

GAO

Report to the Chairman, Subcommittee
on National Security, Veterans Affairs,
and International Relations, Committee
on Government Reform, House of
Representatives

November 2002

BORDER SECURITY

Implications of Eliminating the Visa Waiver Program



GAO
 Accountability • Integrity • Reliability
Highlights

Highlights of [GAO-03-38](#), a report to the Chairman, Subcommittee on National Security, Veterans Affairs, and International Relations, Committee on Government Reform, House of Representatives.

Why GAO Did This Study

Since the terrorist attacks of September 11, 2001, the U.S. Congress, the administration, law enforcement officials, and the public have questioned the effectiveness of U.S. visa programs in protecting national security. Some have voiced concern that terrorists or other criminals may exploit one of these programs—the Visa Waiver Program—to enter the United States. The program enables citizens of 28 participating countries to travel to the United States for tourism or business for 90 days or less without first obtaining a visa. It was created, in part, to promote the effective use of government resources and to facilitate international travel without threatening U.S. security.

GAO was asked to review the Visa Waiver Program, including the process for assessing countries' eligibility to participate in the program. GAO was also asked to determine the implications—specifically those affecting national security, foreign relations, tourism, and State Department resources—of eliminating the program. GAO analysts traveled to several visa waiver countries, including Belgium, Italy, Slovenia, Spain, and Uruguay, as well as to Argentina, whose participation in the program was recently revoked.

www.gao.gov/cgi-bin/GAO-03-38.

To view the full report, including the scope and methodology, click on the link above. For more information, contact Jess Ford (202) 512-4128 or fordj@gao.gov.

BORDER SECURITY

Implications of Eliminating the Visa Waiver Program

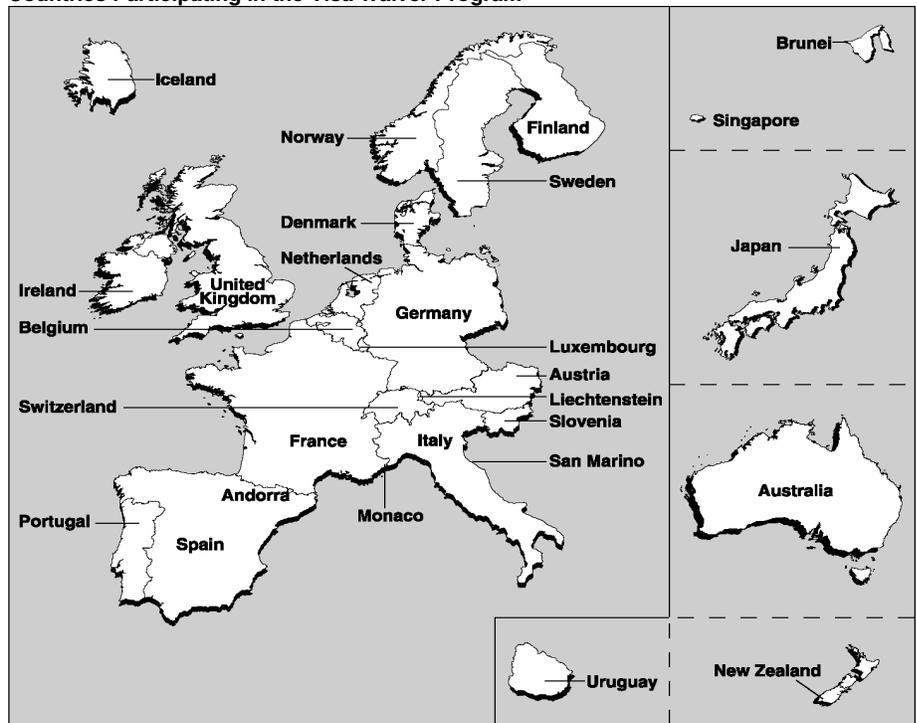
What GAO Found

To ensure that countries participating in the Visa Waiver Program pose a low risk to U.S. national interests, the Departments of Justice and State verify each country's political and economic stability and the security of its passport issuance process. However, laws passed since the terrorist attacks of September 11, 2001, affect the processes for determining eligibility for the program. The new laws expand passport requirements for visa waiver countries and call for a system to monitor visitors' movement into and out of the United States. Whether these requirements will be implemented by the specified deadlines remains uncertain.

The implications for U.S. national security of eliminating the Visa Waiver Program are difficult to determine. It is clear, however, that eliminating the program could affect U.S. relations with other countries, U.S. tourism, and State Department resources abroad.

Although the Departments of Justice and State generally agreed with our report, Justice was concerned that GAO did not fully take into account its progress in meeting certain requirements. State questioned whether GAO considered the border inspection process when discussing the national security implications of eliminating the Visa Waiver Program.

Countries Participating in the Visa Waiver Program



Source: U.S. State Department data.

Note: Map is not drawn to scale. It is for illustrative purposes only.

Contents

| | | |
|--------|---|----|
| Letter | | 1 |
| | Results in Brief | 3 |
| | Background | 4 |
| | Recent Legislative Requirements Could Affect Countries’ Participation in the Visa Waiver Program | 7 |
| | Implications of Eliminating the Visa Waiver Program Are Uncertain | 16 |
| | Eliminating the Program Would Increase the Need for State Department Resources | 23 |
| | Agency Comments and Our Evaluation | 28 |

Appendixes

| | |
|---|----|
| Appendix I: Scope and Methodology | 31 |
| Appendix II: Comments from the Department of Justice | 35 |
| GAO Comments | 38 |
| Appendix III: Comments from the Department of State | 39 |
| GAO Comments | 43 |
| Appendix IV: GAO Contacts and Staff Acknowledgments | 44 |
| GAO Contacts | 44 |
| Acknowledgments | 44 |

| | | |
|-------|--|---|
| Table | Table 1: Visa Waiver Countries, by Year of Admission and Number of Arrivals in 2000 | 6 |
|-------|--|---|

| | | |
|---------|--|----|
| Figures | Figure 1: Visa Waiver Program Nomination Process | 9 |
| | Figure 2: U.S. Arrivals from Visa Waiver Countries as Share of Total International Arrivals, 1992–2000 | 22 |
| | Figure 3: Estimates of State Department’s Initial Costs if the Visa Waiver Program Were Eliminated | 25 |
| | Figure 4: Estimates of State Department’s Annual Recurring Costs if the Visa Waiver Program Were Eliminated | 26 |

Contents

Abbreviations

| | |
|-----|--|
| DEA | Drug Enforcement Administration |
| EU | European Union |
| FBI | Federal Bureau of Investigation |
| INS | Immigration and Naturalization Service |



United States General Accounting Office
Washington, D.C. 20548

November 22, 2002

The Honorable Christopher Shays
Chairman, Subcommittee on National Security,
Veterans Affairs, and International Relations
Committee on Government Reform
House of Representatives

Dear Mr. Chairman:

Since the terrorist attacks of September 11, 2001, the U.S. Congress, the administration, law enforcement officials, and the public have questioned the effectiveness of U.S. visa programs in protecting national security. Some have voiced concern that terrorists or other criminals may exploit one of these programs—the Visa Waiver Program—to enter the United States.

