



Statement of the U.S. Chamber of Commerce

ON: "LOWERING THE COST OF DOING BUSINESS IN THE
UNITED STATES: HOW TO KEEP OUR COMPANIES
HERE"

TO: HOUSE COMMITTEE ON SMALL BUSINESS

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The Chamber's mission is to advance human progress through an economic,
political and social system based on individual freedom,
incentive, initiative, opportunity and responsibility.

**Testimony of Randel K. Johnson,
Vice President for Labor, Immigration & Employee Benefits
U.S. Chamber of Commerce**

**Before the
House Committee on Small Business
“Lowering the Cost of Doing Business in the United States:
How to Keep Our Companies Here”**

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9:30 A.M.

Chairman Manzullo, Members of the Committee, I would like to thank you for the opportunity to testify today on the issue of the current and projected problem of delayed entry for foreign nationals traveling to the United States for legitimate business purposes, with a particular focus on visa issuance problems. I am Randel K. Johnson, Vice President for Labor, Immigration and Employee Benefits at the U.S. Chamber of Commerce. While my biographical information is attached to my written testimony, let me note that I represent the Chamber on the Data Management Improvement Act (DMIA) Task Force, which was established by Congress to study and recommend suggestions on how to implement an entry-exit process at our nation’s borders, I chair the Americans for Better Borders Coalition which works on issues relating to the secure and efficient processing of legitimate travel and trade, and am a member of the Board of Directors of the National Immigration Forum.

The U.S. Chamber of Commerce is the world’s largest business federation, representing more than three million businesses of every size and in every business sector. The Chamber’s membership also includes 95 American Chambers of Commerce abroad (AMCHAMs) located in 83 countries, which represent American companies and individuals doing business overseas as well as foreign companies with significant business interests in the United States. Because of their role at the crossroads of international business, we believe the AMCHAMs are excellent barometers of the strength of our international relationships.

We are all aware of the new environment in which not only business, but all of us must live. The need for security to protect us from another horror such as September 11 is very real. The U.S. Chamber has pledged its support for the broad ranging efforts to secure our homeland, was involved in the shaping of the legislation which created the

Department of Homeland Security, and “key voted” in support of the legislation in both the House and the Senate.

Two of the provisions that we worked on included one that created a special office which was charged to reach out to the private sector, a particularly important function as the Department got up and running, and another that made clear that part of the Department’s mission is to include consideration of America’s economic security as the Department strives to also protect our national security. These provisions, along with those in Title IV of the implementing legislation relating to borders and transportation which reflect the need, consistent with national security, to “ensure the speedy, orderly, and efficient flow of lawful traffic and commerce,” I believe went a long way in addressing concerns that the new Department would pursue a “fortress America” without weighing the negative economic impact on the country as a whole, which could result from significant increases in barriers and delays at our borders. As Chamber President and CEO Tom Donohue has said, we need to ensure “that in the pursuit of security we don’t lose our mobility and our economic freedom. Mobility and security must go hand-in-hand. Sacrifice one for the other and we’ll pay a horrific price.”

And, indeed, the decision makers at the Department of Homeland Security, the State Department and the White House, certainly have repeatedly reassured those on the outside that the government will continue to search for ways to both improve security and to expedite, or at least not significantly hinder, legitimate international commerce, travel and immigration.

However, I believe there is serious concern among those of us in the private sector, the traveling public and local communities, that these words are not matching the new policies, present and pending. There is a sense that the concerns of the business community are not given the weight that they deserve. With the constantly tightening policy responses and fast approaching deadlines for still greater changes, such as increased referrals for security checks, requirements for in-person visa interviews, upcoming deadlines in the next year for Machine Readable Passports and biometrics for Visa Waiver visitors, the December 31 deadline for the US VISIT system at air and seaports, which includes fingerprinting more than 10 million visitors annually from countries around the world, and full implementation of US VISIT at the 50 busiest land borders in 2004 and the remaining land ports in 2005¹, this concern has reached a new urgency. Indeed, there is a growing perception abroad, that, in spite of the rhetoric, America *is* turning into a fortress. And this perception is hurting American businesses.

