number assigned to it to track.

So we would encourage Homeland Security to involve the educational programs and the institutions more, not in the adjudication of but merely approval of optional practical training.

Chairman BAIRD. Ms. Cotten, I am going to ask you to wrap up here. Your testimony is absolutely valuable and the comments I read are, I think, spot on, but we are, I want to make sure there is time for give and take here.

Ms. COTTEN. I will be happy to close there. Thank you, sir.

[The prepared statement of Ms. Cotten follows:]

PREPARED STATEMENT OF CATHERYN COTTEN

Good Afternoon, Chairman Baird, Ranking Member Ehlers, and Subcommittee Members. My name is Catheryn Cotten and I am Director of the International Office for both Duke University and Duke Medical Center and Health System. I appreciate the opportunity to provide testimony today on behalf of Duke, the American Council on Education and the Association of American Universities.

Before I begin my formal remarks, I would like to say a few words about Duke University and its medical and health enterprises. Duke University, Medical Center, and Health System comprise a major teaching and research university and teaching hospital. We grant undergraduate, graduate, and professional degrees and offer a multitude of organized, formal, and informal educational opportunities. Many of these lead to certification or other professional or vocational recognition. We operate one of the Nation's leading medical research facilities and teaching hospitals. Our university and medical facilities host numerous international students, scholars, patients, and visitors as a normal part of our daily operations.

We work cooperatively with both government research facilities and the research and development branches of businesses involved in science, medicine, technology, engineering, computing, mathematics, social sciences, and humanities. These relationships allow us to offer a broad range of experiences and opportunities to international faculty, research scholars, students, and international visitors. We have approximately 1,800 international students, most in F–1 or J–1 student status, who may file for student-connected work permission or other benefits.

We use the J–1 Exchange Visitor Program and H–1B, O–1, and TN, to sponsor approximately 1,000 international faculty, research scholars, and persons with specialized knowledge and skills to teach, conduct research and share their expertise.

We appreciate the opportunity to offer testimony. While we cannot speak for all educational institutions, we know that other colleges, universities, and research institutions share similar issues and concerns regarding opportunities for international students and scholars.

We have been asked to respond to three questions:

1. How do foreign students and scholars contribute to the science and engineering enterprise at your university?

Statistical reports abound regarding the numbers and percentages of international students and scholars in our nation's educational institutions and research facilities and the contributions that they make. Of the 2,800 international students and scholars at Duke, most are in science, technology, engineering, and mathematics fields.

Duke is committed to interdisciplinary education and research to maximize and multiply the effective development of new technologies. Examples of such integration include: environmental science, resource management, environmental law, and public policy; computer applications in genomics or cardiology and related health statistics and demographics; biomedical engineering and new therapy developments leading to targeted drug delivery systems or quicker transitions of new therapies from "bench to bedside."

The very best U.S. and international students and scholars compete for admission to our degree programs and acceptance into our research projects. They bring not only superior knowledge, skills, and abilities, as do their U.S. colleagues, but they also offer new perspectives on ways of using disparate technologies to solve problems and identify new avenues of research.

2. How have visa delays or denials affected the ability of your university to recruit and retain top science and engineering students from abroad? How have they affected your ability to attract scholars for short-term appointments and research collaborations? To what extent has this proc-

ess improved in the last few years? What difficulties remain? Did the significant problems for foreign students and scholars in the early years after 9/11 lead to long-term consequences for your university?

We cannot know all that we have lost, the successes that might have been. How many excellent students or scholars, hearing the visa application horror stories from cousins, colleagues, and classmates, made the decision not to attempt to come to the U.S.? How many, while waiting to get a U.S. visa, gave up and took their second or third choice offer in another country?

In the years immediately after 9/11, the U.S. created barriers for students and scholars that only the most dedicated schools, students, and scholars were able to cross. We had to defer admission for students who could not arrive on time, and we lost some students completely as they saw themselves falling behind their colleagues professionally because of visa delays or denials. Research projects were delayed or harmed because key researchers could not arrive on time or could not come at all. Much remains to be done, but in recent years we have seen improvements:

- THEN mandatory interviews and wait times for visas at embassies and consulates caused serious delays. NOW the Department of State (DOS) policy of priority interviews for F–1 students and J–1 students and scholars sends a positive message and produces positive results. We are pleased and proud to be able to tell our students and scholars that our university wants them, that the U.S. wants them, and that the DOS, their "first contact point," is showing that in meaningful ways.
- THEN security background checks delayed people for many months, often with no avenues for resolution and "no end in sight" for the review period. NOW the process has become more regularized, communications among the various agencies has improved, processing times have become shorter and more predictable, and DOS has developed processes for investigating and resolving most serious delays. Even so, we still must wait at least three months before inquiring about a security check that seems to be stuck in the system.
- THEN the Student and Exchange Visitor Information System (SEVIS) was developed in haste after 9/11, ignoring or omitting many of the positive operational elements that had been planned for a more organized roll out. The system was rigid and did not reflect the regulations under which schools and exchange programs were required to operate. The nascent database and data sharing capabilities created delays and confusion, produced false or conflicting data, resulted in denials of proper benefits, and visited hardships on our students and scholars. NOW the Department of Homeland Security (DHS) is and has been working diligently with the educational community to add and upgrade SEVIS functionality. Unfortunately, we still find that in certain areas the software conflicts with the regulations, that students and scholars have benefits delayed or denied, and that data fails to move swiftly or accurately among databases. On the positive side, the information in the current version of SEVIS seems to be more available to DOS consular officers and DHS port officers. Those officers seem more confident about relying on the information in SEVIS to admit students and scholars into the U.S. But we still see a lag in functionality in SEVIS for the J–1 program. We understand that DHS is planning a total revision of SEVIS. We welcome that endeavor and hope to be an active and involved part of the process.

3. Do you have recommendations for changes or improvements to current policies that would further improve the flow of students and scholars without compromising national security? How do you communicate your concerns and recommendations to the relevant federal agencies and how responsive are the agencies?

Reviewing the past and present informs us. But moving toward future improvements with a willingness to think differently empowers us to bring the best of the best to the U.S. and to build the strong and lasting international relationships that contribute fundamentally to our national security. In response to this question, we have identified areas that continue to frustrate international exchange and offer different ways of addressing issues of concern. We have placed the most important items first in each section.

STATESIDE VISA EXTENSION OR ISSUANCE

Having to apply for visas abroad, lengthy security clearances, and the fear of rejection or delays prevent critical and important exchanges. Individuals are afraid to attend meetings or conferences or to visit family at home. A few years ago, a Duke

Ph.D. student went home to pick up her parents so they could attend her graduation. When she tried to return to the U.S., she was denied the student visa she needed to return and defend her dissertation and graduate. Also, a Duke researcher who attended a conference overseas was "trapped" outside the U.S. for months waiting for a security clearance.

The recent DHS regulations regarding the *REAL ID Act* create additional problems by making one of the documents used to establish identity an "unexpired foreign passport with a valid, unexpired U.S. visa affixed accompanied by the approved I–94 form documenting the applicant's most recent admittance into the United States." A review of the other documents that could be used to show identity indicate that, in most cases, our international students and scholars would not have access to alternate documents and would be forced to use the passport with a valid visa stamp. Coordinating travel to get visa stamps, which can only be obtained abroad, against driver's license, passport, and I–94 expirations (all with possible different dates) will become a travel and consular post nightmare.

Policy/Practice Solutions—What could be done now

The most useful change would be allowing stateside visa applications, security clearances, and granting of visas before people leave the U.S. DHS and DOS have the authority to make stateside processing possible. Indeed, stateside processing used to be available for the H–1B visas. Our students and scholars would be willing to pay appropriate fees to make this service available. An individual who needs to attend a four-day meeting abroad would not have to spend an extra three weeks outside the U.S. to get a visa stamp and worry for those three weeks that it might not be granted.

With the availability of e-communications among U.S. departments, agencies, law enforcement, and security entities, there is no reason to force consular posts to process visa extensions rather than providing that service stateside.

In addition, to the extent possible under the law, the Federal Government should provide long-term visa stamps to students and scholars so they are not forced to apply for new or extended visa stamps so often. Such changes made to the F and J visas a few years ago have been very useful. We need to build on that success.

NON–IMMIGRANT INTENT

F and J status require "non-immigrant intent" or proof of intention to return home. The inability to show non-immigrant intent is one of the most common reasons for visa delay or denial for F and J students and scholars. Determination of intent requires consular officials to engage in a kind of psychic mind reading. They must speculate on the intent of the applicant and make a visa decision in part on that speculation. Although DOS instructions in recent years have allowed consular officers to give these students and scholars the "benefit of the doubt," the unpredictability of this determination makes students and scholars afraid to travel. If and when they receive the first visa stamp and arrive in the U.S., their memories of the worries and uncertainty of that process stay with them. Students may remain in the U.S. for years, fearing that if they try to visit their families they will not be able to return to the U.S. Scholars hesitate to attend important international meetings and conferences, fearing they will be stuck outside the U.S. for months or indefinitely. (Please see Appendix 1 for further discussion of this point.)

Policy/Practice Solution—What could be done now

In order to alleviate this uncertainty for international students and scholars, DOS could simply interpret immigrant intent differently for F and J visas. Rather than asking consular officers to "guess" at intent, DOS should set a simple standard. If F or J applicants have not had labor certification or immigration petitions filed on their behalf and have not filed an application for lawful permanent resident status, that should be considered evidence of non-immigrant intent.

Some may argue that the "exchange" nature of the J Exchange Visitor Program assumes and requires a strong intent to return to the home country, and thus should be held to a strict standard. Again, if a person has taken no formal, legal action toward legal permanent residency status, that person has shown no immigrant intent. We should also rethink the 20th century ideas of exchange in the 21st century. When information can be shared globally and instantly electronically, J exchange visitors may be more effective in sharing and carrying out the purposes of the Exchange Visitor Program based on their access to communications rather than their presence in a specified geographic location.

Statutory Solution

Remove the non-immigrant intent language from the F visa, and possibly from the J visa. The F change has been discussed for years.

ELIMINATE THE J–1 PROFESSOR–RESEARCHER CATEGORY "BARS"

The DOS J–1 Exchange Visitor Program (EVP) has convoluted regulations on "bars" to participation in the Professor/Research Scholar (PRS) category that wreak havoc on teaching and research. For colleges and universities, this is the most serious issue in the Exchange Visitor Program. In brief, the PRS category has a five-year participation limit *if* the person participates in the program continuously for five years. However, if we bring a researcher to the U.S. in the PRS category for a few months and that person returns to the home university to continue collaborative research, he or she is barred for two years from returning to the U.S. in the PRS category. (There is another six-month/12-month bar operating within and around the two-year bar, but that is more detail than is necessary for this discussion.)

The bars completely disrupt critical collaborative research and academic exchange. Important senior scholars or young and innovative researchers might come to one university for a period of time, but could not return later to another university until two years have passed. Officials with the DOS Exchange Visitor Program explain this bar as protecting the integrity of the EVP by preventing "repeat" visitors, which they seem to see as an abuse of the program. Repeat visits, ongoing exchanges, and a free flow of talent is exactly what we need. EVP officials also have argued that a professor should not be permitted to teach a senior level course during one semester each year as a J–1 exchange visitor. Instead, they say, the university should invite a different person to teach that course each year, thus increasing the number of people who can participate in exchange. Such a philosophy ignores the basic concepts of academic teaching and research and educational exchange. The number of people at the top of the field in any discipline is limited. Professors cannot be used as "interchangeable parts" in senior level courses and research. Equally important, having them engage in intermittent exchange generates and multiplies exchange opportunities for others. By building strong ongoing relationships, we create conduits for young students and scholars, both U.S. and international, to travel between and among institutions globally.

