Testimony of

Elizabeth C. Dickson

Director of Immigration Services, Ingersoll-Rand Company

On behalf of the

U.S. Chamber of Commerce

Before the

Senate Committee on the Judiciary

"Examining the Importance of the H-1 Visa to the American Economy"

September 16, 2003

2:30 PM

Mr. Chairman and members of the Committee, good afternoon. Thank you for the opportunity to testify today before the Committee on the subject of the importance of the H-1B visa to the American economy. I am Elizabeth Dickson, a Human Resource Specialist and a member of the Global Mobility Services Team for Ingersoll-Rand Company. I am also Chair of the U.S. Chamber of Commerce Subcommittee on Immigration and am pleased to testify on the Chamber's behalf.

The U.S. Chamber of Commerce is the world's largest business federation, representing more than three million businesses and organizations of every size, sector and region. The Chamber represents a wide spectrum of industry sectors from manufacturing, to retailing, services, construction, wholesaling and finance in a variety of locations around the country. The Chamber also represents over 850 trade associations and professional societies. The Chamber has membership in all 50 states and 95 American Chambers of Commerce abroad. The U.S. Chamber has a long history of involvement in immigration issues, and specifically with regard to

the H-1B visa. Chamber staff and Chamber members have testified on immigration issues no less than eight times in the last five years; four times specifically on H-1B and highly skilled workers. I myself previously testified before this Committee in 2001 for the Chamber.

My testimony today reflects my experience with Ingersoll-Rand's ability to find vitally needed workers. I hope that I will be able to share with you some direct observations from the perspective of a multinational company trying to comply with more and more complex immigration laws and policies.

Ingersoll-Rand is a Fortune 200 company with about 50,000 direct employees worldwide, including 30,000 domestic employees. The company is a major diversified industrial equipment and components manufacturer serving the global growth markets of Climate Control, Industrial Productivity, Infrastructure Development and Security and Safety. Its international headquarters is based in Woodcliff Lake, New Jersey and in 2002, the company had annual sales in excess of $9 billion. Ingersoll-Rand Company operates manufacturing plants in over 21 countries around the world and markets its products and services, along with its subsidiaries, through a broad network of distributors, dealers and independent sales and service/repair organizations.

As you have heard from the distinguished panelists today, immigration is a complex issue. Following the attacks of September 11, 2001, the U.S. Government's focus on national security priorities and the creation of three separate immigration agencies under the new Department of Homeland Security presents new challenges for U.S. companies that employ foreign nationals in the United States. This necessary focus on national security combined with our company's ever present need to utilize the shrinking H-1B visa program to hire the best engineering and other professional talent directly impacts the company's productivity and global competitiveness.

The H-1B visa is available to those individuals whose services are sought by a U.S. employer in a "specialty occupation." The position to which the individual is being sent must be professional. Professional positions include engineers, computer systems analysts, financial analysts, attorneys, accountants, and many others. To qualify for H-1B temporary worker status, an alien must have at least a bachelor's level degree—or the foreign equivalent—in a field which

is regarded by the government as a profession. The employer must first attest to the Department of Labor that the alien will receive a salary commensurate with the prevailing wage for U.S. workers, in the same job category. The employer must also make certain attestations to show that U.S. workers are in no way disadvantaged by the hiring of the foreign national. The employer must also attest that it offers its U.S. and H-1B workers the same benefits. The attestations must be posted internally along with the offered salary and the prevailing wage.

An employer is also limited by an annual cap on the total number of new H-1B workers. There are 195,000 H-1B visas allocated for fiscal year 2003. This will revert to a cap of 65,000 H-1B visas beginning October 1, 2003. It is unclear what, if any rationale, was used in developing this cap. What is clear is that the cap, when reached before the beginning of the new Fiscal Year, causes great economic hardship to U.S. employers. In Fiscal Years 1997 and 1998, we reached the cap. Many petitions that had been filed were put on hold until the beginning of the next Fiscal Year. This put candidates in limbo and required employers to remove valuable employees from payrolls. It also delayed the hiring of needed professionals. We cannot afford to let arbitrary caps dictate U.S. business immigration policy.

Immigration policies and procedures must be rationally based and include consideration for economic security and competitiveness. We must be able to tap the talent we need both domestically and abroad. Companies like Ingersoll-Rand live this reality on a daily basis, and when Human Resource Managers cannot fill key positions with workers from the domestic workforce, they are forced to look outside the U.S. to hire or outsource the work.