For example, we have recently met with representatives from the Laredo and McAllen, Texas Chambers of Commerce, and I have visited with various other stakeholders in the border communities as part of my work on the DMIA Task Force. There is a very strong feeling that the local communities and businesses have made their serious concerns about entry/exit procedures known to various people in the government (and us) but really were wondering: “Is anybody listening?” or were they being ignored

¹ For a useful overview of various deadlines, see GAO Report 03-563, “Homeland Security Needs to Improve Entry Exit System Expenditure Planning,” pages 48-50.

because it is “easy to ignore border communities.” Now that the deadlines for actually putting into place the entry/exit system are fast approaching, this concern is becoming extremely urgent, although recent official descriptions of how the US VISIT system will be implemented does indicate that the Department of Homeland Security is at least hearing our concerns. The same feeling has been evidenced on the northern border, particularly in the Buffalo and Detroit areas. There is a sense that those within the government may not be carefully evaluating the degree to which their decisions will actually advance security, much less understanding that their decisions will impact, not just dollars and cents, but a way of life, jobs, the environment, and the fabric and future of a community. It may be a communication issue, but the perception is there, and it’s a serious communication issue.

The urgency is even greater on the visa front. Our American Chambers of Commerce in places like China and South Korea report they are actually losing business to European and other competitors because of the difficulties in obtaining visas for their customers and clients. Impending changes to the Visa Waiver program will disproportionately affect key American allies such as the United Kingdom and Japan, both of whose governments have recently stated that, in spite of their best efforts, they will not be able to meet the biometric deadline by 2004. In fact, one can legitimately wonder if the United States will be able to issue biometric passports by next year’s deadline. We would strongly urge that Congress reconsider that deadline, and allow the State Department and Department of Homeland Security to waive the deadline in appropriate circumstances, similar to the waiver recently used to delay the machine readable requirement for several countries. This is an issue of the highest importance for U.S. companies doing business in the 27 countries in the Visa Waiver program.

None of this is to discourage efforts within the government agencies to deal with the very difficult questions of how to ensure that the next terrorist cannot penetrate our border protections—whether at the consulates overseas or at the ports of entry. And in the end, it is the quintessential job of government to protect its citizens. But I think we can all acknowledge that sometimes those within government, and I spent over half of my career within government, can isolate themselves from the real impact of their decisions, and accept that impact as a necessary cost (to them) of reaching a goal. That Congress, in some cases, imposes perhaps unrealistic deadlines on these same agencies, needless to say, makes this rationale all the easier.

Of course the business community, and others in this environment, hesitate to be critical because we will likely be accused by some of not being sensitive enough to national security. So I think the fact that we are here today and openly discussing these problems in and of itself is an indication of how important we feel about these issues. But let me be clear—we are not just here to complain. That will ultimately get us nowhere. We present our complaints only to illustrate the need for solutions. We are willing to work together with the agencies to advance solutions, and have offered to do so.

It is in that spirit that I come before you to share with you the concerns raised by the business community, by Chamber members, with the changes to visa and border policies implemented over the last year.

America's trade relationships, our diplomatic relationships, our cultural relationships and our academic relationships with the rest of the world depend a great deal on the ability of people to travel to the United States.

- U.S. companies exporting their goods and services abroad depend on the ability of customers and potential customers to visit, inspect the products and services they are purchasing and “seal the deal.”
- Multinational businesses depend on the ability to bring key personnel to the U.S. from overseas to facilitate management, executive decisions, research and development teaming, training and integration of far-flung subsidiaries and affiliates.
- Our entertainment industry relies on talent from around the world, and our arts and cultural communities give the U.S. public exposure to some of the finest in international arts and entertainment.
- Our world-class medical facilities are the envy of the world, and depend not only on international collaboration for many medical breakthroughs but also on patients from around the world who flock to our facilities to receive the best in medical care.
- Our educational institutions not only are crucibles of learning, but also create the diverse and international community of students, teachers and researchers that continues to make the United States the leader in innovation and the location of choice for international scholars.
- Our hospitality and travel industries generate over 18 million jobs for Americans to support millions of international business and leisure travelers annually.
- Employers in the United States count on their ability to hire from overseas when necessary to meet desperate workforce needs for specific skills, abilities or due to shortages of available U.S. workers.

The ability of any of these transactions to happen depends on the timeliness, predictability and efficiency of our visa and immigration system. Unfortunately, these qualities have been sorely lacking. Specifically, the changes to the visa system over the last year have strained many of our business and international relationships, and have created problems and costs for our economy.