The Visa Waiver Program, established in 1986, enables citizens of 28 participating countries to travel to the United States for tourism or business for 90 days or less without first obtaining a visa from U.S. embassies and consulates abroad.¹ Persons traveling to the United States under the program must have a valid passport issued by the participating country and be a citizen of that country. According to the program's legislative history, Congress created the program, in part, to promote the effective use of government resources and to facilitate international travel without threatening U.S. security. Immigration and Naturalization Service data show more than 16 million admissions into the United States under the Visa Waiver Program for each of the past 3 years.

To assist in the subcommittee's oversight of U.S. visa policies and practices, you asked us to review the Visa Waiver Program. In this report we describe (1) the process that the Departments of Justice and State established to assess countries' eligibility to participate in the program, including the implications of changes in the law since September 11, 2001, that affect the process and (2) the major implications of eliminating the program,

¹The Immigration Reform and Control Act of 1986 (P.L. 99-603) created the Visa Waiver Program as a pilot in 1986. It became a permanent program in 2000 under the Visa Waiver Permanent Program Act (P.L. 106-396, Oct. 30, 2000). The program applies only to temporary visitors traveling to the United States for business or pleasure for 90 days or less. Persons traveling to the United States for other purposes, for example, to study or to work, are required to have a visa.

specifically implications affecting national security, foreign relations, tourism, and State Department resources. You also asked us to assess how the visa process operated prior to September 11, 2001, and what changes have occurred since then to strengthen the process as a screen against terrorists. That assessment is contained in our report *Border Security: Visa Process Should Be Strengthened as an Antiterrorism Tool*.²

To describe the process for assessing countries' eligibility to participate in the Visa Waiver Program, we examined laws establishing the program, relevant congressional reports, regulations and agency protocols governing the program, Department of Justice Office of Inspector General reports, and other relevant documents. To assess the implications of eliminating the program as regards U.S. national security and U.S. foreign relations, we visited U.S. embassies in Argentina, Belgium, Italy, Slovenia, Spain, and Uruguay, and we met with officials of the Departments of State and Justice, including the Immigration and Naturalization Service and the Federal Bureau of Investigation (FBI). We selected five of these countries because they were the first countries whose participation in the program was being evaluated by the Departments of Justice and State. We selected the sixth country, Spain, to provide a perspective on countries that had not been evaluated. To assess the economic importance and implications of international tourism, we reviewed official travel data for 1991–2001 and a 2002 report commissioned by the Department of Commerce. To estimate the costs that the Department of State would incur if the Visa Waiver Program were eliminated, we developed a model using Department of State workload and staffing data and information on biometrics.³ (See app. I for a more detailed description of our scope and methodology.)

At the time of the publication of this report, the House of Representatives and the Senate had passed similar versions of a bill to establish a new Department of Homeland Security. Under these bills, visa policy-making authority would be transferred to the new department, while the administration of visas would be retained by the Department of State. Some of the issues addressed in this report may become the responsibility of this new department.

²U.S. General Accounting Office, *Border Security: Visa Process Should Be Strengthened as an Antiterrorism Tool*, [GAO-03-132NI](#) (Washington, D.C.: Oct. 21, 2002).

³Biometrics can be used to verify identity by measuring and analyzing physical characteristics such as fingerprints, irises and retinas, and facial geometry.

Results in Brief

The Departments of Justice and State have established processes for determining, on the basis of the Visa Waiver Program's statutory criteria, whether a country is eligible to participate in the program. These processes are intended to ensure that countries meet certain criteria for nomination for, and continued participation in, the program. These criteria include a low refusal rate for a country's citizens who apply for U.S. nonimmigrant visitor visas. In assessing a country, the Departments of Justice and State also look at its political and economic stability and the security of its process for issuing passports. The Immigration and Naturalization Service recently assessed five countries and submitted its reports to the Attorney General, who will decide whether the countries will continue to participate in the program. The Attorney General can immediately terminate a country's participation in the program if an emergency occurs that threatens U.S. interests. The Attorney General removed Argentina from the program in February 2002 because of concerns that the economic crisis in that country could lead to increased illegal immigration into the United States. Laws passed since the terrorist attacks of September 11, 2001, affect a country's qualifications for participating in the Visa Waiver Program; for example, one of the new laws requires participating countries to issue passports that contain biometric identifiers, such as fingerprints. However, it is unclear whether these requirements will be fully implemented by the deadlines called for in the law.

The implications for U.S. national security of eliminating the Visa Waiver Program are difficult to determine, but eliminating the program could affect U.S. relations with other countries, U.S. tourism, and State Department resources abroad. The U.S. government has not systematically collected data on how frequently potential terrorists and other criminals have entered the United States under the program. Anecdotal information indicates that such persons have entered the United States under the Visa Waiver Program as well as with valid U.S. visas. As a result, U.S. government officials expressed different opinions about the effect of the program on U.S. national security. They agreed that the visa screening process could serve as an additional tool to screen out terrorists but only to the extent that State had the necessary overseas resources, including relevant timely information on potential terrorists and sufficient staff and facilities to interview all or most visa applicants. They said that if current visa waiver travelers were required to apply for visas and State's current resource levels were not increased, consular officers would be inundated with paperwork for routine and low-risk cases and would become less effective and alert in dealing with cases needing additional scrutiny. The

decision to eliminate the program could negatively affect U.S. relations with participating countries, could discourage some business and tourism in the United States, and would increase the need for State Department resources. For example, if the program were eliminated, we estimated that the department's initial costs to process the additional workload would likely range between \$739 million and \$1.28 billion and that annual recurring costs would likely range between \$522 million and \$810 million. It could take 2 to 4 years or longer to put the necessary people and facilities in place to handle the increased workload, according to State officials.

The Justice and State Departments provided written comments on a draft of this report. The Justice Department expressed concern that we had underestimated its ability to meet certain requirements of recent border security laws. For example, it does not anticipate significant delays in the incorporation of standardized, machine-verifiable biometrics in the national passports of Visa Waiver Program countries. However, information from the State Department as of October 2002 shows that only three Visa Waiver Program countries stated that they would have a biometrics passport program by October 2004. Therefore, we remain concerned that the requirements will not be implemented in the time frame that the law defines. The State Department wrote that in general it agreed with our findings. However, it raised some concerns about whether we had considered the U.S. border inspection process when discussing the implications of eliminating the Visa Waiver Program on U.S. national security. We acknowledge the importance of the inspection process for aliens seeking to enter the United States under the Visa Waiver Program as well as with visas. We have added a discussion of the inspection process to the report. In addition, both we and the Justice Department Inspector General have work under way that will provide a more thorough assessment of the border inspection process.