Policy/Practice Solution—What could be done now

DOS could simply change its regulations to remove the "six-/12-month" and "two-year" bars. These bars are entirely a construct of the DOS–EVP, which could be changed easily. The higher education community has advocated strongly for such changes, but DOS–EVP officials appear to believe that our arguments lack sufficient merit or show a misunderstanding of the role of professors and research scholars in the Exchange Visitor Program.

NEW HIGHER EDUCATION NON–IMMIGRANT CLASSIFICATION

Currently there is no non-immigrant classification that meets the special needs of higher education and research institutions. Teaching and research activities are funded from multiple sources, have varying duration, may or may not involve employment, and often involve multiple sites. Teachers and researchers need quick and easy ways to navigate these opportunities and to travel globally. The H–1B, while useful and valuable to academe, is fundamentally an employment classification controlled by a cumbersome petition process through DHS. It does not permit multiple funding sources (private or public grants, home country, home employer, etc.). The J–1 provides useful flexibility, but, as described above, DOS has made the J–1 very difficult to use and requires non-immigrant intent. This makes travel unreliable and risky.

Legislative Solution

Create a new non-immigrant classification with the following characteristics:

- Is managed in SEVIS directly by the college, university, or research facility, as is the J currently. Institutions would be responsible for proper management. This change would bring personal and study/research data into the SEVIS database, thus contributing to national security and making valuable information available to the government in a form that could be easily "mined."
- Does not require non-immigrant intent. As already mentioned, non-immigrant intent hampers our ability to conduct research globally. We need to remove, not create, barriers to travel.

- Can be funded from multiple sources without requiring a "prevailing wage" or "required wage" only from the U.S. employer. We do not suggest that these faculty and researchers should not have adequate funding, but rather that they be permitted to receive support from usual academic sources and at usual academic rates.
- Does allow individuals to participate in various academic activities with other institutions or organizations with or without reimbursement of expenses or payment of honoraria or other compensation. Professors and researchers will often be asked to lecture or consult at other institutions or may be offered the opportunity to write book chapters, edit books, etc., for a fee. The host institution should be able to authorize such activities as part of and appropriate to usual academic appointments.
- Does permit long-term (five–10 years), continuous, intermittent, or sporadic use without "bars" or similar penalties. While the specific limits may require further discussion, a restructured SEVIS should enable educational institutions to manage participation through notices and updates in SEVIS, rather than through lengthy petitions through DHS.

GENERAL WORK PERMISSION AND EXTENDED OPTIONAL PRACTICAL TRAINING FOR F–1 STUDENTS

F–1 and J–1 students are permitted variations in work permission that have special rules and restrictions as to location (on or off campus), hours (usually 20 hours per week during school and full-time during vacations), and purpose (usually must be related to field of study or for severe economic hardship).

Students need generalized work permission to participate in the many service and enhancement opportunities that schools and businesses make available to them. For example, Duke Engage (see Appendix 2) provides opportunities for students to volunteer their services in communities or engage in research or enrichment in the U.S. and abroad. The inability to "work" causes unexpected problems. Example: An international student volunteers to teach during a summer science enrichment program for junior high school students. All volunteers are given housing and a small stipend of $1,000 to offset living expenses. All volunteers must go into the host school's employee system to receive the housing and stipend and for insurance and liability purposes. The student and school must complete an I–9, which the international student cannot do, as he/she does not have work permission. The valuable resource of this international student's talent and love for science is lost to young U.S. citizens because this student cannot "work" in the U.S.

F–1 students also need more Optional Practical Training (OPT) time *and* they need for that time to be made available in usable increments. A student can use OPT time either during the educational program or after graduation. Motivated students who wish to undertake experiential learning and research opportunities during their summer vacations can use up most or all of their OPT, leaving little or no OPT time after graduation. In addition, the current OPT adjudication mechanisms at DHS can *waste* valuable OPT time by requiring that OPT be used in large chunks or by making it impossible to end permission and reclaim unused time.

In 2007, DHS took far more than 90 days to adjudicate summer OPT requests. DHS is required by its own regulations to grant immediate interim work permission if it takes longer than 90 days to adjudicate an application. DHS refused to follow its own regulation, thus causing students to lose jobs because they could not report to work on time.

Policy/Practice Solution—What could be done now

Give F–1 and J–1 students *general* work permission for 20 hours per week while school is in session and full-time during breaks and vacations. SEVIS provides a way to control and manage such permission through its reporting mechanisms. As they do now with Curricular Practical Training (CPT), schools could authorize and report other work and issue documents that employers could use to verify employment authorization.

Lengthen the period of OPT and make it easier to manage. DHS is already working on revising the OPT rules to lengthen the period of OPT from 12 to 29 months. We applaud and strongly encourage this change.

We also recommend that the OPT no longer be an adjudication action, but rather an authorization by the school official properly reported through SEVIS. Again, the mechanism already exists to do this for CPT. SEVIS could easily incorporate OPT into this process. Handling the OPT through SEVIS reporting would also provide more direct and accurate information on the work in which students are engaged, thus improving database information. We understand that DHS may depend upon

the additional income currently generated by the OPT adjudications (Form I–765) to cover other non-OPT costs. This balancing of income against quality and speed of service needs closer review.

WORK PERMISSION OPTION FOR F–2 DEPENDENTS

DHS should amend its regulations to allow F–2 dependents to apply for and receive general work permission, as is now the case for the J–2. Allowing dependents to work not only provides useful additional income, but also provides a much greater benefit in giving the F–1 student and his/her family fuller participation in and understanding of the American way of life.

Thank you Chairman Baird, Ranking Member Ehlers, and Members of the Subcommittee for this opportunity to testify and share some of my experiences in shepherding international students and scholars through the visa process. I appreciate your interest in this important issue and welcome the opportunity to answer any of your questions.

APPENDIX 1

The announcement below shows the commitment of U.S. Duke Alumni and of Duke University to the global exchange of students and scholars that is essential to America's continued success. [*Please see comments (in italics) pertinent to the issues before this committee.*]

Bruce and Martha Karsh to Give $20 Million to Support International Students

The gift is the Karshes' second in three years to support financial aid, bringing their total support for Duke students to $32 million.

Wednesday, January 30, 2008

DURHAM, NC—Duke University trustee Bruce Karsh and his wife, Martha, will give the school $20 million in permanent endowment to support undergraduate students from other countries, President Richard H. Brodhead announced Wednesday. This gift, which includes $15 million for financial aid, is the largest donation devoted to the needs of international undergraduates in Duke's history.

The gift is the second from the Karshes to support financial aid in the past three years. In 2005, they committed $12 million principally to support Duke's need-based financial aid endowment for domestic undergraduate students, bringing their total support for students to $32 million.

"The Karshes understand the importance of a robust financial aid program and the advantages to all Duke students if the best in the world are among them," Brodhead said. "In the past, while we have had some aid for international undergraduates, we have been open mainly to those who could afford Duke. We will now be able to admit many more who require financial aid, enriching our community and advancing Duke's global connectivity."

Most of the gift, $15 million, will be used to establish an endowment that provides need-based scholarship grants to international undergraduates. Officials said the gift will enable Duke to bring the number of aided international undergraduates on campus to around 90. Currently, 416 international students are enrolled in Duke's two undergraduate schools, the Trinity College of Arts and Sciences and the Pratt School of Engineering.

The balance of the gift will be used to enhance the experience of international students who receive aid. Half of this, $2.5 million, will establish an endowment to provide enhanced benefits to all aided international undergraduates, including financial assistance for travel home and an expanded orientation program when they arrive on campus.

[Committee Testimony Note: Having money to go home makes it financial possible, but if these students are afraid that they cannot get a visa to come back, they may choose not to go home. Both stateside processing of visa extensions and a rethinking of non-immigrant intent are needed to make these students feel secure enough to travel.]

The final $2.5 million will establish an endowment to support the Karsh International Scholars Program. This new program will provide a select group of aided international students with funding for three summers of research or research-service opportunities in Durham, throughout the U.S. or abroad, including in their home countries. The program is expected to support summer stipends for about 20 such scholars who will be selected through a competitive process.

[Committee Testimony Note: While the stipend may come from Duke, the kinds of activities may require that students go on "payroll" (perhaps at zero rate) for other purposes such as insurance at the summer venue. Such students would have to be employable ("I–9able") even if they were receiving no direct payment. Further, students who are afraid that they cannot get visas will be reluctant or unable to participate in programs abroad.]

"We expect the Karsh International Scholars Program to draw some of the most accomplished international students in the world to Duke," Brodhead said.

Duke is one of a limited number of schools with a "need-blind" admissions policy, which means that all U.S. applicants are accepted regardless of their ability to pay for college. Duke guarantees it will meet 100 percent of demonstrated financial need. Financial aid packages combine grants, loans and work-study opportunities after assessing what parents and students can reasonably contribute. More than 40 percent of Duke's undergraduates receive financial aid to attend the university. In December, Duke announced significant enhancements to its financial aid program

to provide access to a Duke education for lower and middle income families. (See *http://news.duke.edu/2007/12/financialaid.html/*)

In his 2004 inaugural address, Brodhead identified increasing Duke's endowment for financial aid as one of his top priorities. In 2005, he announced a three-year campaign, the Financial Aid Initiative, with a goal of raising $300 million in endowment by Dec. 31, 2008. (See *http://news.duke.edu/2005/12/financialaid.html*) With $15 million of the Karshes' gift directed to financial aid endowment, the effort to date has raised $260 million, more than 85 percent of the goal.

"We heartily endorse Duke's commitment to a 'need-blind' policy for domestic students, as well as its effort to increase assistance to talented students from around the world," said Bruce Karsh, a 1977 Duke graduate. "In making this gift, Martha and I seek to enhance intellectual diversity at Duke and offer the world's best and brightest students, regardless of financial circumstances, the opportunity to study at one of this nation's top universities. In addition, we hope to foster cross-cultural alliances and friendships that will both promote the power of education and encourage goodwill toward Duke and the United States throughout the world."

Bruce Karsh is President of Oaktree Capital Management, LLC in Los Angeles. He chairs the Board of Directors of Duke Management Company, which is responsible for managing Duke's endowment, and is a member of the Duke Board of Trustees' Executive Committee.

