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**Subcommittee on Terrorism, Technology and Homeland Security
of the
Committee on the Judiciary
United State Senate
Testimony of
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February 28, 2008**

Thank you, Chairman Feinstein, Ranking Member Kyl and distinguished Members of the Subcommittee. I am delighted to be here this afternoon and appreciate this opportunity to discuss the role the Department of State plays in the Visa Waiver Program (VWP) under the new legislative requirements in Section 711 of "Implementing the 9/11 Commission Recommendations Act of 2007" (the 9/11 Act) as well as the implications that potential expansion of the VWP may have for our international relations.

European leaders told President Bush repeatedly of the desire of their citizens to travel visa-free to the United States. In November of 2006, in Tallinn, Estonia, President Bush announced his initiative to revamp and strengthen the VWP. With the passage of the 9/11 Act last summer, we welcomed legislative concurrence on modernization of the VWP, particularly the additional security measures. The new law not only strengthens the security framework of the program but it also creates a path for expansion of the program to include some of our closest allies. These enhancements help secure U.S. borders and will promote a safer international travel

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environment. The State Department is convinced that dialogue with countries hoping to join the program will speed their enactment of travel security requirements and will strengthen our ties with these partners.

As I have testified previously in the House of Representatives, together with our colleagues at the Department of Homeland Security (DHS), we strive constantly both to protect America's borders and to preserve America's welcome to legitimate international visitors. Section 711 of the 9/11 Act, "Modernization of the Visa Waiver Program," supports these efforts by making clear that the security provisions of the VWP must be enhanced before VWP participation can be extended to any additional countries. Armed with this legislative mandate, the United States Government is seeking to deepen security partnerships with aspirant as well as current VWP countries in order to facilitate secure, legitimate international travel, and we consider the modernization of the VWP an essential step toward that end.

With the advancement of both new security technologies and new security risks, we can and must ensure that for VWP participants and aspirant countries, we are able to assess the risks posed by individuals, not countries, as threats. The changes in the VWP in the 9/11 Act give us the tools to do this.

The 9/11 Act spells out four mandatory areas of enhanced security cooperation that both participant and aspirant countries must agree to, including participating in an Electronic Travel Authorization (ETA) system, reporting of lost and stolen passports -- both blank and personalized, exchanging passenger information, and repatriation of nationals ordered removed from the United States. In determining whether to waive the three percent visa refusal rate, the Secretary of Homeland

Security must also consider the nation's airport security standards, travel document standards and its participation in an air marshals program. The Department of State believes these enhanced security measures promote safer international travel.

By statute, DHS has the lead for the VWP program and works in close coordination with the Department of State to evaluate compliance with each of these requirements during DHS's statutorily-mandated country reviews for both initial and continuing participation in the VWP. Historically, the Department of State has had responsibility for formally nominating a country for consideration for VWP membership. We also provide input on DHS's evaluations of a VWP aspirant country's law enforcement, immigration, and security cooperation. We are the primary conduit for guidance on VWP issues to our posts abroad, and we consult with aspirant governments. In fact, we, along with DHS, have been in frequent consultations with the "roadmap" countries to give them guidance on meeting the new statutory requirements.

As you may know, several months ago Secretary Rice sent forward a formal nomination for Greece. Greece meets the statutory threshold for consideration with a visa refusal rate of less than 3%, and therefore would not need a waiver by the Secretary of Homeland Security to join the VWP. Preliminary consideration of the Greek candidacy also suggested Greece would be able to meet the requirements of the law regarding impact on U.S. law enforcement, security and immigration interests. DHS sent a formal assessment team to Greece in late November and the Department of State participated in that assessment. The Department sees the Greece VWP candidacy as a way to establish a procedure to determine eligibility for future

VWP members and, as such, will continue to engage with DHS to refine and clarify the process.