Background

According to the program's legislative history,⁴ the Visa Waiver Pilot Program was created, in part, to improve U.S. foreign relations and to promote effective use of State Department's resources. It was also intended to facilitate international travel, without posing a threat to the welfare or security of the United States, and thereby to increase the

⁴*Immigration Reform and Control Act of 1986*, Report of the Committee on the Judiciary, Senate Report No. 99-132 (Washington, D.C.: Aug. 28, 1985); Report of House Judiciary Committee, Report No. 99-682(I) (Washington, D.C.: August 1986).

number of foreign travelers to the United States. In addition, according to a statement by President Clinton,⁵ the program allowed the State Department to reallocate scarce department resources from the issuing of visas in low-risk countries to higher priority needs such as visa screening in high-fraud areas. The law that created the Visa Waiver Pilot Program required that before implementing the program, the Attorney General establish an automated arrival and departure tracking system (see page 15 for a discussion of this system). The law also required that the Attorney General produce a special arrival and departure form for travelers seeking to enter the United States under the program, which was made permanent in 2000. Persons traveling to the United States under the Visa Waiver Program must

- have a valid passport issued by the participating country and be a national of that country;
- be seeking entry for 90 days or less as a temporary visitor;
- have their identity checked at the U.S. port of entry against an automated electronic database containing information about the inadmissibility of aliens, to uncover any grounds on which the alien may be inadmissible to the United States, with no such ground found;
- have been determined by the Immigration and Naturalization Service (INS) at the U.S. port of entry to represent no threat to the welfare, health, safety, or security of the United States;
- have complied with conditions of any previous admission under the program (e.g., stayed in the United States for 90 days or less);
- if entering by air or sea, possess a round-trip transportation ticket issued by a carrier that has signed an agreement with the U.S. government to participate in the program and must have arrived in the United States aboard such a carrier; and
- if entering by land, have proof of financial solvency and a domicile abroad to which he or she intends to return.

⁵Statement by the President: Signing of the Visa Waiver Permanent Program Act (The White House, Oct. 30, 2000).

In addition, the applicant must present a completed and signed visa waiver arrival and departure form on which he or she waives the right to a hearing, other than on the basis of an application for asylum, if INS denies the applicant entry into the United States. All foreign visitors, whether they have visas⁶ or are seeking to enter the United States under the Visa Waiver Program, undergo inspections conducted by INS inspectors at U.S. airports and seaports. These inspections are intended to ensure that only admissible persons enter the United States. The INS inspectors observe the applicant, examine his or her passport, and check his or her name against an automated database that contains information regarding the admissibility of aliens.

Table 1 lists the visa waiver countries, the year each country entered the program, and the numbers of arrivals to the United States under the program in 2000.

Table 1: Visa Waiver Countries, by Year of Admission and Number of Arrivals in 2000

| Country | Year of admission | Number of arrivals |
|----------------|-------------------|--------------------|
| Japan | 1988 | 5,061,377 |
| United Kingdom | 1988 | 4,703,008 |
| France | 1989 | 1,087,087 |
| Germany | 1989 | 1,786,045 |
| Italy | 1989 | 612,357 |
| Netherlands | 1989 | 553,297 |
| Sweden | 1989 | 321,881 |
| Switzerland | 1989 | 395,031 |
| Andorra | 1991 | 1,235 |
| Austria | 1991 | 175,533 |
| Belgium | 1991 | 249,957 |
| Denmark | 1991 | 149,211 |
| Finland | 1991 | 93,649 |
| Iceland | 1991 | 27,682 |
| Liechtenstein | 1991 | 2,011 |

⁶The visa application process does not guarantee admission into the United States. Rather, it can result in permission to apply to enter the United States. The ultimate authority to admit or deny a person permission to enter the United States rests with the INS inspector.

(Continued From Previous Page)

| Country | Year of admission | Number of arrivals |
|------------------------|-------------------|--------------------|
| Luxembourg | 1991 | 16,385 |
| Monaco | 1991 | 5,622 |
| New Zealand | 1991 | 172,012 |
| Norway | 1991 | 147,540 |
| San Marino | 1991 | 0 |
| Spain | 1991 | 361,177 |
| Brunei | 1993 | 1,230 |
| Ireland | 1995 | 285,697 |
| Argentina ^a | 1996 | 533,936 |
| Australia | 1996 | 539,559 |
| Slovenia | 1997 | 14,886 |
| Portugal | 1999 | 86,333 |
| Singapore | 1999 | 136,439 |
| Uruguay | 1999 | 69,607 |
| Total | | 17,589,784 |

^aThe U.S. Attorney General removed Argentina from the program in February 2002.

Source: U.S. Department of Commerce.

Recent Legislative Requirements Could Affect Countries' Participation in the Visa Waiver Program

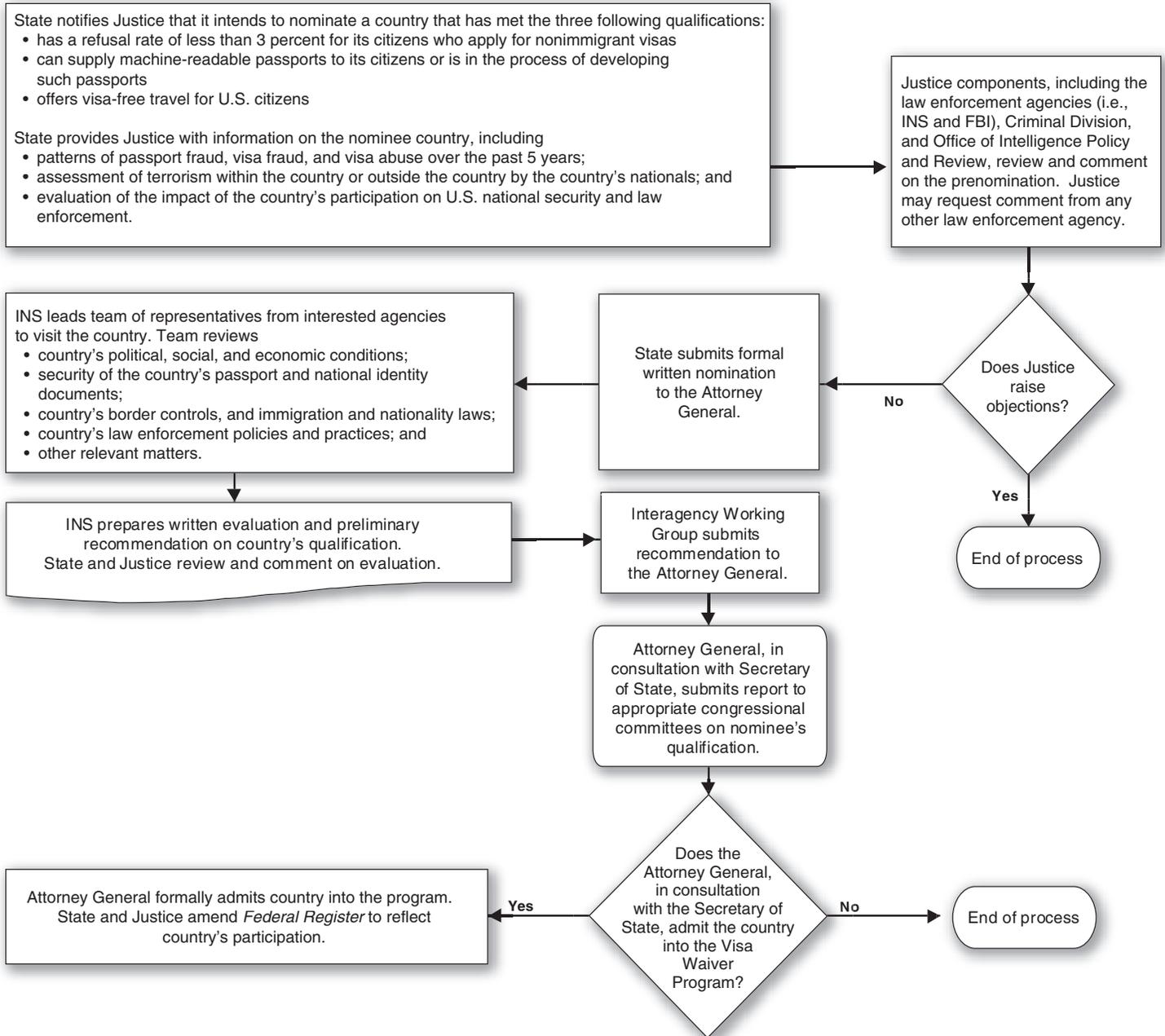
The Visa Waiver Program Act includes criteria that a country must fulfill to be eligible for nomination for, and continued participation in, the program. Justice and State have established a draft protocol based on these criteria that spells out the procedures that the agencies must follow in nominating a country and for assessing participating countries to ensure that they continue to pose a low risk to U.S. security. The Attorney General, in consultation with the Secretary of State, may also immediately terminate a country's participation in the Visa Waiver Program in the event of an emergency that threatens U.S. law enforcement or security interests. Legislation enacted after September 11, 2001, added more requirements for countries to remain eligible to participate in the program, but full, timely implementation of these requirements is uncertain.