Ingersoll-Rand prides itself on being a U.S. based company that strives to keep the majority of its manufacturing operations within the U.S. borders. We have manufacturing plants in 24 states and 120 facilities located throughout the United States. Over 45-50% of our profits are tied to export sales. Unfortunately, market forces and the lack of highly qualified U.S. workers have created a problem of identifying and retaining U.S. workers. Indeed, recruiting engineers within the U.S. often results in foreign born applicants. U.S. colleges and universities are graduating many foreign born engineers and scientists; in some disciplines, more than half of the graduates are foreign born. Let me give you some examples of the difficulties we face:

1. Our Air Solutions Group has employed a foreign national as its Original Equipment Manufacturer ("OEM") Technical Sales Manager. We advertised extensively for this position and found no U.S. worker. The position entails managing new business development efforts for rotary products in the geographical regions of the Americas and the Asian Served Area, which includes Asia, North America, Central America and Canada. The minimum requirements for this position are a Bachelor's Degree in Mechanical Engineering and two years of sales management experience with OEM products including rotary screws and reciprocating compressors. In 1995 Air Solutions acquired a UK business, Simplair Ltd., a developer of compressed air piping system, as a component of its industrial air compressor products. The former owner of this business was hired and brought to the United States in H-1B status as Worldwide Product Manager – Simplair, with responsibility to explore, identify, develop and manage new and existing business opportunities for the Simplair product line. His technical product knowledge of the Simplair compressed air piping system is unequaled and he has been directly involved in the sales and marketing of air compressor products for over 20 years.

2. As the company continues to expand its quality initiatives, Metrologists have become a professional engineering occupation in very short supply. There are only about five universities in the U.S. with Masters programs specializing in metrology and almost all the students enrolled in such programs are foreign nationals. Human Resource Managers advise me that they simply cannot find Americans to fill such positions. Our Waterject Cutting Systems business in Baxter Springs, Kansas and Farmington Hills, Michigan spent 20 months searching extensively using advertisements and professional recruiters to find an engineer experienced in industrial robotics and pressurized product development before finally hiring a qualified individual from Canada. Metallurgical engineers have been an identified shortage occupation for years in the United States and are key contributors to machinery development projects for our mining and drilling products. Thermo King conducted a 13-month search for a qualified plastics engineer for their product development team and hired another Canadian national.

3. Ingersoll-Rand's Specialty Equipment Business Unit, part of the Infrastructure Sector, manufactures a broad line of drilling equipment and accessories with industrial, mining, and water well drilling applications. This Unit has annual bookings of $38 million, with an operating budget of $1.5 million. We employ a Vice President and General Manager of this business unit on an H-1B visa. He has 18 direct reports and oversees operations of one U.S. and three international locations. He provides leadership to develop and implement the strategic goals and objectives as well as tactical deployment of resources to achieve sales goals, increase market share, effect operational improvements, and reach financial goals for the business unit. This position requires a Bachelor's Degree in Finance or Business Administration plus ten years experience in business management with demonstrated financial growth. We also require five years of information technology experience in a manufacturing environment as the current competitive environment requires Specialty Equipment to dramatically reduce the lead-times in the manufacturing of its products as well as to collaborate with other IR brands to increase market share. We could not find a U.S. candidate that met our requirements and turned to a qualified Canadian applicant who entered the U.S. on an H-1B visa. This individual has a base annual salary of $124,000.

4. We are always looking for innovative Engineers. Recently we recruited for a Product Development Engineer for our Dresser-Rand Advanced Controls systems. We needed someone to work with minimal direct supervision and be responsible for development and implementation of modeling, advanced control and optimization software products. The minimum requirements for this position are a Ph.D. Degree in Chemical Engineering plus three years of experience in generating advanced control solutions for process related industries. This experience must also include at least two years experience in integrating advanced controls for turbomachinery into process applications. We found no U.S. workers that met our requirements. However, we did fill the position with a U.S. educated foreign national.