Let me reiterate that we understand the concern for security, and the Chamber fully supports efforts to improve our screening of persons who wish to come to this country. However, as stated above, we must look for those processes that can achieve that objective without sacrificing the efficiency of our system. Our largest concern is that these new policies seem to have been put in place with very little, if any, consideration of the need for coordination and communication with the private sector, or the real resource needs to efficiently carry out these changes. Finally, while State Department officials have acknowledged that there are adverse impacts to the private sector, they have offered little in the way of options for improving the situation. As the State Department cable to consular posts on visa interviews indicated, the Department “expects and accepts ... processing backlogs for the indefinite future.” Members of the Committee, is it acceptable for a government agency to accept delays and backlogs as the normal course of business? We should continue to search for solutions—and more resources may, in fact, be necessary.

We are aware that the State Department has tried to downplay the impacts of these changes, stating that their data does not show significant problems. Members of the Committee, I will shortly share with you some of the problems that have been brought to our attention as a result of these various changes, but first I must say that the statistics provided by the State Department must be put in context. We are told that only 2% of all visa applications are referred for clearance. However, 2% of an annual 8 million visa applications is still 160,000 cases! And of course these cases are not equally distributed around the world. I am sure that a breakdown of these referrals would show a disproportionate number arising from China and other Asian countries. To borrow a phrase from the labor area, what we are clearly seeing is a “disparate impact.” And it is those countries that have seen the greatest change in policies that, of course, are having the most difficulty. The State Department continues to state that they don’t see a great increase in average waits for visas, but tell that to British citizens who went from filing their applications by mail to waiting six to eight weeks for a visa appointment, or Korea where the wait has grown from two days to two months.² One cannot realistically measure wait times simply from the time of submission of the formal application.

The State Department should acknowledge publicly what their own consular posts are telling the business and traveling community in too many places around the world—“you must wait longer.” And business delays do have an impact on costs and the ability to rationally plan for the future. Finally, I would point out what every association representative here and your own constituent services assistants could tell you—by the

² The views of practitioners in the area is also instructive on this point. See “Consular Processing—New Restrictive Security Measures Change the Playing Field, A 2003 Update,” The Visa Processing Guide, 2003-04 Edition (“Although some of the security measures were expected, visa applicants are faced with an entirely new visa framework, often encountering completely unpredictable surprises that can cause unexpected and lengthy delays in visa issuance. The inevitable problems associated with a major restructuring are compounded by a new restrictive attitude on the part of DOS and BCIS.” Id., page 3.) For a useful overview of the many hoops and hurdles involved in visa issuance, see this article and “Strategic Lawyering at Consular Posts in the Aftermath of 9/11,” 2003-04 Immigration & Nationality Law Handbook—Volume 1.

time we hear about an issue, it has gone beyond just a normal delay. Chamber members do not call us until they have exhausted their own (often significant) resources.

The U.S. Chamber began hearing about this issue from its members more than a year ago. It began with requests for assistance in specific visa cases that seem to have been delayed or “fallen into a black hole” at an embassy or consular office. While the Chamber gets these requests occasionally (but rarely intervenes in individual cases) the increase in the number of requests was notable. Soon the requests on specific cases became a general concern that too many cases seemed to be falling into this “black hole,” and a pattern was forming.

By last summer we were made aware of significant delays and problems processing visas in several Asian countries, most notably China, Vietnam, Malaysia, and Taiwan. (Later Russia was added to this list.) Many of these problems were caused by the increasing use of “Security Advisory Opinions” or SAOs under the so-called “Visa Mantis” programs relating to technology transfers. It seemed that not only were cases being referred for SAOs that never had been in the past, but that the clearances themselves were taking months, severely straining business relationships and jeopardizing the ability of U.S. companies to export their products.

One such company in the industrial automation industry (who asked that its name not be used because it is fearful its foreign competitors will use the information to their advantage) had three sales engineers from China who were subjected to the Mantis screenings. While not a significant number in and of themselves, these three happened to be personnel critical to their operations. One of the engineers was working on industrial machinery for a mass transportation project in a major Chinese city. Because the Embassy decided this fell under the “URBAN PLANNING” technology field, the case was sent for an SAO. Because the engineer could not attend necessary training in the U.S., the project was set back a full year. Two other employees, a software sales engineer and the head of the company’s automation research and development center, were also delayed. The employer was not able to determine which “critical fields” necessitated the SAOs in these cases, and therefore was not able to provide any additional explanation or help to the consular officer in determining whether or not an SAO might have even been required, much less help the agencies involved determine whether to grant the clearance.³

The State Department, FBI and others have acknowledged a glut of clearances last summer that they claim to have eliminated. It should be noted that the numbers of “lost” cases seems to be lower, and there is improvement. However, in recent Senate testimony, FBI says that its “benchmark” is completion of 80 to 90 percent of cases within 30 days. And they do state that Mantis checks take a longer than average time