Nomination Process Assesses Countries' Eligibility to Join the Program

To comply with laws intended to ensure that countries' participation in the Visa Waiver Program does not threaten U.S. security and interests, the Departments of State and Justice have established a draft protocol that spells out procedures to assess countries' eligibility to be admitted to the program. The procedures are comprehensive and cover a variety of

security concerns, including patterns of passport and visa fraud, assessments of terrorism within the country, and assessments of law enforcement practices. An Interagency Working Group comprising representatives from Justice, including the INS, and from State, including the Bureau of Consular Affairs, developed the protocol. Although the protocol is in draft, the agencies have used it to assess some countries' eligibility. (See fig. 1.)

Figure 1: Visa Waiver Program Nomination Process



Source: *Interagency Protocol for Implementation of the Visa Waiver Program* (draft).

As shown in figure 1, State initiates the process of adding countries to the program by advising Justice of its intent to nominate a country for inclusion in the program. State may nominate a country only after it has determined that the country

- has a low nonimmigrant visa refusal rate for its citizens who apply for U.S. nonimmigrant visitor visas (ranging from less than 2 percent to less than 3 percent depending on the years assessed),
- has the ability to supply machine-readable passports to its citizens or is in the process of developing such passports,⁷ and
- offers visa-free travel for U.S. citizens and nationals.⁸

The protocol requires State to provide Justice with information on the nominated country, including

- patterns of passport fraud, visa fraud, and visa abuse over the past 5 years;
- assessments of terrorism within or outside the country by the country's nationals; and
- evaluations of the impact of the country's participation on U.S. national security and law enforcement.

Various Justice components—including the law enforcement agencies (for example, INS and the FBI), Criminal Division, and Office of Intelligence Policy and Review—review the nomination, focusing on the effect that the country's inclusion would have on U.S. law enforcement and national security. If no clearly disqualifying objections are raised during this review, the Secretary of State submits a formal written nomination to the Attorney General. After a country's formal nomination, INS leads a team of representatives from interested agencies to visit the nominated country. The team reviews the country's

⁷A machine-readable travel document is one that contains mandatory visual data and a separate mandatory data summary in a format that can be read by a machine.

⁸The Immigration Reform and Control Act of 1986 as amended, (P.L. 99-603).

-
- political, social, and economic conditions;
 - security over its passport and national identity documents;
 - border controls; and
 - immigration and nationality laws, law enforcement policies and practices, and other matters relevant to law enforcement, immigration, and national security.

On the basis of the review and site visit, the Interagency Working Group submits a recommendation to the Attorney General, who, in consultation with the Secretary of State, then decides whether to admit the country to the program.

Evaluation Process Assesses Country's Continued Participation

The protocol includes an evaluation process, similar to the nomination process, for periodically assessing the effect on U.S. law enforcement and security interests of each country's continued participation in the Visa Waiver Program.⁹ INS is primarily responsible for these evaluations. It obtains information from a number of other agencies, including State and intelligence agencies, and other components of Justice. These evaluations assess the status of factors reviewed during the nomination process, including

- whether the rate at which visa waiver applicants are refused entry at U.S. ports of entry exceeds specific numerical targets;
- demographic, economic, political, and social trends in the program countries;
- the security of the country's procedures for issuing passports; and
- legal issues, including how foreign nationals acquire citizenship, law enforcement considerations, national security (including information on terrorism), and other matters.

⁹The Visa Waiver Permanent Program Act (P.L. 106-396) required the evaluations every 5 years. The Enhanced Border Security and Visa Entry Reform Act (P.L. 107-173, May 14, 2002) increased the frequency of the evaluations to every 2 years.

The areas evaluated involve more qualitative than quantitative assessments. For example, INS examines the security of processes for issuing passports but uses no quantitative criteria in assessing the process. However, the protocol does allow the Attorney General, in determining a country's risk level, to consider quantifiable data. Such data may include comparisons between the denial rates of persons presenting passports purported to have been lawfully issued by a particular visa waiver country and the denial rates of individuals traveling from the same country with nonimmigrant visas.

INS has completed the assessments of five countries: Argentina, Belgium, Italy, Portugal, and Slovenia. The assessment of Uruguay is still pending. INS selected the countries for assessment on the basis of specific security concerns. For example, INS selected Argentina because of the economic crisis and political instability in the country; the Attorney General subsequently removed Argentina from the program because of those problems. INS selected Belgium because of repeated thefts of blank Belgian passports. INS accelerated the scheduling of the evaluations after the terrorist attacks on September 11, 2001. However, although INS completed the field visits to the countries in December 2001, it did not send the finalized reports with recommendations to Justice until September 2002. The next step in the evaluation process is for the Attorney General, in consultation with the Secretary of State, to decide whether each country should remain in the program or its participation should be terminated.