5. We have also recently recruited for Product Design Engineers. In one position the engineer is responsible for the management and coordination of specific products

including oversight of engineering personnel assigned to product development; designing and developing new components, systems and products such as air systems, hydraulic systems, coolers and drill feed systems. The minimum requirements for this position are a Master of Science Degree in Mechanical Engineering. The Product Design Engineer must also possess three years of experience in the position or in a related heavy equipment design/engineer position, specifically large rotary drills. We have been unsuccessful in locating a U.S. worker, but did identify another U.S. educated foreign worker.

6. We recently hired an H-1B as the Director of Manufacturing Operations for our Thermo King de Puerto Rico manufacturing plants. The position requires the applicant to direct the total operations of the Thermo King manufacturing facilities in Puerto Rico to achieve plant and division manufacturing objectives for growth, profitability, quality and reliability, on-time performance, and customer satisfaction. This position reports directly to the Climate Control Director, Americas Operations, and commands a salary of $140,000 plus discretionary bonus. We require experience as a manufacturing manager with demonstrated ability to improve production processes, contain costs, and provide the leadership necessary to maximize as well as a Bachelor of Science degree in Electrical Engineering. Bilingual and cross-cultural skills were also requirements for this position.

7. We also recently filled the position of Worldwide Engineering Manager – Drilling Solutions with an H-1B employee. This is a key managerial position responsible to provide the coordination of all Product Engineering functions for the Drilling Solutions business on a worldwide basis at Drilling Solutions manufacturing facilities in the United States, India, France, China, Japan and the United Kingdom. The position will be responsible for a superior level of machine design, manifested in superior marketability, quality, reliability, customer acceptance, and government regulation compliance. Requirements for the position include a Bachelor's degree in Engineering with ten years professional work experience. We recruited extensively and hired an Australian candidate to fill the position.

Training and Recruiting U.S. Workers

Through the media and other sources the business community hears the mantra—train U.S. workers; invest in the domestic workforce. We at Ingersoll-Rand and my fellow members at the U.S. Chamber do just this and more. We have training centers at almost all our manufacturing facilities—designed to improve technical manufacturing skills and meet our employees' personal needs; we collaborate with community colleges and vocational technical schools—providing certificate and college degree programs and sponsor distance learning on-site; we have a tuition reimbursement program for employees pursuing bachelor's and advanced degrees; we provide many corporate on-site training programs; and we encourage cultural exchanges from our facilities abroad in order to enhance diversity and awareness.

Let me give you a few examples:

1. Ingersoll-Rand University was established in 2001 as a dedicated training facility on the Industrial Solutions campus in Davidson, North Carolina that provides a broad spectrum of professional training including a School of Business Management, a Leadership and Team Development School, and also provides Competitive Advantage (marketing) and Operational Excellence training. Esteemed business school faculty, leading consultants and our top executives teach these programs. Additionally, IR University OnLine is the e-Learning delivery mechanism for IR University, providing the most effective way to deliver education with maximum accessibility to Ingersoll Rand's geographically dispersed employees. All IR locations offer full tuition reimbursement programs to support employees studying independently at local colleges and universities.

2. Dresser-Rand Company in Olean, New York has entered into partnership with the local vocational school to hold on-site classes to train (and hopefully recruit) high school students to assume skilled positions at their manufacturing facility upon graduation. The Construction and Mining Group has it's own welders' school in Pennsylvania and the Air Compressor Group in Davidson, North Carolina provides co-operative training in conjunction with local high schools to develop interest in technical careers. The Air Compressor Group has a dedicated training center at the Davidson, North Carolina campus as well.

3. At corporate headquarters in New Jersey, the company sponsors a college degree program through Thomas Edison University in conjunction with our neighbor, BMW, and employees from both locations take weekly college-credit courses led by a professor on-site.

4. There are two-year corporate professional management programs for recruited university graduates in the fields of engineering, manufacturing, finance, human resources, and sourcing designed to expose participants to rotational assignments throughout the organization to develop both technical and management skills and create a diverse, knowledgeable global talent pool.

Additionally, Ingersoll-Rand remains a major contributor to U.S. colleges and universities as well as national organizations such as the International Road Education Foundation, the National Hispanic Scholarship Fund, and the National Urban League, to name a few.

We continue to conduct extensive recruitment in the U.S. market for our unfilled positions. We hold and participate in job fairs. We advertise in print publications including professional journals, newspapers, and newsletters. We advertise electronically on the internet and on our own website. We offer to pay for relocation and offer highly competitive wage and benefit packages for all employees.