John F. Burness
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APPENDIX 2

Following is a sampling of items selected from the Duke web site. Note the science and technology components and the global nature of the study and research. Visits to the web sites of other major teaching and research institutions would show similar global involvement.

http://www.international.duke.edu/

Highlights of Duke Internationalization

- Duke undergraduates *study abroad* at the highest rate of participation (48 percent) of any of the top ten private research universities.
- Duke offers instruction in 25 *foreign languages*
- The Duke Class of 2011 is 9.4 percent *international*
- Duke offers an undergraduate major in *International Comparative Studies*
- The *DukeEngage* program offers every student a civic engagement opportunity somewhere in the world
- Duke has five federally-funded *Title VI Centers* for Foreign Language and Area Studies
- Duke has a federally-funded Title VI Center for *International Business Education and Research*
- Duke has a *Global Health Institute* involving all its schools
- Duke has over 300 *partnerships* with international institutions
- Duke has a world-wide network of over 40 international *alumni clubs*

International News

- **Following the Law on Export Controls**
  published on Wed., 30 Jan. 2008 17:08:00–0500
  New office helps faculty, staff navigate federal rules
- **Dressy Top and Jeans Make for a Ball Supporting Women's Health in Africa**
  published on Wed., 30 Jan. 2008 15:45:00–0500
  Duke to hold first Blue Jean Ball Feb. 16
- **New Rules for the Road**
  published on Wed., 30 Jan. 2008 15:20:00–0500
  New policy improves opportunities for international study
- **Bruce and Martha Karsh to Give $20 Million to Support International Students**
  published on Wed., 30 Jan. 2008 13:06:00–0500
  The gift is the Karshes' second in three years to support financial aid, bringing their total support for Duke students to $32 million.
- **President Addresses Duke Community on Death of Graduate Student**
  published on Mon., 21 Jan. 2008 21:35:00–0500
  Open forum to be held Jan. 23 in CIEMAS
- **Duke Receives Largest Number of Applications in School History**
  published on Wed., 16 Jan. 2008 16:03:00–0500
  Duke's new financial aid policies may have encouraged more students to apply, said Dean of Undergraduate Admissions Christoph Guttentag

http://dukeengage.duke.edu/

About DukeEngage

The DukeEngage program provides funding for Duke undergraduates who wish to pursue an intensive civic engagement experience anywhere in the world. Through DukeEngage, students apply what they have learned in the classroom to address societal issues at home or abroad. Not only do students tackle real-world problems, but they develop the valuable skills and self-knowledge that evolve from spending time in an immersive service experience.

The Duke Endowment and the Bill & Melinda Gates Foundation each contributed $15 million to start an endowment that will enable a significant portion of Duke's student body to serve locally, nationally and internationally through DukeEngage. Through their service, Duke students and the communities they touch will be transformed.

Any Duke undergraduate who has completed at least two semesters of classes is eligible for participation. Duke will cover expenses (travel and living) associated with the immersive experience. For students on need-based financial aid, Duke will also assume responsibility for the "summer earnings" requirement.

Students can serve in one of three ways:

- by participating in a Duke-sponsored or organized program;
- by participating in a program that Duke coordinates with an outside provider of student internships or volunteer work in the U.S. and/or abroad;
- by submitting a funding proposal for a unique internship experience of a student's own creation

In the summer of 2007, nearly 90 Duke students participated in the DukeEngage pilot program, serving in Durham (NC), New Orleans, India, Kenya, Tanzania, Yemen, Ukraine, Costa Rica, South Africa and other locations across the globe.

[*Committee Testimony Note: The domestic work and volunteer services raise the "employment" issues already mentioned. The international travel opportunities raise the stateside visa extension and non-immigrant intent issues already mentioned.*]

DISCUSSION

Chairman BAIRD. All right. Great. Thank you for very, very excellent presentations on all parts.

I am cognizant that I should address the issue. We extended an invitation to DHS to participate, and apparently they were unable to, their witnesses, the people who would most likely have been participating today on a panel, were unavailable. Dr. Ehlers and I were just chatting about the need to bring them in at some point, not necessarily even in a formal setting such as this, but perhaps some integrated effort between DHS and ICE and State and others to address these issues. Because I am not sure the coordination there is what it needs to be. Dr. Goodman, you certainly look like a suspicious and dangerous individual, so I can perfectly understand why they shook you down the way they did, but, I mean, somebody else, a more upstanding individual shouldn't have to undergo what you did.

I actually know of a state legislator who was threatened with being sent to Guantanamo, and so that is not just scholars, but the point you made about scholars, the impression that gains, and this is your first impression. You come here with great enthusiasm and energy and excited, and you have worked your whole life, and as many of you know, the conditions under which some of the folks who work their way to come to the United States, the opportunities that they had to just carve out of scratch sometimes to get where they got, to come here, and then the shining city on the hill, the

first impression is we don't even want you here, pal, is not particularly welcoming.

So we intend to follow up on that, and the point was well taken, and your personal example was, is quite valuable.

I am also cognizant that I don't want this, Mr. Edson, to be a kind of an, okay. These folks say this. Why don't you do that. It would easy to devolve into that, but what I, let me summarize the things that really stand out for me that were consistent across the testimony, and if you want to comment on that, that is fine. I think what I might want to do is ask, say at some point let us try to have a meeting with State and figure out what we can do about some of these. Because these are things that I have, I was academic before being in this job, and I certainly saw it, and I travel a bunch and have and periodically as Vern and many members do, we get notices from our constituents, please help this person get into this conference and maybe we get on the phone, and it becomes tedious.

I should mention we have been joined by Dr. Bartlett from Maryland as well. Roscoe, I am sorry I didn't catch you there earlier.

These are some of the things that seem to be, to me, common sense, not particularly dangerous to our country by any means and imminently doable. And let me just list some of these that I heard, either heard or read.

The issue repeatedly mentioned of the local, domestic extension of the visas makes an awful lot of sense to me, and I, maybe there are reasons to not do that, but it certainly, if there are such reasons, they elude me.

A second one has to do with this exchange visitor program and the two-year bar. Just the nature of, we want to promote international travel, international exchange, and to say to somebody, we want you to collaborate with U.S. scientists and your home scientists, your home institution, but by golly, if you go back there to even see if your lab is collecting dust, don't expect to come back into the U.S. for two years really is a bar. It is a bar to effective research, especially since increasingly our research enterprise is an international, global operation. It may be a flat Earth, but apparently you can fall off of it if you leave the country, our country for a little bit. And that shouldn't be the case.

So I understand from my reading that the intent is to make sure that there is an allowance for new blood, so to speak, to come into the exchange visitor program, but it is not like the academics or scholars are interchangeable. You don't just plug and play. Okay. So we got one scholar here. Here. She is gone. Here is another one. This person may happen to be one of the world's experts in visual system or in cancer or in neutrino discovery or whatever. We need them to be able to go back and forth.

So I really for the life of me don't see why that exists and why we can't fix it, and my understanding, I think, is that that could be an administrative fix rather than statutory. If it requires statutory, let us know.

The, another thing that I know is a real challenge for international scholars is this issue of work. We, I am, I quite literally wrote the book on internships in the social sciences, and I believe that getting people out of the classroom, into a work environment is conducive to our economic enterprise but also there is just no

substitute for being in a business and getting your hands dirty and doing stuff. And time and time again we see international scholars stymied because they are not allowed to work. Well, we are not talking about taking jobs from Americans here. We are talking about maybe a post-doc in neuro-biology going into a clinic and doing some work that is synergistic. They are getting the hands-on skill, and the clinic is getting their services. So adjusting that work issue really ought to be something we explore.

And the same is true actually, not just at the post-doc or doctorate level, it is also true for many of our undergraduates who I think could perform quite well and benefit from it.

Finally, I understand the immigration intent challenge, but my understanding of the literature on lie detection devices is that it is not particularly sound, and we are asking for a more primitive assessment. I was tempted to ask Ms. Cotten if she intends to steal the water bottle from the dais there or not and to prove to me that she had no such intent. And what evidentiary basis she would use to prove that she has no intent to steal the water bottle would be perhaps a fair analogy for what some of these folks face.

So those are the things that strike me, and I know there are others as well, but I will give you a chance to just address any of those you want, Mr. Edson, and then, but, again, don't feel like you have to solve them all. You are not in a position to do that, and I don't want it to just all be, if you could, though, this would be on successful hearing. We would put a letter on the calendar.

Mr. EDSON. Thank you for that tremendous opportunity to solve the problems of the world.

If the Committee has time, a meeting to discuss particularly the J–1 and the work issues with our colleagues from ECA, the Educational and Cultural Programs, and from DHS, that would be very valuable I think, because that is beyond what the Bureau of Consular Affairs does.

On the stateside revalidation, that is an issue we have looked at very carefully, and for a long time. We actually never did students in the United States. For several years business people in certain categories, skilled workers in the H–1B Program were able to extend their visas in the United States. After 9/11 when the statutory requirement for biometric collection was imposed, that happened at the same time when our own Inspector General had directed us to close the program due to concerns about fraud and our inability to effectively fight fraud, perhaps oversimplifying a little bit, but I think part of the concern was when an applicant is submitting an application like that, you have no chance to call them in for interview, so you have to tell them to go abroad to complete the application. That immediately tips them off that there is a problem, and they will just stay in the United States and never actually complete the application.

So working around that was something that we and our Inspector General were both concerned about. We did stop the program in July or August of 2004, I believe, and have discussed it quite a bit with the business community, since that was what preexisted, extensions of it, and continue those discussions now. We still have the same security concerns. We have more flexibility in biometrics now that we are collecting ten prints and collecting them in a way

that enables us to, we use the word recycle internally, but that is not quite right. But it enables us to attach one set of prints to multiple applications from the same applicant. And so use that data more intelligently I think for the future.

It is an issue of ongoing discussion and interest I think on all sides, and we would welcome continued discussion.

Most of the non-immigrant visas that are denied, around the world, they are denied under 214(b), because the applicant appears to be an intending immigrant. The refusal rate has actually declined ever so slightly since 9/11, particularly for students. It had declined a little more for students than it declined for the rest of the world. About 80 percent of students are approved for visas now, and the rate is, because of the way our data is collected, it is, this is anecdotal, but the rate certainly seems to be much higher for students in graduate and post-graduate areas, students and scholars.

We have been concerned about bright-line tests for the opposite reason than was discussed before. We were concerned that we might deny an opportunity for an applicant to come to the United States who doesn't meet some fairly standard-looking test. I mean, every day we are going to issue visas to fairly poor, young, single people who have never been out of their country of nationality before. That is sort of a tourist visa example, but that happens every day, and we are cognizant of the need to structure whatever guidance we provide on 214(b), so it is not only in keeping with the statutory framework but doesn't create additional problems.

It is a screen for non, again, I am stumbling with phrases here, but perhaps what you might call non-serious students. It would not be right to assume that we are not making proper visa decisions most of the time. I think we are, there are a number of students who come in to see us and have no clue what they will be studying, don't speak English, even though the I–20 may indicate that they did, and those sorts of students are being screened out with the 214(b). There is a value in that part of the law that we would have to look to replacing somehow and requiring additional enforcement actions by ICE or something. But it is a relatively inexpensive and hard to explain but easy to implement tool for that purpose, if that is the continued will of Congress.

Chairman BAIRD. Thank you. Dr. Ehlers.

Mr. EHLERS. Thank you, Mr. Chairman.

It is really kind of amusing but also sad. Some years ago I spent a year in research program in Germany, and since I was going to be there more than a year, I had to go down to the oustlander omst, which is a foreign office, and register and so forth. And I sat there, and I, well, I waited in line for about two hours to get a form to fill out. Then after that I had to go back to the line to hand in the form.

And so I spent four hours. When I got back to the institute where I was, my German colleagues were absolutely horrified that I had been subjected to this. They asked, why didn't you tell them you were a professor? I said, well, in America it doesn't make any difference. And they said, well, in Germany it does.

But at any rate, after going through that very, very bureaucratic process, incredibly bureaucratic, I thought, good grief, thank good-

ness for the good old U.S.A. where we don't have that sort of thing. And now we find the tables reversed. We have gotten as bad, if not worse than many other countries.

And I think part of it in dealing with this issue and that is why I think the idea proposed that we have a get together informally, it is a three-headed monster. It is State, it is Department of Homeland Security, and Citizenship and Immigration Services, CIS.

I do have to say, Mr. Edson, you are probably the least bad in this situation. Well, that is intended as a compliment. The others need even more work than you do.