For other aspirant countries, under the 9/11 Act, the Secretary of Homeland Security has the authority to waive the three percent visa refusal requirement if all other new security requirements have been met. Provisions requiring a non-immigrant visa refusal rate of less than three percent remain in the law, but new authority has been added for the Secretary of Homeland Security to waive that refusal rate up to a ten percent refusal rate in the previous fiscal year. This waiver authority is conditioned on a number of factors, including DHS implementation of the ETA and verification of the departure of not less than 97 percent of the foreign nationals who exit by air, and the aspirant country's adoption of the enhanced security measures of the new law. The Department of State monitors and reports on these visa refusal rates annually on our website at www.Travel.State.Gov.

I wanted to briefly clarify what a nonimmigrant refusal rate means in the context of the VWP. For purposes of the VWP, the nonimmigrant visa refusal rate is based only on the number of visitor ("B") visa applications submitted worldwide, by nationals of that country. (B visas are issued for short-term business or pleasure travel to the United States.) The Department adjusts the refusal rate to exclude the number of visa refusal cases that are overcome and subsequently issued. Adjusted visa refusal rates for nationals of current Visa Waiver Program countries reflect only visa applications submitted at U.S. embassies and consulates abroad. They do not take into account persons who, under the Visa Waiver Program, travel to the U.S. without visas. Visa Waiver Program country refusal rates therefore tend to be higher

than they would be if the Visa Waiver Program travelers were included in the calculation.

The revised VWP legislation also gives the USG the means to increase security information-sharing with our closest allies. The USG is negotiating memoranda of understanding (MOUs) with all VWP governments, both existing and prospective. As part of State's responsibility for Homeland Security Presidential Directive 6 (HSPD-6) agreements on the integration and use of terrorist screening information, we have provided significant comments on the template VWP MOU and are part of the negotiating teams with our DHS colleagues. We currently have eight signed HSPD-6 agreements and are in negotiation to complete agreements in more than a dozen other countries. The success in getting these agreements and the increased level of cooperation is a direct result of the dialogue on VWP.

The foreign policy and diplomatic implications are important as well. Here the benefits of VWP are substantial. The two largest participants in the VWP are the United Kingdom and Japan, two of our closest allies. When looking at the current program as a whole, over 80 percent of the current VWP participants, and nearly all of the aspirant countries, are in Europe, and many have been among our closest partners in counterterrorism cooperation and other national security matters. We have very close foreign policy, commercial and cultural ties to VWP members, and the VWP provides a foundation on which these ties can flourish. As well, we have a strong overlap of values, interests, and responsibilities with many of the VWP countries.

In commerce, the U.S.-European trade and investment relationship is the largest in the world. Transatlantic trade totals over \$500 billion annually, and the United States and the European Union are the largest investors in each other's markets. Of the \$5 trillion in foreign assets owned by U.S. companies, nearly 60 percent are in Europe. Similarly, nearly three-quarters of all foreign direct investment in the United States comes from EU investors. U.S.-owned affiliates in Europe employ six million workers; over four million Americans work for European companies. Similarly Japan, a current VWP member, and the Republic of South Korea, which seeks membership in the VWP under the new legislation, are among our largest partners in trade and investment and among our closest strategic in Asia.

In closing, the Department appreciates the Congressional passage of the VWP provisions in the 9/11 Act. We see the new requirements as a positive means to strengthen the security of visa-free travel, permit some of our close friends and allies to join the Visa Waiver Program, and thereby enhance our cooperation and ties with those countries over the long term. The Department looks forward to working with our partner agencies and with this Committee toward that goal. I would be happy to answer your questions.