Attorney General May Immediately Terminate a Country's Participation

The Attorney General, in consultation with the Secretary of State, may also immediately terminate a country's participation in the Visa Waiver Program in the event of an emergency that threatens U.S. law enforcement or security interests. The law defines emergencies as

- the overthrow of a democratically elected government;
- war (including undeclared war, civil war, or other military activity) in the program country;
- a severe breakdown in law and order affecting a significant portion of the program country's territory;
- a severe economic collapse in the program country; or

-
- any other extraordinary event in the program country that threatens the law enforcement or security interests of the United States.

On February 20, 2002, the Attorney General used this emergency provision to remove Argentina from the Visa Waiver Program because of the country's economic crisis, which had raised concerns that the number of Argentines illegally immigrating to the United States would increase. INS had reported an increase in the number of Argentine nationals attempting to remain illegally in the United States after their 90-day period of admission had expired.

Recent Laws Affect Process for Assessing Eligibility, but Full, Timely Implementation Uncertain

Laws passed since the terrorist attacks of September 11, 2001, affect the process for determining countries' eligibility to participate in the Visa Waiver Program. These laws cover passport requirements for visa waiver countries and reemphasize the requirement for the Attorney General to establish a system to monitor peoples' entry into and exit from the United States. However, it is unclear whether Justice and State will fully implement these requirements by the deadlines called for under U.S. law.

First, regarding passports, the October 2001 USA PATRIOT Act advanced to October 1, 2003,¹⁰ the deadline for the requirement that travelers from participating countries wishing to enter the United States under the Visa Waiver Program must submit a machine-readable passport.¹¹ Subsequently, the May 2002 Enhanced Border Security Act stated that to remain in the program, a visa waiver country must certify, by October 26, 2004, that it has a program to issue tamper-resistant, machine-readable passports that contain biometric and document authentication identifiers. With the exception of Switzerland and San Marino,¹² all participating countries are issuing machine-readable passports, but none issue passports that have biometric identifiers, according to State. Some State and law enforcement

¹⁰See Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001 (P.L. 107-56). The Visa Waiver Permanent Program Act originally stated that on or after October 1, 2007, an alien applying for admission under the Visa Waiver Program must have a valid machine-readable passport that satisfies the internationally accepted standard for machine-readability.

¹¹The Secretary of State may waive this requirement if the country is making a good-faith effort to issue machine-readable passports to its citizens and has taken appropriate measures to protect against misuse of its passports that are not machine-readable.

¹²Switzerland and San Marino plan to begin issuing machine-readable passports in 2003.

officials in Europe and the United States questioned whether countries participating in the Visa Waiver Program would be able to certify by October 2004 that they can issue passports with acceptable biometric identifiers—particularly since there is not yet an international standard for biometric identifiers. The Act required that the biometric identifiers comply with standards established by the International Civil Aviation Organization. Representatives of several countries, including the United States, Visa Waiver Program participating countries, and members of the European Union (EU), have met to work toward developing recommendations on minimum standards for the application of biometrics in procedures and documents by the spring of 2003. However, responding to a State inquiry to visa waiver countries about their plans to issue passports with biometric identifiers, only 3 of 17 countries had said as of October 2002 that they would meet the deadline. State plans to incorporate this information into a report to the Congress on the status of countries' efforts to include biometric identifiers in their passports. State officials also told us that in response to the U.S. requirement, European countries might require U.S. passports to have biometric identifiers. For the system to be effective in increasing U.S. national security, INS will need to install machines capable of reading the biometric identifiers at each U.S. port of entry, of which there are about 390. However, until countries decide which biometrics they will include in their passport, INS may have a difficult time ensuring that all ports will have machines that can read the various biometric identifiers by October 2004.

Additionally, the Enhanced Border Security Act conditioned participation in the Visa Waiver Program on a country's timely reporting of its stolen blank passports to the United States. INS has described problems with countries' timely reporting of stolen blank passports, and the Justice Inspector General concluded that INS does not have a mechanism to provide systematic, consistent, and timely information about missing passports to its inspectors.¹³ A State official testified that although this requirement probably will not apply to countries until they are certified for

¹³U.S. Department of Justice, *Follow-up Report on the Visa Waiver Program* (Washington, D.C.: December 2001).

continued participation in the program, State is discussing this requirement with all countries.¹⁴

Finally, INS has not yet developed an automated nonimmigrant entry–exit control system to screen and monitor the arrival and departure of foreign visitors entering the United States as temporary visitors. Congress has passed several laws requiring the Attorney General to implement such a system and has extended the implementation deadline several times. For example, the 1986 law creating the Visa Waiver Pilot Program required, as a condition of implementing the program, that an automated nonimmigrant entry–exit control system to monitor aliens using the program be established.¹⁵ The Visa Waiver Permanent Program Act reiterated the requirement, directing that the system be implemented no later than 2001.¹⁶ INS decided to use an existing automated border inspections system in conjunction with its arrival–departure system to meet this requirement. The arrival–departure system includes passenger information electronically transmitted by air and sea carriers that have an agreement with INS to transport aliens to the United States. INS began using this system on October 1, 2002. An INS official recently testified that this new initiative implements the requirements that had been set forth in the Visa Waiver Permanent Program Act of 2000.¹⁷

Also, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 required an entry–exit system that covered all nonimmigrant visitors, not solely those traveling under the Visa Waiver Program.¹⁸ This act required the Attorney General to develop an automated entry–exit system within 2 years of the law’s enactment to collect a record of departure for every alien departing the United States and match the record of departure with the record of the alien’s arrival in the United States. Subsequently,

¹⁴See Statement of Steven Edson, Acting Deputy Assistant Secretary of State for Visas, Oct. 9, 2002.

¹⁵P.L. 99-603.

¹⁶P.L. 106-396.

¹⁷The next step involving electronic manifests will occur on January 1, 2003, when air and sea carriers will be required to transmit electronic arrival and departure data for all arriving and departing passengers, including new data elements, which will aid in the identification of mala fide travelers. See Statement of Michael Cronin, Assistant Commissioner for Inspections, INS, Oct. 9, 2002.

¹⁸P.L. 104-208.

Congress extended the deadline to implement the system at all U.S. ports of entry to December 31, 2005. After the terrorist attacks of September 11, 2001, the effectiveness of monitoring nonimmigrant visitors came under additional scrutiny, as authorities considered how to identify and locate terrorists who might be in the United States. As a result, new laws have again directed the Attorney General to establish an integrated entry–exit system.¹⁹ INS and other agencies, including the U.S. Customs Service, State, and the Transportation Security Agency, are working together to develop the system. According to Justice, INS has established a multiagency task force to coordinate all activity associated with the establishment of the entry–exit system. The systems established as part of the Visa Waiver Program, as well as a system launched on September 11, 2002, to collect fingerprints and a photograph from a specific population, are the first step in the development of the entry–exit system.