One concern I have, and I have visited a number of foreign embassies, I have talked to consular officials. They have a horrible task to try to decide who should go in, who should not. But I think there are some problems there. A case that we are working on now, this was a religious music conference in my home city at the headquarters of a denomination which is in my city. And quite a number of foreigners were not allowed. In fact, in one case some 15 of them who were active in the music service of their particular churches took a train a considerable distance to get to the consular offices and watched the consular official not even open their applications or their portfolios. Just went right down the line, stamped, no, no, no, no, no on all of them and sent them on their way and never, they never had a chance to speak. Their portfolios weren't opened. And that is unacceptable behavior.

The other, the one thing that has really bothered me over the years is the impossible appeal process of people who are denied. Frequently in a situation, people obviously call us and say, can you help? We also tell them, well, some things we can do, some we can't, but a consular official, I would think that a letter from a member of Congress who personally knows the people organizing the conference and has asked them about the people coming and was there any possibility that they would be inappropriate, and we sent a letter to the consular official. And still he ignored it. And the review, there is no review. It is the same official who denied it is the one who reviewed it.

There is something wrong with that process. There has to be a reasonable appeal process, and I don't mean just for members of Congress, but I mean for anyone who wants to appeal it and go to someone else.

And I really think you have to re-examine that. The purpose, your purpose is not to keep people out. Your purpose is to welcome the good people and keep the bad people out, and I think too, far too many good people are prevented from coming here for perfectly legitimate reasons, whether academic or otherwise.

So I urge you to really re-examine that carefully. Maybe you need more consular officials. I know they are overworked. I talked to one once and asked could she specifically say what her job was, and she said, I say, no, all day long. When she gets to work in the morning, there is a line stretching about a block long, people trying to get in to see her, and she has to process all those people all day long. And it is very difficult. You may need some more people on that as well.

The one thing I do want to commend the State Department on, by the way, is the way you handled the passport crisis last year,

which has nothing to do with this, but we had one person in our office working full time, constantly, every day with the people who came to us because they were waiting for their passport, they had paid for their cruise, et cetera. And your Department did yeoman work in trying to accommodate people. I can remember only a couple who could not take the trip because it didn't arrive in time. Many of them had heart attacks waiting for it because it usually arrived two days ahead of time. But you did yeoman work in that, and something that was imposed on you from the outset by the Congress and just took your time to catch up with it. So I do appreciate what the State Department did on that.

With that, Mr. Chairman, I will pass.

Chairman BAIRD. Thank you, Dr. Ehlers.

Mr. Carnahan.

Mr. CARNAHAN. Thank you. I want to commend the Chairman and Ranking Member for really bringing this before the Subcommittee. It really is essential, I think, to get the best and the brightest minds here, no matter where they are coming from. We should be a brain magnet to help keep us on the cutting edge of science and innovation. You know, that is greatly in our country's interest, and the collaborative value of our scientists traveling to other parts of the world and scientists from other parts of the world coming here is just invaluable.

And I would echo the comments that were made earlier about the value of those foreign visitors. Time and time again we see foreign leaders, whether it is a prime minister, a member of Parliament, or a key business person who has had an education or exposure here, they can be some of our most powerful spokesmen and allies in terms of improving relations. It is an invaluable tool for our foreign policy as well as just our practical science and innovation and the advancements.

I am Vice Chair on the Foreign Affairs Committee of the International Organizations and Human Rights Subcommittee, and we had a series of hearings about America's image around the world. And the bad news is in about a half a century of polling, we are at the lowest ever in terms of our image. The good news is there is this great reservoir of feeling that the ideals of America are something that people aspire to. Freedom, human rights, international cooperation. And so there is this great reservoir that we can tap into, but I think having this scientific exchange, educational exchange is vital to that, and I really applaud the efforts of trying to get the right parties around the table to see what we can do about this and to the extent we need to involve our Foreign Affairs Committee in that, I would certainly like to offer their assistance as well.

Chairman BAIRD. Thank you, Mr. Carnahan. I think we will definitely take you up on that, and your dual committee assignments will be tremendously helpful in that regard, because as we mentioned, some of these changes can be just done administratively. Others may require statutory changes, and we will probably try to look for that on the Homeland Security. Maybe we will even try to rustle up an appropriator or two, because that always helps. Well, it usually helps.

Mr., Dr. Bartlett.

Mr. BARTLETT. Thank you very much. Thank you for your testimony.

I understand that China produces several times as many engineers a year as our country does. That is true?

Dr. GOODMAN. Yes.

Mr. BARTLETT. I have heard about six times as many. Is that true?

Dr. GOODMAN. Yes.

Mr. BARTLETT. Is that also true of science, the physical sciences? Do they turn out a lot more physical scientists than we do also?

Dr. GOODMAN. I believe.

Mr. BARTLETT. I also understand that there are many companies in our country that have a very difficult time finding these technical people, scientists and engineers, and that if they can't find them in our country, they will move their company to where these skills exist. Is that also your understanding?

With these realities I am having a little trouble understanding why we are really concerned that the scientists and engineers might not go back home. Now, I understand we don't want illegal aliens here, but the one group that comes here that I would be less concerned about than most other groups, whether they went home or not, would be those groups that we have an acute shortage of in our country. Wouldn't you think so?

Dr. GOODMAN. Yes, sir.

Mr. BARTLETT. Now, I know the State Department is handed the responsibility of making sure that the people who come here are likely to go home, but wouldn't you agree, Mr. Edson, that the problems of these people overstaying their visas are probably less than the problems of most other immigrants overstaying their visas? I am having a hard time understanding why we are hassling these people after they get here. Because, you know, most of these skills we desperately need in this country. You cannot for very long contend with a country that is producing six times as many engineers and scientists as you are producing, and by the way, what percent of our engineers are Chinese? As I look at our graduate schools, some of them it is somewhere near 50 percent, isn't it? And they are going home, I guess, some of them.

So it is more than the six to one ratio. It is maybe nine, ten to one ratio. They are producing that many more engineers, and we could presumably, the Chinese engineers in this country are going back to China. So I am having some trouble understanding why we hassle these people that would be the least problem if they overstayed their visa.

Can you help me understand why I am wrong?

Mr. EDSON. I have kind of a simple role in the process because we implement the law. The H–1B, the skilled worker category, was exempted from the residence abroad requirement by Congress, but the students are required to prove that they intend to return home, and so we do ask those types of questions during the interview.

Mr. BARTLETT. I understand you need to do that, but, you know, hassling them after they are here I am having some trouble understanding.

Mr. EDSON. I hassled them overseas.

Mr. BARTLETT. Since we desperately need them. Sir?

Mr. EDSON. No. I am just saying I hassled them overseas. DHS hassles them here.

Mr. BARTLETT. Oh, you hassle them in both places. Well, I have a problem with hassling them at all since we desperately need these skills in our country. I understand that you are charged with the responsibility of implementing the law, and the law is you are supposed to ask them, are you going home, and you are not supposed to let those come here that you have a fair suspicion are not going to go back home after their stay here.

But don't you think it is rational that we treat these people in a dignified fashion?

Mr. EDSON. Certainly, and we strive to do that. We train our officers to do that. We are moving them through fairly quickly because we are trying to get to everybody that wants a visa to the United States. China is a good example. Over 80 percent of those students, or about 80 percent of those students, will qualify for visas and come into the United States. So they are meeting that test.

Mr. BARTLETT. As other countries improved the quality of their secondary education, do we have a smaller percentage of students seeking to come to our country? Are we still the Mecca for higher education, particularly in technical areas? Dr. Goodman.

Dr. GOODMAN. Thank you, Congressman. We are the world's leading destination for students studying outside their country. Our market share has declined in the course of a decade from about 40 percent to 22 percent, but the pie has grown substantially over the course of the decade. I think we will continue to be the major destination, partly because no other country on earth has the capacity that America has to absorb international students. We had 582,000 last year here in the United States. They study at just 150 schools, half of the do. We have nearly 4,000 accredited colleges and universities, so we have a much greater capacity to expand.

Mr. BARTLETT. Thank you, Mr. Chairman. I see my time has expired.

Chairman BAIRD. Dr. McNerney, as an engineer, mathematician, you have long interest in this, and I welcome your comments. Thank you.

Mr. MCNERNEY. Thank you, Mr. Chairman, and I want to thank the Committee members or the panel members for testifying today.

You know, the issue is a difficult one, and it is complicated by the sort of emotional issues surrounding the entire immigration debate, which taints every single aspect of that, whether it should or not.

Dr. Fineberg, thank you for coming in today. Dr. Fineberg. In your testimony you suggested that the U.S. should not necessarily interview every single applicant but should use its resources on the applicants that actually pose some sort of a threat. Do you have any specific objective criteria in mind when you say that, or are you, yes. Let us leave it at that.

Dr. FINEBERG. We heard from Mr. Edson I thought a useful starting point for this, namely those applicants who are repeating an application for the same type of visa as previously held and who, for whom we have already adequate bio-documentation, in this case, ten finger prints, already the Department has placed these applicants into a category where it will not be necessary to

re-interview. I would submit that many of the categories we have been talking about in terms of scientific roles that people play, would put them in a lower-risk category. My general purpose in making that comment is that I believe that if we attempt to apply the same intensity of attention to all applicants, we will not be deploying our available resources to screen out the high-risk applicants in an optimal way. We would be better served in terms of our security interests if we could concentrate where the risks are higher and allow more of the facilitation of visit for those where the risks are truly de minimis.

Mr. MCNERNEY. Well, what mechanisms are already in place to verify that the students and scientists are following the terms of their visa, and are those mechanisms sufficient to give comfort to DHS?

Dr. FINEBERG. I can't answer that question from my own knowledge, sir. I think we probably would want to hear from DHS about that and maybe Mr. Edson has information that would be relevant to it.

Mr. EDSON. Thank you. The primary change of benefit to our consular officers in the field is the student exchange visitor information system, the consolidated online system for registering and tracking foreign students in the United States, because it does enable, the data is input primarily by the educational institutions and enables our officers to verify that a student is in valid status at the time they apply for renewal.

In fact, this is speculative, but I believe that it is possible that that decrease in the refusal rates for students that I mentioned might be tied in large part to the SEVIS Program that provides such good data and basically eliminated improperly completed I–20s, the form that is required for a student visa or fraudulent I–20s.

Mr. MCNERNEY. Well, to the extent that you can say today how many documented incidents are there of foreign students or scholars entering this country and then taking actions to harm us or going home and taking actions to harm us? Are there any documented cases or how many?

Mr. EDSON. I don't have that data. That would be data from ICE, Immigrations and Customs Enforcement.

Mr. MCNERNEY. Ms. Cotten, how have the visa delays and denials affected the ability of your university to recruit the top scientists and engineers that you would like to recruit?

Ms. COTTEN. I can tell you that we would normally recruit first because our people are going to international conferences. They are recruiting out of the graduate programs where we have a lot of international students coming through our own programs. And the difficulty we have is once we have identified them, can they get here? And so I can't say that we have a 50 percent failure rate or an 80 percent failure rate or 20, but there are always those people that either can't come or are delayed. Every year we have people who are identified to come on research projects, and for whatever reason they cannot get their visa. Normally it is a 214(b), non-immigrant intent issue. Or it takes so long that they just give up, and everybody says, oh, this is too much trouble. I have got a grant. I

have to go forward with the grant. I have to find somebody else to fill that slot.

So it is not numbers so much as it is identified individuals who are unique, who know just what they know, and it is special, and we may not be able to get them.