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STATISTICS

NIV Worldwide B1+ B2 + B1/B2 Adj. Refusal Rates

FY-1999 - FY-2008 YTD

Nationality	FY- 1999	FY- 2000	FY- 2001	FY- 2002	FY- 2003	FY- 2004	FY- 2005	FY- 2006	FY- 2007	FY- 2008*
Argentina	17.7%	35.8%	38.2%	12.8%	12.1%	9.3%	9.3%	6.7%	4.4%	3.2%
Brazil	23.0%	36.5%	37.2%	41.7%	39.0%	28.9%	24.2%	13.2%	9.6%	6.3%
Bulgaria	28.0%	35.9%	34.9%	30.5%	22.4%	22.6%	23.7%	17.5%	14.3%	13.4%
Cyprus	9.8%	10.9%	12.5%	14.7%	12.1%	4.1%	1.6%	2.2%	1.8%	1.7%
Czech Republic	16.2%	15.4%	24.3%	24.8%	15.3%	11.7%	9.1%	9.4%	6.7%	6.6%
Estonia	16.1%	36.3%	42.0%	38.3%	31.9%	17.4%	10.6%	7.1%	4.0%	3.9%
Greece	3.1%	3.8%	4.4%	5.6%	5.7%	3.4%	2.5%	2.2%	1.6%	1.6%
Hungary	8.9%	20.2%	39.8%	38.9%	26.7%	26.7%	17.4%	12.7%	10.3%	8.4%
Israel	4.8%	3.2%	3.2%	6.8%	7.5%	9.3%	8.0%	4.2%	2.5%	2.0%
Korea, South	11.0%	8.3%	10.3%	6.8%	2.6%	3.4%	3.7%	3.6%	4.4%	4.0%
Latvia	18.0%	17.6%	24.5%	33.3%	31.8%	24.6%	21.9%	21.6%	11.8%	8.2%
Lithuania	38.7%	42.6%	46.7%	56.7%	54.0%	42.9%	37.7%	27.7%	12.9%	8.5%
Malta	0.5%	0.4%	0.6%	0.7%	0.5%	0.8%	4.9%	2.8%	2.7%	6.7%
Poland	33.1%	40.3%	49.9%	47.2%	45.8%	32.6%	25.4%	26.2%	25.2%	14.8%
Romania	46.0%	47.7%	40.8%	45.2%	41.1%	33.3%	33.4%	34.1%	37.7%	31.3%
Slovakia	37.5%	34.6%	34.3%	41.5%	44.6%	29.7%	17.5%	16.0%	12.0%	7.7%
Taiwan	3.8%	3.6%	3.5%	4.5%	3.4%	1.0%	1.7%	3.1%	4.6%	5.2%
Turkey	10.3%	13.2%	24.8%	24.2%	24.4%	21.3%	17.2%	15.4%	15.0%	13.9%
Uruguay	2.3%	12.1%	10.9%	9.0%	8.6%	19.1%	18.5%	12.6%	12.1%	13.2%

preliminary data through 01/31/2008*

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All NIV Categories Worldwide Adj. Refusal Rates

FY-1999 - FY-2008 YTD

Nationality	FY-1999	FY-2000	FY-2001	FY-2002	FY-2003	FY-2004	FY-2005	FY-2006	FY-2007	FY-2008*
Argentina	3.3%	7.3%	11.8%	11.5%	10.9%	8.2%	8.2%	6.1%	4.1%	2.9%
Brazil	21.0%	33.0%	33.1%	35.8%	30.5%	18.9%	17.7%	11.3%	8.7%	5.8%
Bulgaria	23.7%	27.8%	26.2%	20.6%	13.1%	13.2%	16.7%	15.1%	10.4%	11.3%
Cyprus	12.1%	12.1%	13.9%	15.6%	11.7%	3.4%	1.5%	2.1%	2.2%	2.1%
Czech Republic	14.6%	13.4%	19.9%	18.4%	11.2%	9.1%	7.7%	7.9%	5.7%	6.1%
Estonia	13.6%	31.2%	35.0%	30.5%	24.4%	13.9%	8.6%	6.2%	3.5%	3.6%
Greece	2.6%	3.3%	3.9%	4.6%	4.4%	2.8%	2.2%	1.9%	1.5%	1.6%
Hungary	7.8%	18.0%	34.7%	31.2%	20.9%	21.9%	15.0%	11.1%	9.1%	7.3%
Israel	4.6%	3.1%	3.1%	6.5%	6.9%	8.4%	7.2%	3.8%	2.4%	2.0%
Korea, South	12.0%	8.9%	10.4%	7.0%	2.9%	3.6%	3.9%	3.6%	4.7%	5.0%
Latvia	13.4%	13.0%	18.6%	24.2%	20.1%	16.5%	14.5%	15.6%	9.0%	6.7%
Lithuania	32.6%	35.9%	39.5%	39.4%	31.2%	26.6%	24.5%	19.0%	9.3%	7.4%
Malta	0.5%	0.4%	0.7%	0.6%	0.5%	0.9%	4.4%	2.8%	2.5%	6.5%
Poland	30.2%	36.2%	42.0%	37.4%	36.2%	26.0%	21.2%	22.0%	21.5%	13.5%
Romania	39.5%	39.8%	32.5%	34.0%	31.1%	23.0%	25.3%	27.1%	29.9%	26.0%
Slovakia	30.9%	26.7%	24.0%	24.2%	25.7%	15.9%	10.2%	10.3%	7.8%	6.3%
Taiwan	4.0%	3.9%	3.8%	4.8%	3.4%	1.0%	1.7%	3.1%	4.8%	5.3%
Turkey	9.0%	11.6%	21.7%	21.3%	22.8%	19.9%	15.6%	14.6%	13.8%	13.6%
Uruguay	2.2%	5.3%	5.2%	6.0%	7.4%	16.9%	15.9%	10.9%	10.1%	11.9%