³ We understand that the Technology Alert List has recently been revised and Urban Planning as well as construction has been removed. However, we also understand that other areas on the list have been broadened, and many consular officers still have difficulty discerning the actual technologies to be protected. The State Department’s policy of sending cases for opinions where there is “any doubt” about whether the list even applies has generated thousands of new clearance cases.

because of the predominance of similar Asian names. Bear in mind, that this is 30 days AFTER they receive the case from a consular post. Of course it may have taken the individual 30 days to get the appointment to SUBMIT the application to the consular post in the first place, so we are now talking two months. In business, this is an extraordinary length of time, especially when our competitors are issuing visas to these same foreign customers in a matter of days or two weeks. No wonder foreign customers are still apprehensive about doing business with American companies.

Other countries have had difficulty dealing with the additional delays due to the increased security checks under the so-called "Visa Condor" program. For example, a petroleum engineering company based in Texas has had difficulty in obtaining visas for project managers from its client, the Saudi national oil company, Saudi ARAMCO. ARAMCO has told them that they are going to start looking at contractors in the United Kingdom and other countries, potentially costing this U.S. company millions in revenue, and jeopardizing over 2,000 U.S. jobs.

The American Business Council of the Gulf Countries, the organization of AMCHAMs in the Gulf states, has discussed the unintended consequences of the current visa policies in those nations. American companies are facing skepticism by their Gulf partners in doing business, feeling "unwelcome" in the United States and concerned that what they see as visa "restrictions" will hamper their ability to oversee investments or partnerships in the United States. The American Chamber of Commerce in Malaysia reports a similar feeling among Malaysians, who are increasingly turning to the United Kingdom or Australia for business partnerships, study abroad and other activities.

The level of concern over these delays is evidenced by the more than 80 organizations that joined a letter to Secretary of State Colin Powell and Secretary of Homeland Security Tom Ridge in January 2003, including the American Chambers of Commerce in China, Vietnam, Hong Kong, India, Japan, Shanghai, Singapore, and Malaysia among others.

Since last year, the State Department has also phased out programs sponsored by many AMCHAMs to file visa applications on behalf of their members. Many AMCHAM member companies relied on these filing programs to expedite visa issuance for their employees and business customers. It should be noted that these programs NEVER involved any type of preadjudication or prescreening of the cases. The AMCHAM assisted companies with compiling the necessary documentation and filing cases through its agreement with the consular post. The discontinuation of these programs, combined with the increase in comprehensive person-to-person visa interviews implemented on August 1, has resulted in even more delays for visa applicants (in many countries the wait time for a visa appointment can be months), and has created significant issues for many businesses. We understand that the State Department has recently approved reinstatement of some of these programs, such as for the AMCHAM in South Korea and a limited program for the AMCHAM in China.

Potential foreign visitors to the United States now face a dizzying obstacle course of rules, procedures and fees to even attempt to travel.

First, in many countries, the consulates rely on contractors to operate toll phone numbers to schedule appointments for visa applicants. In many cases, the cost of these calls can quickly add up to \$30 or more, a significant sum in lesser-developed countries.⁴ The Swiss-American Chamber of Commerce recently wrote to the Department of State stating that visa applicants calling the toll line to set up appointments often spend over 30 minutes on the phone (at \$1.50/minute) and the wait time for an appointment in Bern is currently 8 weeks and growing. This is *before* any additional workload due to the required biometric collection to be instituted next year. In the words of the Chamber, this situation “adversely affects the image and reputation of the United States.” The Swiss Embassy in Washington received a copy of this letter and also forwarded it to the State Department to express its concern.

Of course once the applicant has an appointment, often he or she must travel significant distances to the nearest U.S. consulate. In South Africa, the new interview requirements will often require a domestic trip of several hours travel time or a flight just to obtain the visa, even before traveling to the United States, adding additional cost and time out of the office. A similar situation exists in Brazil, a country the size of the continental U.S., with only four visa issuing posts. Imagine having to travel from Omaha to Chicago just to apply for a visa for an upcoming business trip. Finally, once at the consulate, the applicant must pay additional fees: a non-refundable application fee of \$100 and additional visa issuance fees that vary by country but may also be up to another \$100. The applicant may now be required to provide the U.S. Government with fingerprints and detailed documentation of every aspect of his or her life, work and study. If the application requires an additional security check, the applicant may not know for weeks whether he or she will ultimately be rewarded with a visa. Of course, if lucky enough to receive a visa, the visitor will then be required to again submit to fingerprinting at the airport upon arrival, under the new US VISIT system.