And if I could speak to your earlier question regarding how we are tracking or managing students when they are here, Mr. Edson mentioned the SEVIS System, and as an educational institution involved in the SEVIS System, we are required every semester to report on every international student, that they are enrolled and moving forward in a full-time program. And for all of our scholars, the J–1 scholars, we report when they arrive, and then we report specifically if we authorize them to give a lecture at another school, to do research at a local university or beyond. Any of those actions that would normally be work actions or changes in their activities, we report as those occur, and we put that information into SEVIS.

Mr. MCNERNEY. So a lot of the responsibilities fall into the university.

Thank you, Mr. Chairman.

Chairman BAIRD. I know Dr. Ehlers has to leave shortly, and I may have an amendment on the Floor to address. Dr. Bartlett, can you stay for a few extra minutes here? I just, one last set of questions really.

Some progress is being made, more progress needs to be made, but because of the kind of anecdotal occurrences that happen there exists this bad impression in some ways in the actual community.

One of my questions would be what is being done? I think, Dr. Goodman, you may have mentioned some of this in your written testimony. What is being on a positive, proactive side to publicize that there is this nice phrase, I think maybe in Ms. Cotten's testimony, the border is closed but the doors are open. And in a positive sense, meaning if you can come, you know, you can't just walk across the border but basically to get the word out that we are doing a better job and that you have reason to believe you might be treated better, and what is being done to do that, or what should we do to create that?

And then finally after that question is addressed, if anybody has any remaining comments that they feel are absolutely essential before we draw the hearing to a close, I would welcome those also. I will give Dr. Bartlett and Mr. McNerney a chance as well.

Dr. GOODMAN. Mr. Chairman, I think you would be really delighted when ECA has the chance to meet with you, given the outreach that they have tried abroad and given the great expansion of both the website and the foreign student advising network that they have encourage aboard, and also the results of the President delegations that they have taken abroad to the key-sending countries. More than anything else those activities, the universities in partnership with the government, saying that our doors are open and we welcome international students, is vital, and it is having an affect.

Also, in those key markets where the ambassador sees in the press a, the anecdote and is able to then say in reality the visa issuance rates are X, we are open extra hours, students are the head of the line, and to aggressively go after that at any point in

time is really just critical. And we have to do that every day because every day there will be that anecdote or that incident.

With respect to your second question, I did want to suggest that we track also the flow of students as Mr. Bartlett was asking, around the world, not just to and from the United States. I have been struck in the past two years at the number of countries, more than a dozen now, that have created special green cards or fast track to green cards for the critical skills people. If you get a Ph.D. or an M.D. or whatever that we need in our country, as soon as you finish you can stay, and you can immediately move to either long-term residency status or the equivalent of two to four years staying.

And so as you asked me about the market we are competing for and our market share, we are also competing against those countries that by legislate fiat are saying critical skills people can stay and become permanent residents or citizens.

Chairman BAIRD. It is an excellent point. We really need to look at that. Unfortunately, the demagoguery that exists around the immigration issue right now sometimes obscures the legitimate issue that if we have a need for qualified high-level people to work here and we don't allow those people to work here, they will go offshore. And industries will take their business offshore, and their capital offshore. And all the spin-off jobs these create, I can't remember whose testimony it was, I think it was actually maybe yours, Dr. Goodman, that the extraordinary number of Nobel Laureates I alluded to earlier but also many of the major businesses and developments in the last century that made all of our lives better came from foreign-born scholars who trained here and stayed here and created entrepreneurial enterprises. And what a terrible loss it is for all of us if we force those folks to leave.

We also have some rather ironic barriers, for example, if even one percent of your company, if you have a startup with international, non-U.S. citizens, even though they are living here, trained here, if you start up as a non-U.S. citizen as one of the startup owners of the company, you may be restricted, for example, in terms of what you can apply for in terms of U.S. business development assistance. It is rather silly actually and we ought to look at those kinds of things. And this committee, maybe it was Dr. Bartlett, I don't want to put words in your mouth, someone on this committee suggested once that there should be a green card stapled to every Ph.D. and engineering grad in this country. Some variation of that may have some merit.

Any other comments before my time is closed that people want to make that haven't had a chance to? I will also give Dr. McNerney and then, or actually Dr. Bartlett, then Dr. McNerney a last round here.

Mr. EDSON. If I could, to complement what Dr. Goodman said about the public diplomacy, you know, Secretary Rice has a personal and professional interest in higher education and has made a personal commitment to make it easier for international scholars and students to get here. In addition to the formal programs that ECA has many of them broad, some of them targeted and very creative and unusual, new ways for us, the consular sections, we do

get them involved, because any time there is bad information, it makes our life harder.

In addition to making it harder for the United States to get these people in here, it makes the entire visa process harder. So our officers participate in web chats, speak to student groups. The Assistant Secretary, my boss, Maura Hardy, travels a great deal of the time and always speaks to university groups when she travels to try to break down some of the poor information.

Chairman BAIRD. I think that is very admirable, and I should also note historically some of the adverse impressions of our country did not, it did not just start six or seven years ago or post 9/11. There were things like the closing of the international libraries, U.S. libraries internationally happened before this Administration's watch. It happened back early '90s, and I think that kind of activity had, that was the beginning of an adverse impression of the U.S. and has harmed us in ways we don't fully appreciate.

Dr. Bartlett.

Mr. BARTLETT. Thank you. There is a clause in the Lord's Prayer that guides me in much of what I do. It is that clause that asks the Lord not to lead us into temptation but or to deliver from temptation, depending upon the version that you are reading. Like it is probably not fair to ask the goat to guard the cabbage patch, because he has a conflicting interest. His interest to be responsive to your wishes and the temptation that the cabbage offers him.

I say that because I don't want to be accused of profiling in what I say next, but I would suggest that there is a big difference between a student coming here from Iran or North Korea, and I hope they come from North Korea, by the way, or a student coming from Australia or Canada or England.

Referencing that clause in the Lord's Prayer, I just think that it is very unfair to put these students from countries like, and maybe China for the future or Iran or North Korea, in a situation where they have conflicting loyalties.

So I am asking do we treat students coming from countries like Australia, England, or Canada differently than we do students coming from these other countries? You see from a national security, from a national interest perspective, I don't care whether those students from Australia, Canada, and England go home or not. I am concerned about the students, and because of my concern that we should not unfairly put people in compromising situations, where they would have conflicting loyalties. I just don't think it is fair. Okay. It is not profiling. I just don't think it is fair.

I am really concerned about the students from these other countries where if they stayed and got a job where there was some knowledge of a national security interest, that they would, it is not fair to them. Are we treating these students differently? I hope we are.

Mr. EDSON. In the visa process, yes. The students from countries that are state sponsors of terrorism we are required by law to send them back to Washington and——

Mr. BARTLETT. And China is not one of those, are they?

Mr. EDSON. China is not one of those, but China is——

Mr. BARTLETT. But don't you think that——

Mr. EDSON.—targeted under the Mantis Program.

Mr. BARTLETT.—this student from China is put in a compromising situation? These are people with an enormously proud heritage. When my ancestors were Barbarians, running around the continent of Europe and the British Isles, they had a really advanced civilization in China. Don't you think it is unfair to put them in a situation where there is a conflict of interest? Even if they are not the sponsor of terrorism. Just as a human consideration, unfair to put them in that situation.

Mr. EDSON. We are aware that their government poses particular challenges in certain security areas, and they are vetted in that way in the visa process. I can't speak to the end of the process when they are in the United States, which is a DHS function.

Mr. BARTLETT. I am concerned about our national security. I am even more concerned that we treat people fairly, and I think putting a person in a situation where they have conflicting interests is unfair, not the right thing to do. So I would hope that this is a part of our policy when we are admitting these students and watching them after they are here and determining whether they can return promptly or not, wouldn't you think?

And if we don't have different rules, either written or unwritten that we play by, don't you think we should?

Mr. EDSON. In the visa process we do screen. China is one of those countries that is of targeted interest for issues related to sensitive technology, and so we do screen them in a different way in the visa process when they are overseas.

Mr. BARTLETT. Well, with our acute and growing need for more people in these technical areas, I would hope that our immigration policies could be helping to help solve this problem rather than impeding the solution to the problem.

Thank you very much, Mr. Chairman.

Chairman BAIRD. Dr. Bartlett, thank you.

Dr. McNerney, any other comments or questions?

Mr. MCNERNEY. Thank you very much. Again, this has been a very important hearing, and I think we need to continue this sort of discussion. Having gone through the rigors of a Ph.D. program, I understand how important it is to have visiting scholars. They contribute in ways that go beyond what you are studying, and they open up doors for you to go overseas and so on and so forth. So I want to make sure that we do open those up.

But I think some prior discussions with Chairman Baird, there is some very specific recommendations that would be helpful and that could turn into legislation. I hope to work with the Chairman on that. You have actually elaborated on those, a couple of things.

And also, we need to take into consideration our national security, both in terms of whatever terrorist threat there may be, but with the economics and the globalization. So we have a number of things to balance here, and this is the type of discussion that is going to help open up that type of thinking that allows us to move forward on a general basis with these sort of things.

So thank you very much for your time and your work, and with that I will yield.

Chairman BAIRD. Thank you very much. I will just close with a brief anecdote from my experience as a professor.

I was privileged one evening to join a number of the honor society inductees at my university, and they asked the students to comment on what was the single most important aspect of their academic experience. This was at Pacific Lutheran University where I used to chair a department. And there were maybe 45 or so young people there, and the intriguing thing was that every single one virtually, maybe two or three exceptions, listed study abroad. And it became such that it was so repetitive, you know, the next one would get up, my time studying abroad.

And I say that because what a tragedy it would be, we tend to think that, well, we are just keeping out potential dangers to our country, but if other countries reciprocate, then the ability of our young people to study abroad, which is the opposite direction than what we have talked about today but equally important, if they feel harassed or unsafe or unwelcome, we, too, will lose what, for the very brightest students, the top, cream of the crop at our institution, it wasn't the class they took from Dr. Baird, not surprisingly. It was their opportunity to travel and learn from a different culture.

And that, we don't want to lose that for our students, and we certainly don't want to lose that for other students, and we desperately don't want to lose that for other scholars. So your testimony and comments today are tremendously helpful to us, and I want you to know that I am personally committed to this, as is Dr. Bartlett and Dr. Ehlers and Dr. McNerney and the rest of this committee. And we will follow up. We will work together, perhaps in a less formal setting, to see what can be done, again, with the aforementioned agencies, et cetera. And hopefully make further progress beyond what has already been made. These things don't happen overnight, but we are committed to establishing that, and I feel good because I have a sense that as I travel internationally and meet with other people, I can both acknowledge some of the frustrations of the past but share with them the positive gains that have been made and the commitment that I am hearing today to make further gains.

So I am grateful for your testimony and your leadership on this. I thank my colleagues on the Committee, our Committee staff for putting forward and together such a great hearing, and with that this committee stands adjourned. Thank you very much.

[Whereupon, at 3:30 p.m., the Subcommittee was adjourned.]

Appendix:

Additional Material for the Record

NAFSA

Statement for the Record
U.S. House Committee on Science and Technology
Subcommittee on Research and Science Education
Hearing on the Status of Visas and Other Policies for Foreign Students and Scholars

NAFSA: Association of International Educators

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Executive Director & CEO
Marlene M. Johnson

February 7, 2008

The Honorable Brian Baird
Chairman
U.S. House Committee on Science and Technology
Subcommittee on Research and Science Education
2320 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for the opportunity to submit the following statement for the record on this very important topic. NAFSA: Association of International Educators is the world's largest professional association and the nation's leading advocate for international education and exchange programs. Our nearly 10,000 members serve primarily as foreign student and study abroad advisers at more than 2,000 colleges and universities here in the United States.