Implications of Eliminating the Visa Waiver Program Are Uncertain

The implications for U.S. national security of eliminating the program are uncertain; however, eliminating the program could negatively affect U.S. relations with participating country governments, impede tourism to the United States, and increase the need for State personnel and facilities overseas. According to the program’s legislative history, Congress established the program, in part, to facilitate travel by citizens from countries that the Attorney General and Secretary of State determined to pose low risk to U.S. national security. Data showing the extent to which the program has been exploited are limited, and U.S. government officials expressed differing opinions about the effect of the program on U.S. national security.

Implications for National Security Are Unclear

The implications for U.S. national security of eliminating the Visa Waiver Program are not clear. While Justice has not systematically collected data on how frequently potential terrorists and other criminals have entered the United States, anecdotal information indicates that such individuals have entered the United States under the Visa Waiver Program as well as with valid U.S. visas. State Department and U.S. law enforcement officials’ opinions varied on the effect of the Visa Waiver Program on U.S. national

¹⁹The USA PATRIOT Act directed the Attorney General, in consultation with the Secretary of State, to fully implement such a system as expeditiously as possible. More recently, the Enhanced Border Security Act set forth technology standards to be used in the development and implementation of the system.

security. Some law enforcement agency officials said that the Visa Waiver Program negatively affects U.S. national security and that eliminating the program and requiring visas from current visa waiver travelers would increase national security. Other officials from Justice and State asserted that unless the current visa-screening process is improved, for example, by increased information sharing among U.S. agencies, the effect of the program on U.S. national security is not certain.

Limited Data Available to Show Extent to Which the Program Is Exploited

Justice has not systematically collected data on the extent to which terrorists and other criminals have entered the United States under the Visa Waiver Program or committed crimes while in the country. The FBI operates a nationwide information system dedicated to serving and supporting local, state, and federal criminal justice agencies. This system contains 17 databases with information on, among other things, stolen articles, foreign fugitives, gangs and terrorist members, and wanted persons. However, crime statistics collected by the FBI do not capture the criminals' immigration status. Also, the data that INS collects on aliens it has removed from the United States for committing crimes include some information on aliens' immigration status. According to INS data, 204 (about 0.3 percent) of the 69,580 criminals removed from the United States during fiscal year 2002 entered under the Visa Waiver Program. The Drug Enforcement Agency maintains information on domestic drug arrests by country that shows the arrestees' country of nationality but not their immigration status.

While Justice has not systematically collected data on how frequently potential terrorists and other criminals have entered the United States, anecdotal information indicates that such persons have entered the United States under the Visa Waiver Program as well as with a valid U.S. visa. For example, Zacarias Moussaoui, a French national whom the United States indicted as a co-conspirator in the attacks of September 11, 2001, entered the United States under the Visa Waiver Program, and the 19 individuals who carried out the attacks entered with valid U.S. visas.

U.S. law enforcement and State officials in Washington, D.C., and at posts overseas expressed different opinions about the effect of the Visa Waiver Program on U.S. national security. Some INS and other law enforcement agency officials said that the Visa Waiver Program can facilitate illegal entry into the United States by inadmissible aliens, including terrorists and other criminals, because under the program such individuals avoid the screening that consular officers usually perform on visa applicants abroad. The lack of consular screening makes the program attractive to

inadmissible aliens, according to INS officials. Aliens traveling to the United States under the Visa Waiver Program are first screened when INS inspectors interview them for admission at the U.S. port of entry. These inspectors have little time to screen each person entering the United States, according to a report by the Justice Department's Office of Inspector General. INS inspectors reported that terrorists and criminals who were intercepted had attempted to enter the United States under the Visa Waiver Program—rather than applying for a U.S. visa abroad—because they believed it would give them a greater chance of entering the country.²⁰ Some officials in Washington, D.C., and at the U.S. embassies in Argentina and Uruguay said that eliminating the Visa Waiver Program would increase national security, because the visa-screening process is an additional tool to deter terrorists from entering the United States. One Justice official stated that the Visa Waiver Program is clearly a vulnerability and that eliminating the program would increase national security, but at a high cost in terms of the effect on State resources and U.S. tourism.

Other law enforcement and State officials in Washington, D.C., and at the U.S. embassies in Belgium, Italy, and Spain questioned whether eliminating the Visa Waiver Program and requiring visas would increase national security. They agreed that the visa-screening process could serve as an additional tool to screen out terrorists but only to the extent that State had the necessary overseas resources, including relevant information on potential terrorists and sufficient staff and facilities to interview all or most visa applicants. They said that if current visa waiver travelers were required to apply for visas and State's current resource levels were not increased, consular officers would be inundated with paperwork for routine and low-risk cases and would become less effective and alert in dealing with cases needing additional scrutiny. The officials emphasized that better, timely information and improved data sharing on inadmissible aliens among U.S. law enforcement, border control, and intelligence agencies are essential to improving U.S. national security.

²⁰U.S. Department of Justice, *The Potential for Fraud and INS's Efforts to Reduce the Risks of the Visa Waiver Pilot Program* (Washington, D.C.: March 1999).

Eliminating the Program Could Affect U.S. Relations with Participating Country Governments

U.S. officials, including those from State as well as from some law enforcement agencies, said that eliminating the Visa Waiver Program could have negative implications for U.S. relations with governments of participating countries and could impair their cooperation in efforts to combat terrorism.

Some allies are cooperating significantly in matters ranging from providing military personnel and access to air bases to support Operation Enduring Freedom in Afghanistan to freezing terrorists' financial assets. Examples are as follows:

- Visa waiver countries have provided political and military support to Operation Enduring Freedom in Afghanistan and to the International Security Assistance Force, which is to help the new Afghan Interim Authority provide security and stability in Kabul. The United Kingdom, France, Italy, Germany, Australia, Japan, and other visa waiver countries partnered with the United States in military operations to expel the Taliban and al Qaeda from Afghanistan, according to government reports.²¹
- EU member states vigorously supported U.S. efforts in the United Nations to adopt strong resolutions against terrorism and U.S. efforts to persuade third countries to resist terrorism.²²
- Visa waiver countries have also increased their law enforcement efforts. The EU strengthened member states' ability to take action against terrorists and their supporters—including freezing their assets.²³ The EU reported that between September 11, 2001, and June 3, 2002, about \$100 million of assets belonging to persons and entities sponsoring terrorist

²¹See U.S. Department of Defense, *Fact Sheet: Coalition Contributions to the War on Terrorism* (Arlington, Virginia: 2002); U.S. Department of State, *Patterns of Global Terrorism-2001* (Washington, D.C.: 2002); and U.K. Coalition Information Centre, *Campaign Against Terrorism: A Coalition Update* (London, England: 2002).

²²The 15 member states of the European Union are Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom.