preliminary data through 01/31/2008*

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Nonimmigrant Admissions

FY 2004-2006¹

Class of admission	2006		2005		2004	
	Number	Percent	Number	Percent	Number	Percent
Total	33,667,328	100.0	32,003,435	100.0	30,781,330	100.0
Temporary visitors	29,928,567	88.9	28,510,374	89.1	27,395,921	89.0
Pleasure	24,888,065	73.9	23,814,565	74.4	22,802,797	74.1
Pleasure (B-2)	11,269,933	33.5	9,758,617	30.5	9,185,492	29.8
<i>Visa waiver</i>	<i>12,921,832</i>	<i>38.4</i>	<i>13,568,455</i>	<i>42.4</i>	<i>13,521,963</i>	<i>43.9</i>
Business	5,040,502	15.0	4,695,809	14.7	4,593,124	14.9
Business (B-1)	2,673,309	7.9	2,432,587	7.6	2,352,404	7.6
<i>Visa waiver</i>	<i>2,364,967</i>	<i>7.0</i>	<i>2,261,354</i>	<i>7.1</i>	<i>2,239,595</i>	<i>7.3</i>

**NONIMMIGRANT ADMISSIONS (I-94 ONLY) BY
CATEGORY OF ADMISSION AND REGION AND COUNTRY
OF CITIZENSHIP: FISCAL YEAR 2006**

COUNTRY	Total	Visa Waiver²
Total	33,667,328	15,985,325
Andorra	858	762

¹ These statistics from DHS Immigration Yearbook 2006.

² Note: DHS notes that, for this chart, INA 212d4A entries also count as "Visa Waiver" entries; therefore, the total number of 15 million is not solely VWP entrants.

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Australia	750,492	676,461
Austria	157,474	140,144
Belgium	219,727	200,162
Brunei	847	575
Bulgaria	39,493	N/A
Cyprus	8,942	N/A
Czech Republic	47,169	N/A
Denmark	228,268	205,761
Estonia	10,057	N/A
Finland	112,950	99,603
France	1,192,201	1,011,273
Germany	1,704,154	1,511,970
Greece	65,839	N/A
Hungary	47,704	N/A
Iceland	49,535	44,256
Ireland	496,660	459,770
Italy	758,896	657,553
Japan	4,306,792	4,010,916
Korea, South	942,341	N/A
Latvia	11,938	N/A
Liechtenstein	1,376	1,224
Lithuania	12,780	N/A
Luxembourg	9,329	8,119
Malta	5,367	N/A
Monaco	857	699
Netherlands	646,025	598,158

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New Zealand	238,215	215,312
Norway	173,364	149,968
Poland	182,416	N/A
Portugal	108,122	94,754
San Marino	583	533
Slovakia	27,402	N/A
Slovenia	15,443	12,962
Spain	543,755	487,816
Sweden	347,803	311,002
Switzerland	284,197	254,618
Turkey	121,153	91
United Kingdom	4,949,130	4,557,850

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