I write today to reinforce many of the concerns that Ms. Catheryn Cotten of Duke University outlines in her testimony before the subcommittee regarding the status of visas and other policies for foreign students and scholars at U.S. universities. Ms. Cotten is a former member of our association's board of directors, and her testimony highlights several important recommendations that are essential for restoring U.S. competitiveness for the best and brightest foreign students and scholars, recommendations that go well beyond improving visa processing and issuance.

As you know, international students and scholars are essential for our nation's global competitiveness, as they make significant contributions to our economic growth and innovation. Recent National Science Board data indicates that nearly half of all graduate enrollments at U.S. institutions in the science and engineering fields are international students, and many will go on to positively impact future research and technology output in this country. While we support the full committee's recent efforts to focus attention and resources on building up America's own supply of science and technology talent, it is equally

important that we continue to actively attract international talent to our shores if we are to retain our innovative edge in these fields.

Delays in visa processing for foreign students and scholars in the sciences have not yet disappeared entirely, but the current delays are not nearly the same in volume as they were when this committee last examined this issue in 2004. The State Department's Bureau of Consular Affairs deserves much of the credit for undertaking a tremendous effort over the past three years to adjust the visa policies that created many of the problems encountered in the post-9/11 period. Yet notwithstanding this progress, higher education, the scientific community, and the private sector all see cause for serious concern regarding the U.S. position in the competition for international talent. This is because our competitiveness problem is not just a visa problem; therefore, we cannot solve it simply by fixing the visa problems that we created after 9/11. As Ms. Cotten's testimony makes clear, we must bring our immigration laws and policies, and the regulations that govern our exchange programs, into accord with 21st-century realities. Ms. Cotten's recommendations for doing s merit serious consideration.

We must reform our nation's current immigration system to better meet the needs of 21st century university research and scientific exchange. There is little doubt that we are in a heated global competition for international talent, yet the United States has yet to adapt effectively in order to seriously engage in this competition. Increasingly, today's international students are tomorrow's innovators, and it is a reality of our time that, at the high-skill level, the temporary immigration system has become a conveyor belt of talent into the permanent immigration system. Many foreign students do want to go home after graduation, but some of them want to stay here to use the knowledge they have acquired at our universities. Therefore, it is our view that the requirement that student visa applicants demonstrate intent not to immigrate to the United States should be eliminated, in order to better reflect the current reality of academic research and innovation.

Equally troubling is the fact that current exchange visitor program regulations for university professors and research scholars lack the flexibility to accommodate the international nature of scientific inquiry and academic collaboration. As Ms. Cotten illustrates, these current regulations do not fit with the basic concepts of academic teaching, research, and educational exchange. Free flow of talent is an essential element of modern research; talented international professors and researchers need to be able to travel back and forth in a way that does not disrupt critical collaborative research and exchange. Therefore, the regulations governing the exchange of university professors and research scholars should be revised to accommodate the true nature of modern academic research.

There are two additional policy issues of concern affecting foreign students and scholars that require equal consideration by the subcommittee. The Commerce Department is currently reviewing its deemed export control policy, which impacts the ability of U.S. universities and research laboratories to attract international talent. In December of last year, a federal advisory committee convened on this subject produced a report which recommended that national security, albeit paramount, should not come at the expense of open scientific research and innovation. It is our hope that the Department takes up many of the recommendations outlined

in this report, and I urge the subcommittee to monitor future actions by the Department that would impede open scientific research and exchange.

Lastly, we are increasingly concerned with the imminent implementation of Real ID regulations by each of the 50 states, as this is expected to have a negative impact on the ability of legitimate foreign students and scholars to obtain driver's licenses. Driving is an essential element of everyday life here in the United States. Colleges and universities will find it increasingly difficult to attract foreign students and scholars if the Real ID regulations are implemented in a way that prohibits legitimate foreign students and scholars from obtaining a driver's license.

Thank you for the opportunity to submit a statement for the record on this very important topic. I have also attached two additional items that further expand on my association's position on these issues: 1) Our report entitled "U.S. Competitiveness for International Students and Scholars" and 2) our paper, "Promoting Secure Borders and Open Doors: A National-Interest-Based Visa Policy for Students and Scholars." We respectfully request that these documents also be included as part of the record.

Sincerely,

Marlene M. Johnson
Executive Director & CEO

PROMOTING SECURE BORDERS AND OPEN DOORS

A National-Interest-Based Visa Policy for Students and Scholars

NAFSA: ASSOCIATION OF INTERNATIONAL EDUCATORS

It is now recognized at the highest levels of government that America's strong interest in robust educational and scientific exchange is ill served by the visa system that is currently in place. This situation is not the result of ill will; no one is to blame. Every control instituted since 9/11 has seemed, in itself, to add a reasonable—even necessary—measure of protection. But in their totality, these controls are hindering international student and scholar access to the United States to an extent that itself threatens national security. Our current visa system maximizes neither our safety nor our long-term national interests in scientific exchange and in educating successive generations of world leaders—interests that the United States has recognized for more than half a century.

There are four problems: the absence of policy, of focus, of time guidelines, and of balance between resources and responsibilities.

In a policy vacuum, every control is a good one, and delay or denial is the safest course. The State Department's visa adjudicators require an operational policy that articulates not only our interest in control, but also our interest in openness, and that guides them in how to find this crucial balance. Responsibility for articulating such a policy lies with the Department of Homeland Security.

Far too many adjudicatory and investigative resources are wasted on routine reviews of low-risk applications. This not only frustrates and delays visa applicants unnecessarily; it also precludes the allocation of resources pursuant to risk analysis. The practice of across-the-board visa interviews has led to millions of 90-second interviews of dubious security value, which clog the system while precluding serious scrutiny where it is needed. The practice of sending virtually all visa applications in the sciences to Washington for security clearances ("Mantis" reviews) reverses the time-tested policy of requiring such clearances only when indicated by the identity of the applicant, the applicant's nationality, and the specific field of advanced science or technology in question; the number of clearances requested has increased from about 1,000 in 2000 to more than 20,000 in 2003. The requirement that every Arab and Muslim adult male undergo a Washington security check ("Condor" review) has created an additional flood of clearance requests. Low-risk frequent visitors, and those seeking re-entry after temporary travel abroad, are often required to run the same gauntlet every time they seek re-entry.

The "Mantis" and "Condor" clearance processes lack time guidelines and transparency. Bureaucrats are like the rest of us. They make decisions when forced to by a deadline. Absent a "clock," cases can languish without resolution, and the applicant has no recourse for determining the application's status.

Furthermore, these systems have been put in place without reference to whether or not resources exist to implement them. In no foreseeable circumstance will enough resources be available to effectively support visa processing as it is currently being done. Balancing resources and responsibilities is the essence of policy. Without this balance, our visa-processing system will be unable to serve the national interest in providing timely access for legitimate visitors.

We believe that our nation's leaders share our interest in fixing these problems. Following are our recommendations for doing so.

PROMOTING SECURE BORDERS AND OPEN DOORS

Recommendations for a National-Interest-Based Visa Policy for Students and Scholars

NAFSA: ASSOCIATION OF INTERNATIONAL EDUCATORS

1. PROVIDE EFFECTIVE POLICY GUIDANCE.

- **Congress and the Department of Homeland Security must act to make "Secure Borders—Open Doors" the effective policy guidance for the Department of State.**

IMPLEMENTATION STATUS: The Department of Homeland Security (DHS) and the Department of State (DOS) have yet to issue a joint statement that clearly articulates visa policy—i.e., that would turn "Secure Borders, Open Doors" into operational policy. In January 2006, DOS and DHS announced a three-part joint vision, "Secure Borders and Open Doors in the Information Age," to guide future development of solutions to improve border security while still welcoming visitors to the United States. However, until this vision is translated into an operational policy, existing disconnects on visa policy will continue within DHS and between DHS and DOS.

2. FOCUS EFFORTS ON THOSE WHO REQUIRE SPECIAL SCREENING.

- **Give consulates discretion to grant waivers of personal appearance based on risk analysis, subject to State Department policy guidance and approval,** as recommended by the State Department Inspector General in December 2002.

IMPLEMENTATION STATUS: Under the terms of the 2004 *Intelligence Reform Act,* the Secretary of State no longer has the authority to implement this recommendation, although consular officers do retain some authority to waive this requirement under very limited circumstances. DOS gives priority for personal interviews to students and scholars and posts the appointment wait times for individual consulates online. DOS continues to evaluate the use of digital video-conferencing technology to help alleviate interview delays in countries with few U.S. diplomatic posts, as well as to ease the burden on applicants who must travel long distances. DOS plans to utilize computer software to allow the transfer of fingerprints captured at the time of the original visa application to a renewal application, to alleviate the need for repetitive personal appearances.

- **Refine controls on advanced science and technology.** In consultation with the scientific community, define the advanced science and technology to which access must be controlled, and empower consular officers to exercise discretion on non-sensitive applications where neither the applicant nor the applicant's country present concerns.

IMPLEMENTATION STATUS: NAFSA is unaware of any progress in returning the Technology Alert List (TAL) to its original intent of controlling access only to advanced technology (although it is difficult to know, given that the list is now classified). There is an interagency process, headed by DHS, which discusses, among other issues, the application of the TAL. DOS is also spending more time training incoming consular officers about the TAL, and is also providing additional training to officers in the field.

- **Avoid repetitive processing of those who temporarily leave the United States.** Institute a presumption that a security clearance is valid for duration of status or program, assuming no status violations. Any necessary reviews within this period should be fast-tracked.

IMPLEMENTATION STATUS: In February 2005, DOS extended Mantis clearance validity for international students (F visa) for up to the length of the approved academic program, to a maximum of four years, and for exchange visitors (J visa), temporary workers (H visa), and intracompany transferees (L visa), the clearance has been extended for the duration of their approved activity, to a maximum of two years. NAFSA has asked DOS to consider extending validity for exchange visitors (J visa) for the duration of their approved activity, to a maximum of five years.

- **Avoid repetitive processing of frequent visitors.** Establish a presumption of approval for those who have previously been granted U.S. visas and who have no status violations.

IMPLEMENTATION STATUS: No system has been put in place to avoid the repetitive processing of frequent, well known visitors. However, in June 2005, visa validity for Chinese students and exchange visitors was extended from six months, multiple entries to 12 months, multiple entries.

- **Expedite processing and save consular resources by incorporating pre-screening or pre-certification of students and scholars.** This could be accomplished in many ways. Options include: (1) sending countries agreeing to pre-screen applicants in order to facilitate their citizens' entry into the U.S.; (2) sending universities providing identity verification under agreements executed with consulates; and (3) the State Department utilizing its own overseas advising centers to ensure that all necessary documents are in order prior to applications being sent on to the consulates.

IMPLEMENTATION STATUS: NAFSA has seen no movement on this recommendation.

3. CREATE A TIMELY, TRANSPARENT AND PREDICTABLE VISA PROCESS.

- **The White House should institute standard guidelines for interagency reviews of visa applications:**
  - Establish a 15-day standard for responses to the State Department from other agencies in the interagency clearance process.
  - Implement a 30-day standard for the completion of the entire interagency review process, including the response to the consulate's security clearance request.
  - Flag for expedited processing any application not completed within 30 days, and advise the consulate of the delay and the estimated processing time remaining.
  - In the case of applications not completed within 30 days, the applicant, or the program to which the applicant seeks access, should be able to inquire about the application's status, and the estimated processing time remaining, via a call-in number or e-mail inbox.
  - Establish a special review process to resolve any cases not decided within 60 days.