²³See European Union Common Positions 2001/930/CFSP (Dec. 27, 2001) on combating terrorism, 2001/931/CFSP (Dec. 27, 2001) on the application of specific measures to combat terrorism, and 2002/462/CFSP (June 17, 2002) updating Common Position 2001/931/CFSP.

actions was frozen throughout the EU.²⁴ Since September 11, 2001, authorities in Belgium, France, Germany, Italy, Spain, and the United Kingdom have arrested supporters of al Qaeda and other extremist groups. Also, according to State, Italian authorities arrested the leader of the group suspected of plotting to bomb the U.S. embassy in Rome. The government of Singapore detained 13 members of a terrorist group in December 2001, thereby disrupting a plot to bomb the U.S. embassy there.

Some U.S. embassy and law enforcement agency officials expressed concern that eliminating the Visa Waiver Program could lessen countries' cooperation in military and law enforcement operations related to the global coalition against terrorism. Participating countries may see their loss of visa waiver status as a sign that the United States views them as untrustworthy—more as security risks than as allies.

If the United States decides to eliminate visa waiver status for participating countries, those countries' governments could begin requiring Americans to obtain visas before visiting their countries. For example, if the United States requires a national from an EU member country to obtain a visa before entering the United States for 90 days or less, the EU may institute a provisional requirement that U.S. citizens obtain a visa before entering any of the EU member countries.²⁵ Thereafter, if the U.S. visa policy continues, the EU Council may amend regulations to make the visa requirement permanent.

Eliminating the Program Could Affect U.S. Tourism

As previously mentioned, Congress created the Visa Waiver Program, in part, to facilitate international travel and thereby increase the number of foreign travelers to the United States. A large proportion of international

²⁴See European Union, *EU Response to 11 September: European Commission Action* (Brussels, Belgium: June 2002). Also, on May 3, 2002, the EU and the United States took coordinated actions against the assets of several terrorist groups and individuals, according to a U.S. Treasury official. See statement of Jimmy Gurulé, Under Secretary for Enforcement, U.S. Department of the Treasury, before the Commission on Security and Cooperation in Europe, May 8, 2002.

²⁵Council Regulation (EC) No. 539/2001, Council of the European Union, Mar. 15, 2001. The United States requires Greek nationals to obtain visas when visiting the United States for 90 days or less. However, the EU has not required U.S. citizens to have visas to visit EU countries, because Greece has not contested or notified the EU of the requirement, according to a U.S. government official.

tourists to the United States comes from Visa Waiver Program countries. From 1991 to 2000, in terms of both the number of travelers and dollars spent, tourism from visa waiver countries²⁶ accounted for more than half of the overseas visitor market. Visa waiver travelers generally spend more than other international travelers, and their spending helps to balance the U.S. trade accounts. Because of direct and indirect economic contributions from visa waiver travel, elimination of the Visa Waiver Program is a concern for the travel and tourism industry. One study commissioned by the Department of Commerce in 2002 estimated that discontinuation of the Visa Waiver Program will cost the U.S. economy more than \$28 billion in tourism exports from 2003 to 2007.

Travelers from visa waiver countries to the United States totaled approximately 17.6 million in 2000 and 14.7 million in 2001, according to the Commerce Department.²⁷ As a share of total international arrivals,²⁸ travelers from visa waiver countries grew from 25 percent in 1992 to 35 percent in 2000 (see fig. 2).²⁹ Excluding arrivals from Canada and Mexico, the share of overseas arrivals from visa waiver countries has averaged 68 percent in the last 5 years.

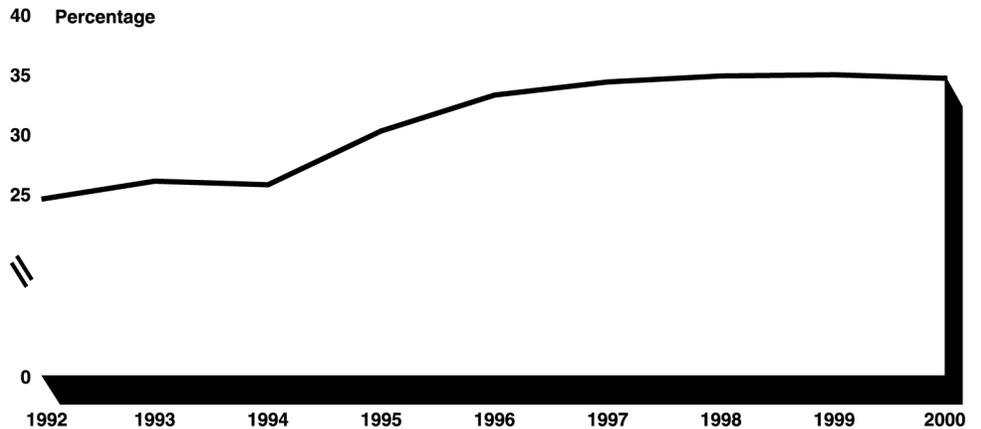
²⁶Excluding Canada and Mexico.

²⁷Not all arrivals from visa waiver countries enter the United States under the program. According to the Department of Commerce, however, 97 percent of all international arrivals are for stays of 90 days or less for vacation or business purposes, both of which qualify under the Visa Waiver Program.

²⁸The INS estimated that there were more than 500 million border crossings into the United States in fiscal year 2001, the majority originating from Mexico or Canada. Data on international arrivals in this report exclude entries of same-day travelers as defined by the Department of Transportation, such as those from Mexico or Canada.

²⁹However, the number of arrivals in 2001 was lower than in 2000 owing to the events of September 11.

Figure 2: U.S. Arrivals from Visa Waiver Countries as Share of Total International Arrivals, 1992–2000



Source: U.S. Department of Commerce.

Using data from Commerce and the Travel Industry Association of America, we calculated that in 2000, travelers from visa waiver countries spent an estimated \$39.6 billion in the United States, accounting for 57 percent of overseas tourist spending. Average spending per traveler from visa waiver countries in 2000 was \$2,253, compared with \$1,274 per traveler for other international tourists to the United States. A range of estimates from Commerce, the Travel Industry Association of America, and the World Travel and Tourism Council indicate that visa waiver travelers' direct and indirect spending within the United States added between \$75 billion and \$102 billion to the U.S. gross domestic product in 2000.³⁰ According to the Travel Industry Association of America, international tourism provides more than one million U.S. jobs, of which more than 60 percent are located in Florida, California, New York, and Hawaii. The association also estimates that in 2001, U.S. spending generated from international tourism contributed \$16 billion in tax revenues.

The Department of Commerce commissioned a study in 2002 on the economic effect of the Visa Waiver Program and estimated that, over a

³⁰These agencies estimate that every dollar spent directly by a traveler in the United States translates into \$1.89 to \$2.33 for the U.S. economy.

5-year period, eliminating the program could result in a loss of 3 million visitors, \$28 billion in tourism exports, and 475,000 jobs.³¹ The estimates of this study, together with anecdotal information, support the likelihood of a negative effect on tourism. According to the Travel Industry Association of America, the Visa Waiver Program enhances the competitiveness of the U.S. market as an international destination and elimination of the program could divert tourists to other destinations that do not require a visa for entry. Foreign Commercial Service Officers in Belgium and Spain reported visas to be a significant impediment to travel demand. State officials agreed that visas are an impediment to both tourist and business travel and added that any additional requirements, such as the collection of biometric indicators, could further discourage travel to the United States. The World Travel and Tourism Council and the World Tourism Organization also view visa requirements as an important factor in determining levels of tourism.