All of this just for the privilege of buying American products. And this is how foreign businesspersons and travelers encounter the United States. As stated above, this growing perception of an unwelcoming country is having a negative effect on U.S. businesses.

Korea is the sixth largest U.S. export market, second only to Japan in Asia, and the U.S. Consulate in Seoul is the largest nonimmigrant visa issuing post in the world and is among the top five origin countries for U.S. visitors last year. In testimony last month in the Senate, William Oberlin, President of the American Chamber of Commerce in Korea, stated that the new visa interview requirement has led to an immediate increase to

⁴ In the Czech Republic, where visa applicants must call a toll number to arrange an appointment at the consulate, and where those callers are often put on hold and given visa interview dates long after the expected date of departure (even when the caller has called weeks in advance of the trip), one airline company estimated a loss of over \$100,000 over the summer, due to cancelled travel plans.

a 60-day wait for visa interviews, and this is during the September/October period of lowest travel. Projections show potential for increasing delays as the travel season returns.

I have attached to this testimony some other case examples from companies and organizations that have been impacted by visa changes that we have gathered over the last six months. We do not have statistics; that is the responsibility of the State Department, but these anecdotes demonstrate that whether or not significant *numbers* of cases are affected, in many cases it is key personnel⁵, often essential for the operation of a company that experiences delays. But perhaps most importantly, the perception of widespread delays is enough to jeopardize trade and business relationships.

My testimony has focused on the impacts to the business community. However, as I stated at the beginning, these delays are adversely impacting the education, arts and entertainment, travel and tourism, and medical communities as well.

We have met many times with the State Department, and sent several letters to make our concerns known. However, the response we have received has been less than, well, what we had hoped for. While the Department continues to claim that these changes are required by national security, it is difficult to understand how helpful, for example, an interview of a few minutes by an overloaded consular staff can be to security. Again, perhaps it is a matter of better communicating, but communication is a two-way street.

Finally, I would note, that while the GAO report on strengthening the visa process as an antiterrorism tool in October 2002 did recommend that the State Department create a more comprehensive set of guidelines and standards with regard to such things as visa interviews, it also specifically stated that such standards be “risk-based.” The virtual blanket approach for person-to-person interviews offered by the State Department in its May cable to posts would not appear to meet the risk-based recommendation.

Further, we are extremely dismayed at the lack of involvement of the affected stakeholders in the process of making decisions regarding these changes. We have suggested to the State Department that they allow businesses to assist them in their duties by providing additional information necessary to process clearances, and suggestions for phasing in interview requirements and others. To date, the State Department has followed up on few, if any, of these suggestions.

Perhaps most importantly, these changes have been happening at a rapid pace, leaving businesses no time to make adequate adjustments to accommodate the changes. Further, knowing that additional changes are forthcoming in the next year, it appears that

⁵ For example, CNET Networks, Inc., the well-known tech Internet company, recently sent its Controller to Ireland to renew his visa. He arrived shortly after the Embassy in Dublin changed its visa policy from same-day issuance to an appointment system. Because the first appointment was not available for three weeks, the Controller missed the quarterly closing of the corporate books, an important milestone in this age of corporate responsibility.

no one at the State Department or at the Department of Homeland Security is attempting to manage the slew of changes or mitigate the impacts on the traveling public. As a member of the DMIA Task Force, I am acutely aware of the potential impacts of the proposed US VISIT system to the entry and exit of legitimate travelers to the U.S., and yet there has, until very recently, been little consideration, from what we can tell, of the combination of the visa and the US VISIT deadlines on the traveling public.

The State and Homeland Security Departments need an aggressive and proactive outreach and communications campaign (perhaps working with the Department of Commerce) to counteract the increasingly negative image the United States is gaining among international business and travelers. U.S. companies are losing export opportunities to other nations because of the visa restrictions, tourism and trade shows that promote U.S. exports are losing to other destinations with easier visa policies, and American medical and higher educational institutions are losing some of their “luster” to foreign students, researchers and patients. In short, it appears that the U.S. is losing its competitive advantage in many areas because of its visa policies. This will ultimately impact our economic growth, and our global war on terrorism can only be funded through a sound economy.