IMPLEMENTATION STATUS: DOS has streamlined this process by moving from a paper-based system to electronic transmission of clearance requests—meaning that clearance requests no longer get "lost" as they did in the previous system. DOS has also worked with the other agencies involved to speed up the time in which the overwhelming majority of these requests are processed. While there is still little transparency in the process for individuals whose clearances are not processed within 30 days, the reported average processing time for Mantis cases continues to be less than 14 days.

- **Make ground rules predictable by imposing them prospectively,** not on those already in the application pipeline.

4. PROVIDE THE NECESSARY RESOURCES, AND MANAGE WITHIN THEM.

- Congress must act to bring the resources appropriated for the consular affairs function into line with the increased scrutiny of visa applications that Congress demands, and the State Department must manage within the available resources.
- Adequate resources must be provided to ensure the inter-operability of data systems necessary for the efficient functioning of the interagency review process.

IMPLEMENTATION STATUS: Since 9/11, Congress has increased funding for consular officers, and over the past six years, DOS has created 570 new consular Foreign Service positions. DOS also continues to automate obsolete visa processing systems. DOS has developed a fully electronic visa application, and DOS and DHS have successfully piloted a "paperless" visa application system, with plans to introduce this by early 2008. DOS and DHS, working with other agencies, also plan to standardize screening criteria and create a virtual clearinghouse of unified data.

NAFSA Visa Recommendations issued: April 2004

Implementation status last updated: January 1, 2008

Restoring U.S. Competitiveness

FOR INTERNATIONAL STUDENTS AND SCHOLARS

The United States is engaged in a global competition for international students and scholars.

That might seem like an unremarkable statement, but in fact, it is not clear that the nation even knows it is engaged in this competition. The international student market has been transformed in this century, with many new entrants acting much more purposively and strategically than ever before. The best and brightest from around the globe are now a sought-after commodity, and are able to choose from many centers of excellence where they can ply their creative skills. Yet, while other countries are working hard to access the benefits gained from educating the next generation of world leaders and from attracting the world's scientific, technological, and intellectual elite, the United States is curiously disengaged, content to compete with speeches, sound bites, and photo-ops.

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A senior Microsoft official once said to New York Times columnist and author Thomas L. Friedman, "We have really dramatically shut down the pipeline of very smart people coming to the United States." In a knowledge economy—where knowledge is the coin of the realm—such a statement is alarming. Why are we closing off the United States in this way? It is not, of course, intentional. Rather, it is a consequence of our failure to adjust our thinking about security and immigration to the realities of the age in which we live.

Today we urgently renew our call for a national strategy to enhance U.S. leadership, competitiveness, and security by attracting the world's most talented students and scholars to America's campuses and research institutes. Our January 2003 report, *In America's Interest: Welcoming International Students*, provided a comprehensive strategy for attracting international students. This sequel analyzes the current U.S. competitive position for international students and scholars and provides updated, comprehensive recommendations for restoring U.S. competitiveness for these vital resources.

THE DECLINING U.S. COMPETITIVE POSITION

When we released our report three years ago, the U.S. position in the international student market appeared strong on the surface, but there were warning signs of an underlying weakness. The market was becoming highly competitive. Competitor nations were dismantling disincentives to study in their countries and implementing proactive strategies to attract international students. The United States was doing neither. As a nation, we lacked an overall strategic sense of our stake in educational exchange, assuming that international students would always come because they always had.

From today's perspective, we can see that by the time the report was released three years ago, the era of robust growth in international student enrollments in the United States was already over. There are now fewer international students enrolled in U.S. higher education institutions than there were in the fall of 2001. It is true that the collapse of the numbers has occasioned welcome, high-level rhetoric recognizing the strategic importance of attracting international students. However, the rhetoric is a mixed blessing. People forget that beneath it all, there is still no strategy—no real policy or plan for protecting the U.S interest in this asset.

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What is most alarming is that, for the first time, the United States seems to be losing its status as the destination of choice for international students. For a variety of reasons that go beyond education and recruitment policy, the United States has lost the allure it once had. It is no longer seen as being as attractive a country to the rest of the world, and that has profound implications not only for international students, but for U.S. leadership and security.

The picture for international scholars and researchers is not much better. Although the number of international scholars at U.S. doctoral degree-granting institutions increased in the academic year 2004–05 after two years of decline, according to the Institute of International Education, the near-universal perception of the nation's leading scientific associations is that their international members increasingly feel that the process of gaining entry to the United States is not worth the trouble.

The issue was highlighted briefly in the press in February 2006, when Dr. Govardhan Mehta, an internationally renowned scientist from India and a frequent visitor to the United States, was refused a visa to lecture at a conference at the University of Florida, where he had previously served as a distinguished visiting professor. The refusal was reversed after an international outcry threatened to disrupt President Bush's visit to India, but Dr. Mehta ultimately declined the invitation in protest of a visa application process that he found burdensome and demeaning.

Although it is impossible to know how many scientists might have come to the United States over the past several years but did not want to put themselves through the daunting process of getting here, it stands to reason that the factors that repelled Dr. Mehta must play on the decisions of other eminent scientists as well, whose stories do not make it into the press. Like students, scholars have options. Leading specialists can do research at the frontiers of their fields at a variety of research and learning centers around the world. If the United States is not interested in creating a welcoming environment for them, they can and will go elsewhere.

WHY DOES THIS COMPETITION MATTER?

Why is it important to attract international students and scholars to the United States?

First, it promotes U.S. foreign policy and international leadership. The United States needs friends in the world—and educational exchange is a proven means of making friends. International students and scholars often return home with an appreciation for the United States and a network of personal connections to our country. Over the past half-century, U.S. foreign policy leaders have consistently acknowledged that educational exchange is one of our nation's most valuable foreign policy tools.

Second, attracting international students and scholars is an important way that the United States grows its knowledge economy. In an era of competition for scarce global talent, the countries that draw the world's best and brightest to their universities are the countries that will have the best talent pool from which to fill their cutting-edge jobs. The countries that create the most attractive environment for the world's finest scientists will do the most to enhance their scientific leadership. Indeed, the very diversity that we gain through openness to international talent itself fuels innovation and creativity.

Third, educational exchange benefits U.S. education. International students and scholars enrich their institutions and enable American students to have contact with other cultures and ways of thinking. Graduate students contribute to science instruction and research on their campuses. International scholars bring global expertise and the international dimensions and perspectives of their disciplines.

Fourth, spending by international students and their dependents contributes significantly to the U.S. economy. NAFSA's research indicates that $13.3 billion was contributed in the academic year 2004–05 to the bottom lines of universities and the communities where international students live.

Most importantly, in all of these ways, educational exchange enhances U.S. security. Immediately after 9/11, Americans feared that educational exchange threatened our national security. In fact, it is integral to our security, it is an investment we make to create a world in which we can be secure.

We believe that U.S. government and political leaders agree that attracting international students and scholars provides these benefits. What is necessary is to translate their strong public statements to that effect into concrete, strategic actions that will enhance the U.S. position in the crucial competition for international students and scholars.

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THE TRANSFORMATION OF THE INTERNATIONAL STUDENT MARKET

Because the capacity of U.S. higher education dwarfs that of any other country, the United States perennially has the largest share of the international student market. For decades, the number of international students studying in the United States increased virtually every year. It went largely unnoticed that U.S. competitiveness as measured by market share was in fact declining, a natural consequence of the development of increased capacity in other countries and complacency on the part of the United States. Today, the collapse of U.S. competitiveness is there for all to see, a result of the transformation of the international student market in this century, the implementation of post-9/11 security measures, the shattering of America's image in the world, and the absence of a U.S. strategy for addressing these problems.

The transformation of the market results from three primary factors. **First, our traditional competitor countries have adopted and implemented strategies for capturing a greater share of the market.** For example, Prime Minister Tony Blair announced a U.K. strategy for international student recruitment in 1999, the result of which was that international enrollments in the United Kingdom have increased by 118,000 students—more than twice the U.S. increase on a smaller base. In an April 2006 op-ed article entitled "Why we're putting up millions to attract more students from overseas"—a headline that is hard to imagine in this country—Mr. Blair announced a new initiative to increase international enrollments by another 100,000 over the next five years.

Second, new competitors have entered the market. Primary among them is the European Higher Education Area, which includes the signatories to the Bologna Declaration and encompasses the European Union plus other European states. Under the Bologna Process, the signatories (currently 45) are pledged to create a seamless higher education system by a target date of 2010, with credits entirely transferable among their higher education institutions. One of the stated objectives of the Bologna Process is to promote European higher education to the rest of the world—a task that is facilitated by the fact that, in order to encourage student mobility throughout the area, English is becoming a common language of instruction. It is now possible to study for a university degree in English in many non-Anglophone European countries. This initiative has made Europe, overnight, a major competitor in the international student market. Elsewhere, other centers of instruction (such as Singapore, Doha, and Dubai) have emerged to serve regional markets.

Third, countries once thought of as "sending countries" are building their indigenous higher education capacity and are encouraging students to stay home for their education so as not to lose them to the United States. China is engaged in a dramatic expansion and opening of its higher education system and India is also emphasizing keeping its students home. These countries are the source of 25 percent of all international students in the United States.

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These three developments are transforming the international student market into a highly competitive one. In the midst of all this, after 9/11, the United States instituted a series of visa restrictions that made it exponentially harder to get into the United States and—however unintentionally—sent a message to international students that they were not really wanted. This created the perfect storm.

Based on Institute for International Education data, the market has reacted quite clearly. In 2002–03, the first full academic year after 9/11, the United States experienced only a 0.6 percent increase in international students, following several years of increases in the 5 to 6 percent range. This was followed by declines in international student enrollments in the next two academic years—2.4 percent in 2003–04 and 1.3 percent in 2004–05—the only successive two-year decline in memory. Preliminary data for 2005–06 suggest that enrollments this year are essentially flat, leaving us with fewer international students than were here on 9/11.

A little-noticed factor that exacerbates these trends concerns the demise of the intensive English industry in the United States. Intensive English programs are a gateway to U.S. degree programs. Students who learn English here are more likely to pursue their university education here, and indeed, one of the ways that many universities have recruited international students is by attracting them to their English-language programs. Yet international student enrollments in U.S. intensive English programs have declined by almost 50 percent since 2000, and many schools offering these programs have closed. This is due primarily to the vastly increased difficulty of obtaining a visa for the specific purpose of studying English in the United States. One would be hard pressed to think of another major power in the world that discourages the study of its language.

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It is important to give credit where credit is due. The Department of State has done a great deal to ameliorate the visa problems it created after 9/11. But there is more work to do—and not just to fix the visa system. The issue new goes far beyond visas. What has happened is that post-9/11 security measures surfaced long-term trends that were already making the United States less competitive and provided, in economic terms, a "shock" that has moved the market to a different place. We will not win back the market simply by adjusting visa procedures, and we will not win it back with a public relations campaign. Restoring U.S. competitiveness will require a concerted strategy, involving many agencies as well as higher education itself, to make the United States a more attractive destination for international students and scholars both in word and in deed.