Employers currently need and will continue to need H-1B workers. Through the U.S. Chamber of Commerce and in coalition with businesses and trade associations across the spectrum, we seek a reasonable, market driven H-1B policy that recognizes market realities. Earlier this month the Department of Homeland Security issued a Report entitled "Characteristics of Specialty Occupation Workers (H-1B): Fiscal Year 2002." This report, which is mandated by Congress, tracks the H-1B usage over the past 3 fiscal years. It is interesting to note there has been a 37% decrease in the number of petitions filed between Fiscal Years 2001 and 2002. Additionally, less than 40% of the total number of approved petitions

were issued for computer-related occupations. Approximately 33% were issued for engineering, education and occupations in medicine and health. Based upon general economic trends, the numbers do in fact mirror the needs of the market. Inability to meet market demands and company goals will drive projects overseas, resulting in a loss of U.S. jobs and a decrease in U.S. spin-off revenue.

Cost of Employing H-1B Worker

Some argue that H-1B workers displace American workers and lower American workers' wages and working conditions in certain job sectors. It is hard to displace U.S. workers when you don't have any U.S. workers to choose from. If anything, there are spinoff jobs and benefits. Wage levels are competitive, and by law must be the higher of the prevailing wage or actual wage paid to similarly situated workers.

Employers are required to give H-1B workers the same benefits as U.S. workers. We provide health plans, stock option plans, and pay into the social security system for all our foreign nationals. Indeed, hiring a foreign worker is much more costly and difficult for Ingersoll-Rand than hiring a U.S. based worker.

I do not want to understate the amount of work hiring an H-1B worker requires for the company. As the head of all of our global mobility work, I have the unique position to be able to compare the requirements for U.S. immigration law with those of other countries**.** I can say that the United States has one of the more complicated visa processes of any of the countries where Ingersoll-Rand operates. For each H-1B worker the company decides to sponsor, our Human Resources personnel spend dozens of hours, compiling the necessary documentation for corporate headquarters to submit, and overseeing the process. We take extraordinary care to be sure that before we "check the box" on any form, we have verified with all relevant internal records, and, when necessary, with outside counsel, that we are fully in compliance. In addition to the H-1B paperwork, application fees and legal costs for the initial petition, H-1B workers require ongoing support to facilitate visa revalidation and international travel.

When an H-1B worker is transferred from a country abroad, the cost of an international relocation and dual taxation obligations at home and host countries can easily double or triple

that worker's annual salary. For example, a recent cost projection for a two-year H-1B temporary assignment for an engineer from Switzerland to the United States based on an annual salary of $55,000 will ultimately cost the company about $300,000 due to relocation and storage expenses, international salary administration, benefits payments, dual taxation obligations, and temporary housing and automobile allowances provided. The one year cost for a new hire recruited from Germany and relocated to the U.S. at an annual salary of $120,000 will total $235,000 for first year of transfer. The company would not invest this kind of money in these individuals unless there was a sound business need for their skills and services in the United States.

America cannot maintain its global advantage without an adequate supply of top-quality engineers, including immigrants. Immigrants build wealth and create jobs for native-born Americans. According to a recent report from the Immigration Policy Center of the American Immigration Law Foundation, foreign born individuals are 28 percent of all Ph.D.s in the U.S. who are engaged in research and development in science and engineering. (See, American Immigration Law Foundation, Immigration Policy Center, *Immigration Policy Focus: The Global Battle for Talent and People*, September 8, 2003; Stuart Anderson; Volume 2, Issue 2.) If the government refuses to recognize market needs and demands, the only alternative for American companies will be to move more of their operations offshore. The solution is not, as some have suggested, to cut access to foreign talent and wait while the promise of high wages pulls U.S. students through the pipeline. In the near-term, we simply must have access to foreign nationals. Many of them have been educated in the United States. By sending them home, we are at best sending them to our own foreign plant sites, and at worst to our competitors. The U.S. needs to maintain its global competitiveness and not let other countries lure away the talented professionals that generate ideas, innovation and prosperity. In the future, we will still want to hire the best and the brightest, whatever their nationality.

We are encouraged that the Committee is exploring the economic issues surrounding the H-1B program, and hope that some constructive solutions can be can be identified. Thank you for allowing me to testify. I look forward to answering any questions that you might have.