We believe that four key principles are necessary to ensure that we accomplish the dual goals of security and efficiency in our visa system:

First, the agencies must have adequate resources to deal with the new mandates imposed on them. Consular posts are understaffed, lack facilities and technical resources, and are ill equipped to handle the increased workload required of them. Consular officers are making Herculean efforts to attempt to manage these increasing burdens, but are already feeling the strain. Increasing delays are the inevitable result. The point I wish to emphasize here is this: we have a non-immigrant visa process, covering many types of travel to the United States under various visa categories that we want to encourage, established by the Congress for sound policy reasons, and at some point significant delays will, as a practical matter, defeat those very same policy reasons. We need to provide adequate resources to prevent this from happening. While we are not experts in State Department budgets, we would encourage Congress and the State Department to engage in a serious and realistic dialogue as to the resource needs. Maintenance of both security and a viable visa processing system simply can't be achieved “on the cheap.”

Secondly, as recommended by the GAO, the State Department, and now the Department of Homeland Security, which has assumed policy authority over visa issuance, should actively pursue a risk-management approach regarding the millions of visa applicants each year. We must acknowledge that the vast majority of visa applicants are not security risks, nor are they likely immigration risks either. The Government must make an effort to quickly identify those who are “low-risk” travelers and speed their applications, while focusing scarce resources on those who are more likely to be a problem. This strategy is already in place at our land borders with the NEXUS and SENTRI programs for pre-cleared travelers. It is only through such a targeted approach that we can hope to regain efficiency in the visa system.

Third, as the Transportation Security Administration learned early in its life during its interaction with our nation's airports and airlines, it makes sense to engage your stakeholders early and gain their expertise, input and cooperation before moving forward with major changes. We believe that the business community and other private-sector representatives can be an invaluable asset to the State Department and the Department of Homeland Security both in developing "win-win" solutions to the security needs of our country, but also in accurately assessing the potential impacts of changes, and assisting in communicating these changes to the traveling public. We would urge the creation of a private sector advisory committee on visa issues, or a similar body, to provide this necessary input before future changes are implemented.

Finally, we are aware that many of these changes are being prompted by Congressional mandates, with tight deadlines. We believe that Congress must take a realistic look at what it hopes to accomplish in such a short time, and the costs, to the taxpayers, to our economy and our foreign relations of moving forward without adequately gauging the impacts. While deadlines may impart the seriousness of the imperative, deadlines that cannot be met provide a false sense of security.

More resources, better communication, pilot projects, time studies and consultation before implementation or public announcements presented as a *fait accompli*, are all necessary to a successful effort. While in the end only the government can determine the best method to protect the country, surely there is room for public debate as to whether, e.g., a two or three minute interview will uncover a possible terrorist, and if the answer to that is no, whether it is rational to require them of nine million visa applicants a year with the current level of resources available.

The Chamber looks forward to working with the State Department, the Department of Homeland Security and other agencies to address these issues, working toward solutions that meet the needs of our economy and our security.

Thank you and I am pleased to take your questions.

**Problems Encountered by Businesses in Obtaining Visas for Foreign Nationals:
A Sampling**

The following are some examples provided to the U.S. Chamber of Commerce from its members and overseas affiliates of cases of visa delays and denials, and their impacts on business operations. These cases are provided as examples only, but are representative of the issues faced by businesses operating in international markets daily.⁶

Ingersoll-Rand Company

Ingersoll-Rand Company (I-R), with worldwide corporate headquarters located in Woodcliff Lake, New Jersey, is engaged primarily in the design, engineering, and manufacturing of a diversified line of industrial components and machinery. I-R operates manufacturing plants in over 21 countries around the world, markets through a worldwide distribution network, and employs approximately 55,000 persons—30,000 in the United States. Annual net sales of I-R products are in excess of \$9 billion.

IR Dresser-Rand, a subsidiary of I-R, is a world leader in energy conversion technology and manufactures centrifugal and reciprocating compressors, gas and steam turbines and customized control systems. This company is having difficulty getting customers to the United States to visit its manufacturing operations, witness final product testing and receive operating instruction on products that can range anywhere from \$250,000 to \$2.5 million. Most of IR Dresser-Rand's sales are exports to the international oil industry.

Currently (as of November 20, 2003), IR Dresser-Rand is trying to obtain business visas in Malaysia so that the Director of Operations and the Engineering Manager for their customer, a Malaysian oil company, can visit the IR Dresser-Rand manufacturing operations in Houston. There, this company representative will witness the "Factory Acceptance Test" for a \$382,000 compressor controls system so it can be shipped to Malaysia. This final product testing is part of the contractual agreement. The testing is scheduled for December 1 through 5 and the company has had to engage private counsel to expedite the visa appointments and issuance of the visas so that the company can ship the product before the end of the year (for 2003 earnings).