THE COMPETITION FOR INTERNATIONAL TALENT

The United States is engaging in the global competition for the world's best and brightest international students and scholars with three limbs tied behind its back. **First, we have overcorrected our visa system in reaction to 9/11.** In an effort to keep out the people we don't want, the system all too often fails to welcome the people we do want. Too many scientists (and others) are subjected to burdensome, unnecessary, and repetitive interviews and security clearance procedures. We live in an age when mobility is the norm. The global competition for talent stems not only from talent's scarcity, but also from its mobility. When talent is both scarce and mobile, it is as important for the visa system to be a gateway for international talent as it is for it to be a barrier to international criminals. Under the able leadership of the assistant secretary for consular affairs at the U.S. Department of State, we are getting there, but the appropriate balance has not yet been found. (For further information, see our paper, "Promoting Secure Borders and Open Doors: A National Interest-Based Visa Policy for Students and Scholars.")

Second, the U.S. export control system also hampers the ability of U.S. universities and research laboratories to attract international talent. Under the guise of controlling "deemed exports," the United States is moving toward further limiting access to U.S. laboratories by the world's best foreign scientists—a measure that fails to understand the nature of scientific research, and that can have little effect in a world where advanced research is conducted in many locations. These controls may be an understandable reaction to 9/11, but they ultimately make the United States weaker by driving scientific talent to more welcoming countries. We welcome the Commerce Department's announcement in May 2006 that it was withdrawing an advance notice of proposed rulemaking with regard to deemed exports and instead will establish a Federal Advisory Committee to make recommendations for ensuring that a "deemed export licensing policy most effectively protects national security while ensuring the U.S. continues to be at the leading edge of technological innovation."

In a global job market, employers look for the talent they need wherever they can find it, and students and high-end workers look for the places to study and work that offer them the most opportunity.

Third, the U.S. immigration system has likewise not yet effectively adapted to the era of globalization. One reason to attract international students is that, increasingly, today's international students are tomorrow's innovators in the U.S. economy. It is a reality of our time that, at the high-skill level, the temporary immigration system has become a conveyor belt of talent into the permanent immigration system. In a global job market, employers look for the talent they need wherever they can find it, and students and high-end workers look for the places to study and work that offer them the most opportunity. What better way to capture the world's best and brightest for the United States than to make it easy for them to come here and easy for them to stay here and contribute to American economic and scientific leadership after they graduate from U.S. universities?

To be able to do this, we must reform our immigration laws in order to create and support a climate that encourages the contributions of foreign talent. Three issues must be addressed.

First, current law requires applicants for student (and in some cases scholar) visas to prove that they have "nonimmigrant intent"—that is, that they have no intention of remaining in the United States after graduation. Many foreign students do want to go home after graduation, but some of them want to stay here to use the knowledge they gained at our universities. Both outcomes are good for our country. The nonimmigrant intent requirement is inconsistent with today's realities and is not an effective tool of visa policy. It incorrectly assumes that all students want to immigrate permanently to the United States; it requires the consular officer to make a virtually impossible judgment call about a person's intentions in the course of a minutes-long interview; and it is a clumsy and unnecessary instrument for visa denial, tailor-made for arbitrary and capricious decision making. Most significantly, it prevents the United States from benefiting from the contributions of foreign students who might want to stay here, whether for the long term or for a few years.

Second, there are artificial annual caps on the numbers of visas for skilled foreign workers, which are reached early each year and leave many employers stranded in their search for qualified talent to fill key jobs. Businesses look to higher education institutions when they recruit employees, and they rely on foreign students, especially in the fields of science, technology, engineering, and math ("STEM", in common parlance), to fill in the gaps left by the shortage of qualified American graduates. As we work to encourage more of our own students to pursue study and careers in these fields, foreign students are also a crucial part of the equation.

Third, the U.S. immigration system lacks the flexibility to accommodate the international nature of scientific inquiry, academic collaboration, and business, putting us at a competitive disadvantage in the world. The very concept of "immigrating," as it is traditionally defined, is increasingly beside the point for students, scholars, and workers who are globally mobile. They may live in one country for a while, later move to another, and then return to their home country—or follow some entirely different combination of residency options.

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To enhance U.S. competitiveness for international students and to maximize students' exposure to U.S. society, immigration laws and regulations pertaining to employment must also be updated in other ways. International students should be permitted to work part-time off campus, as U.S. students are able to do, in order to enhance their American experience and their ability to earn spending money. The period during which students may work full-time after graduation under their student visas (Optional Practical Training) should be extended from one-year to two years, which will help international students earn money to pay off student loans. Finally, new regulations are required to enable international students to participate in internships related to their studies. Competitor countries are taking all of these actions as part of their strategies to attract international students at the expense of the United States.

WHAT MUST BE DONE?

The United States has every reason to be competitive in attracting the world's talent. The U.S. higher education system dwarfs that of any other country and is widely acknowledged to be unsurpassed in quality. Our scientific research establishment is likewise the envy of the world. We have great strengths—if we would use them—but they do not automatically translate into competitiveness.

The United States must have a national strategy for restoring its status as a magnet for international students and scholars as a means of enhancing U.S. leadership, competitiveness, and security. The elaboration and implementation of this strategy must be overseen by a senior White House official who is responsible to the president for the result. There is no other way to impose order on a bureaucracy that currently takes two steps back for every one step forward in this arena.

In our 2003 report, we said that a strategic plan for attracting international students must encompass four areas for action:

- Develop a comprehensive national recruitment strategy that would coordinate the efforts of all relevant federal agencies.
- Remove excessive governmentally imposed barriers to international student access to the United States in the areas of immigration law and regulations and visa procedures.
- Address the issue of the high cost of a U.S. higher education through innovative loan, tuition-exchange, and scholarship programs.
- Develop a national marketing plan that carries a clear, consistent message about the advantages of U.S. higher education and that helps students navigate our complex higher education system and locate the institution that best meets their needs.

Our recommendations in the last two areas remain essentially unchanged. However, developments over the past three years, and broadening the discussion to include scholars and competitiveness issues, require a reassessment of the first two areas.

Coordinating U.S. Government Efforts

In 2003, we noted the virtual absence of coordination among the three U.S. government agencies responsible for international student recruitment—the Departments of State, Education, and Commerce. One can now see the beginnings of coordination, which is gratifying. However, there is a new player on the block that did not exist when we wrote our report—the Department of Homeland Security. DHS is the 800-pound gorilla. It fundamentally affects the U.S. position in the competition for international students and scholars. But it is equipped neither by mandate nor by organization and structure to advance the competitiveness agenda—let alone to achieve synergy with other agencies. The net result is that the United States government is in worse disarray on this matter than it was before 9/11. No one can enter the United States without the concurrence of the Department of State and DHS. Yet no one is imposing on those agencies a requirement that they pull in the same direction. Hence, they don't.

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A comprehensive strategy must do the following:

- **Provide for effective policy coordination by the disparate DHS bureaus that are responsible for admission, monitoring, and services for international students and scholars.** DHS is not currently capable of pursuing or participating in a coordinated strategy to enhance U.S. competitiveness.
- **Provide for policy coordination between the Department of State and DHS with respect to visa policy.** The current situation, in which the Department of State makes the individual visa decisions (with DHS oversight locally in some countries) and administers visa programs but DHS makes visa policy, gives DHS a veto over anything the Department of State does, without adding any value. In the absence of a proactive policy for attracting international students and scholars, policy becomes, in effect, the lowest common denominator of what the two agencies can agree to.
- **Provide effective mandates for the Departments of State, Commerce, and Education with respect to recruiting international students.** All three agencies play important roles in international student recruitment. But in Commerce and Education, the efforts tend to be orphans within their agencies, lacking priority and support at the senior levels. The Department of State's 450 overseas advising centers, often the first stop for international students seeking information about a U.S. education, do excellent work, most of them on a shoestring budget. But they are an underused resource. They need to be turned into a comprehensive marketing tool.
- **Provide for effective coordination among all four of these agencies, in addition to others that affect U.S. attractiveness for international students and scholars, including the Social Security Administration and the Internal Revenue Service (which regulate the availability of social security and tax identification numbers for international students and scholars).** All too often in the current policy environment, any agency at the table can veto a positive proposal. Until the president's representative is at the table articulating the president's instructions to make it easier for international students and scholars to enter and live in the United States—while maintaining needed security—policy will continue to be based on the sum total of every agency's security measures, and attractiveness measures will continue to lose out.

Removing Excessive Governmentally Imposed Barriers

The Department of State has been justly praised for the steps it has taken to undo the damage of the visa procedures it imposed in the months following 9/11. DHS also deserves to be recognized for the fact that SEVIS, the international-student monitoring system, does not now appear to be a significant negative factor in international students' decisions regarding study in the United States. Although these positive steps have been taken in the past three years, the inescapable reality is that the U.S. government has yet to create a welcoming legal and regulatory regime for international students and scholars.

To address the myriad barriers to and disincentives for study, research, and attending professional meetings in the United States, a comprehensive strategy must do the following:

- **Eliminate the legal requirement for applicants for student visas to demonstrate intent not to immigrate to the United States, at least for those pursuing degree programs.** Any bona fide student who has been accepted at an accredited U.S. higher education institution should be eligible for a visa, provided that he or she meets the other requirements of the law. Once in the United States, the duration of the student's stay is governed by the terms of the visa, the terms of admission, the legal options available to the student to change status, and the availability of jobs.
- **Remove inappropriate impediments to students' and researchers' changing status in order to work in the United States, by removing or adjusting unrealistic caps on temporary and permanent employment-based visa categories.** The caps on H-1B and permanent employment–based visas currently in effect are utterly unrealistic for a growing economy. U.S. employers should be able to hire the people they need, whether Americans or foreigners, without regard to artificial caps.
- **Articulate and implement a balanced visa policy that facilitates access for students, scholars, and other valued visitors.** Congress must return to U.S. consulates the discretion to grant waivers of personal appearance (interviews) based on risk analysis, subject to Department of State guidance and approval. In addition, the Department of State must refocus security clearances for scientists ("Mantis" reviews) on the most sensitive cases and eliminate them in cases where neither the applicant nor the applicant's country present concerns; eliminate repetitive processing of frequent visitors and those who temporarily leave the United States; and make better use of its overseas advising centers to facilitate visa reviews.
- **Give international scientists and advanced science students engaged in fundamental research access to U.S. research laboratories and associated equipment "that is comparable to that given to uncleared U.S. citizens and permanent residents," as recommended by the National Academies.**
- **Revive the U.S. intensive English industry by permitting short-term study (less than 90 days) on tourist visas, as most other countries do.**
- **Further reform the U.S. immigration system to provide the flexibility required by a globally mobile workforce.** Our immigration regulations and procedures are simply too rigid to provide streamlined, effective means of moving across borders. If we make it too difficult for people to come and study, work, or live in the United States, we will lose out in the global competition for scarce talent.

To get back on track, America needs to do better. We renew our call for national leadership to elevate international educational exchange as a national priority and to establish a national strategy to ensure that the United States can attract the best in talent from around the globe.

The American way of life owes its success and vitality to our historical ability to harness the best in knowledge and ideas, not only those that are home grown, but also those that come from outside our borders. We must sustain and reinvigorate this tradition to be competitive in today's global market for talent. Other countries are aggressively using international education to advance their economies and foreign policies. The United States has been remarkably complacent in this arena, slow to appreciate the impact of new educational markets across the globe and the ways that today's unprecedented movement of people across borders has fundamentally shifted the playing field in education, business, and scientific and technological discovery. To get back on track, America needs to do better. We renew our call for national leadership to elevate international educational exchange as a national priority and to establish a national strategy to ensure that the United States can attract the best in talent from around the globe.

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