It took 10 weeks to get visas issued for a Chinese inspection team from a Chinese energy company to visit the IR Dresser-Rand Olean manufacturing plant to witness the final inspection on a \$2.4 million centrifugal compressor system. Through legal counsel, the company managed to get the visa interviews moved up, but then the consulate held the visa applications for over two weeks before sending them to the Department of State for a Security Advisory Opinion (SAO). It took another 2 to 3 weeks before the clearances

⁶ Note, while some companies have granted permission for their names to be used, many more are concerned about negative repercussions from public disclosure of what are deemed sensitive personnel or trade issues. Where appropriate, we have used anonymous examples, but some companies were concerned about even that.

were returned to the consulate in Chengdu to issue the visas. This product took about 6 months to manufacture and could not be shipped until this inspection took place.

One of IR Dresser-Rand's customers in Argentina finally waived the product inspection because they could not get visas issued to get a product they critically needed shipped to them. This is not good for customer relationships, and in the future they may take their business to a competitor abroad where it will not be so difficult to obtain visas to inspect products before being released for delivery.

At the Shanghai Consulate an engineer at the Ingersoll-Rand Superay Tools joint venture in Jiangsu was denied a visa by the consular officer because he did not personally know the engineering manager at the U.S. Productivity Solutions manufacturing facility who issued the letter of invitation. The two business units have a relationship and it is not unusual for collaborators to have not met personally. The company subsequently has issued letters of invitation for that Chinese joint venture from one of the engineering managers who has visited the plant in China, but this is not always possible.

The company also has had a number of denials for supposed "immigrant intent" for engineers from its various I-R India operations, who could clearly demonstrate significant and long-term ties to India including long-term employment with the company abroad. These employees have advised the company that they had a 30 second interview and the consular official in one instance refused to even read the company letter marked "Business Critical" before denying the visa. Many of these employees are involved in product development or start up of products to be manufactured at the I-R India plants and needed to come to the U.S. to confer with I-R's U.S. engineering teams. The denials have further delayed the projects and the start of manufacturing products for the Asia Pacific market. This has an impact on the cost of product development and affects the operating costs of the business.

In China, the company had two engineers scheduled to attend the AAPEX International Tool Expo the first week of November and then visit the I-R Productivity Solutions manufacturing plant in Annandale, New Jersey to confer on engineering specifications for new product line that is scheduled for manufacture in China in January 2004. When they tried to get visa appointments at the beginning of October, they were given a November 25 appointment. Only through use of legal counsel was the company able to get these appointments moved up and visas issued in time, costing the company additional thousands of dollars in legal fees.

Recently, elimination of the use of travel agents in London and personal interview requirements have resulted in increased processing times for international managers and executives for British nationals. London visa processing through American Express for British nationals previously took 5 to 7 business days. It now takes about 6 weeks to get the interview scheduled [first week of June they were scheduling appointments for last week of July] and applicants must travel to London for the interview and wait for passports with visas to be returned. One of I-R's business units is in the process of transitioning manufacturing from a U.K. plant to the U.S. operations and its key

managers, who have the product expertise, are required to lead this transition. The applicants have worked for I-R in the U.K. for 8 to 15 years. The delay has resulted in lost revenues—a loss of 2 months in the transition.

A Korean business manager for I-R Asia missed a critical Migration Team Analysis Meeting for I-R Productivity Solutions because of the delay in obtaining a new B-1 visa at the U.S. Consulate in Seoul (she previously received a B-1 visa and was renewing). The Asian international business is being rolled into the Ingersoll-Rand International Shared Service model for its global export business. She was scheduled not only to represent I-R Korea at the meeting but is responsible for migration team initiatives for other Asia Pacific countries as well. The delay has not only cost productivity in Korea but in the rest of I-R's Asia Pacific operations scheduled to move to this more efficient business model.

CNET Networks, Inc.

CNET Networks, Inc. (CNET), is the global source of information and commerce services for the technology industry. As a top 10 Internet company with established Web sites in 20 countries and content in 18 languages, CNET connects buyers, sellers and suppliers throughout the IT supply chain with award-winning content via the Web, wireless devices, television, radio and print.

CNET sent its Controller to Ireland on business and while there he was to renew his H-1B, which had been extended in March 2003. He tried to renew the H-1 using the old same day process and was told on June 23 that the earliest appointment he could receive was July 11. This delay has caused him to miss the quarterly closing of the CNET books.

U.S. Oil Company

A U.S.-based oil and engineering company that employs 2,200 people, 2,000 in Texas, provides engineering and project management services for the petrochemical industries, particularly production facilities for oil and gas, refining, chemicals and pipelines. Because of projected declines in the U.S. oil industry in the next years, the company has been aggressively pursuing international markets for new business in order to avoid significant staff reductions in the U.S. Much of this new business is targeted to come from the Middle East, and they have made substantial investments in sales activity in that region to achieve this objective.

Recently, however, customers in the Middle East, particularly representatives of Saudi Arabian companies such as Aramco, are experiencing long delays in the processing of business visas to the U.S. These visas are required for their technical project teams to move to engineering contractors' offices as Owner's Representatives during the execution of their large petrochemical projects. These clients have a strong preference for awarding these contracts to U.S.-based firms, but because of the visa problems experienced since 9/11, they have been steering their business to European firms,

jeopardizing not only the company's business in the Middle East, but the company's ongoing effort to create international markets for its services.

New U.S. Business Investment

A transfer employee application for an Executive Vice President for an insurance company from the U.K. was approved by the Bureau of Citizenship and Immigration Services in March 2003, but the Embassy in London could not schedule him for an appointment for visa issuance until the beginning of August, delaying the new office opening in the U.S. and disrupting the business plan for the company, including the hiring of U.S. workers.

Universal Genesis

The Chairman and CEO for Universal Genesis and its operational subsidiaries, including London-based Universal Genesis International, Ltd., Universal Genesis Ltd., UG Risk Services, Inc. and Enhance One, LLC, is required to travel frequently to oversee operations in the United States and many other countries. Universal Genesis and its subsidiaries provide financial project management and risk management services to governments, energy groups, industrial and banking groups, major international transportation, distribution and logistics operators, high wealth individuals, technology groups and other similarly multi-faceted entities. Its portfolio of economic development activities has included industry-specific development for two major governments, large-scale economic and financial infrastructure development and multi-national project development and linkage, creating economic activity growth and advancement.

This CEO has been unable to travel from the United States to oversee international operations because, although a British citizen since childhood, this Iranian-born man must not only undergo security screening at the Consulate for his visa, but also register with the National Security Entry Exit System (NSEERS) each time he departs and returns to the United States. The long registration delays and the delays to screen him at the Embassy for re-issuance of his L-1 visa have effectively grounded this CEO in the U.S.

U.S. Industrial Automation Company

A leading U.S.-based industrial automation company with customers in more than 80 countries had three sales engineers from China who were subjected to the Mantis screenings. While not a significant number in and of themselves, these three happened to be critical personnel to their operations. One of the engineers was working on industrial machinery for a mass transportation project in a major Chinese city. We think because the Embassy decided this fell under the "URBAN PLANNING" technology field, the case was sent for an Advisory Opinion. Because the engineer could not attend necessary training in the U.S., the project was set back a full year. Two other employees, a software sales engineer and the head of the company's automation research and development center were also delayed. The employer was not able to determine which "critical fields" necessitated the AO's in these cases, and therefore was not able to

provide any additional explanation or help to the consular officer in determining whether or not an AO might have even been required, much less help the agencies involved determine whether or not to grant the clearance.

U.S. Industrial Chemical, Equipment and Electronics Manufacturer

A major U.S. industrial chemical, equipment and electronics manufacturer has a collaborative research partnership with a prestigious Russian institute. The key scientist for this partnership waited over six months for a visa to visit the United States, after many previous visits over the last ten years. The visa, although finally issued, was issued for a very short period, with no explanation or appeal. This has threatened the continuation of this long-standing research agreement.

BAX Global/Expolanka Freight Limited

An international logistics management company has waited over ten months for renewal of an international manager visa in Sri Lanka for security checks, losing approximately \$75,000 to \$100,000 per month in revenues.

U.S. Company in Latin America Cannot Bring Executives for Training

A U.S. Company with operations in Colombia identified a young manager they wished to train to oversee their operations in Colombia, but was denied a visa for “immigrant intent,” even though the company was willing to vouch for her return. This was the second time that this company had a new executive-in-training denied, and it is seriously hampering the expansion of their operations in that country. According to the American Chamber of Commerce in Colombia, approximately 75% of visa applications are initially denied.

American Computer Manufacturer

A senior executive in Japan for a major American computer manufacturer is a British Citizen. Because of proposed changes to passport requirements for visa waiver countries, this individual must obtain a U.S. visa for future business trips, but the U.S. consulate will only process “third-country national” applications on one day each week, meaning a 10 week wait for an appointment.