Eliminating the Program Would Increase the Need for State Department Resources

Should the Congress decide to require visas from current visa waiver travelers, State would require more resources, such as personnel and facilities overseas, to handle the resulting increased visa processing and biometric collection workload. State estimates that if the individuals now traveling under the Visa Waiver Program were required to obtain visas, the number of applications would rise by 14 million. We estimated that State's initial costs to process the additional workload would likely range between \$739 million and \$1.28 billion, and annual recurring costs would likely range between \$522 million and \$810 million.³² The ranges of our cost estimates are large because they reflect the uncertainty of key variables in our cost estimating model, such as costs for consular personnel, space, and

³¹These results are based on a limited econometric estimation and a comparison of simulated effects from elimination of the Visa Waiver Program with their baseline tourism forecast, which we have not verified.

³²Any initial and recurring costs estimated for an increased workload of 14 million applications are in addition to State's costs for the estimated visa and biometric processing workload for the current 10.3 million applications, including student visa applications. We estimated that additional initial and recurring costs for consular operating personnel and space to collect a single type of biometric, such as fingerprints, would be approximately \$412 million and \$201 million, respectively, for the current 10.3 million applications. See U.S. General Accounting Office, *Technology Assessment: Using Biometrics for Border Security*, GAO-03-174. (Washington, D.C.:Nov. 15, 2002).

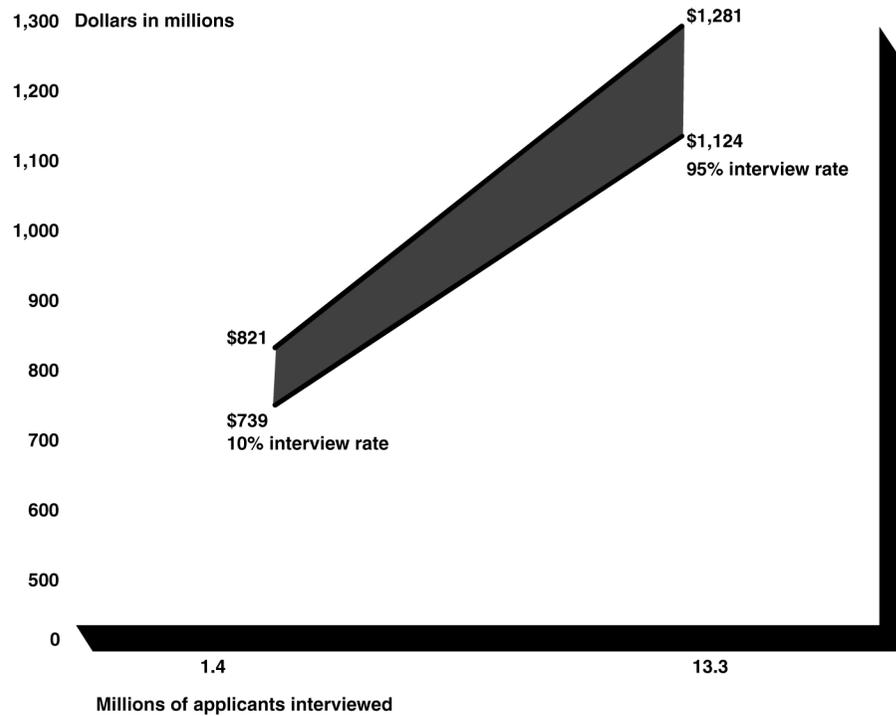
supplies;³³ the percentage of visa applicants that State interviews; and the method by which State collects biometrics. Given this uncertainty, actual costs could vary significantly.

To estimate the costs of eliminating the Visa Waiver Program, we created a cost model that included information on a number of variables such as workload and staffing data (e.g., personnel and facility costs) from State's Bureau of Consular Affairs and the time and costs involved in collecting biometrics. We used our model to forecast a range for both additional initial and recurring costs. Consistent with State assumptions, we assumed a "low" interview rate of 10 percent (about 1.4 million applicants) and a "high" interview rate of 95 percent (about 13.3 million applicants). (See app. I for more details of our methodology and assumptions.)

Figure 3 shows estimated initial costs to State if the Visa Waiver Program were eliminated. These costs include elements such as hiring, training, and moving new consular personnel; installing additional equipment to collect and store biometrics; and building or renovating facilities in all visa waiver posts.

³³For example, additional security procedures, such as restrictions on the role of Foreign Service national employees, and further increases in management oversight could increase the number of Foreign Service officers needed to adjudicate visas.

Figure 3: Estimates of State Department's Initial Costs if the Visa Waiver Program Were Eliminated

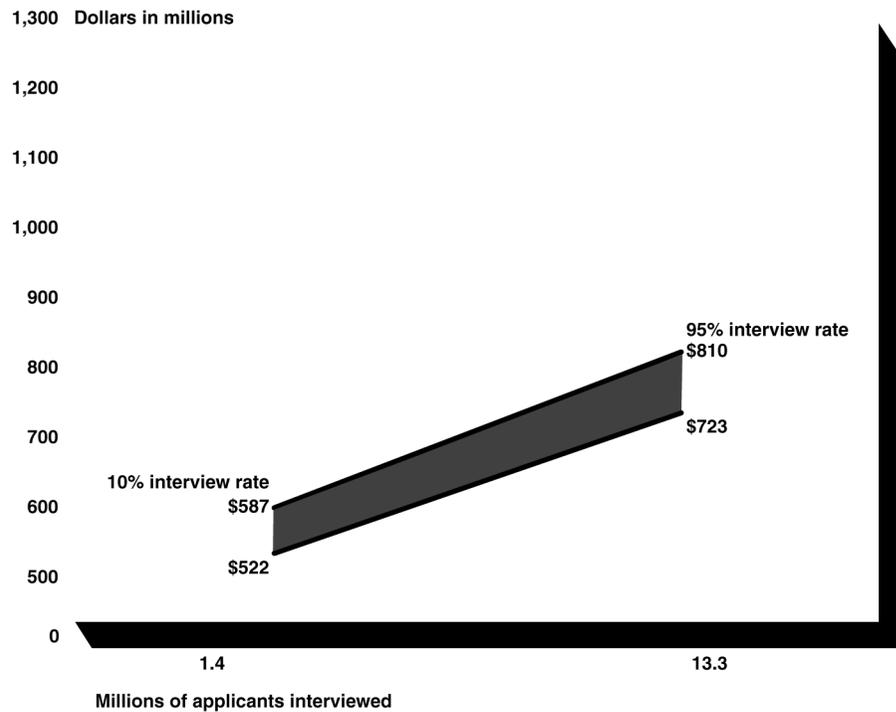


Source: GAO analysis based on State's Bureau of Consular Affairs and information from experts in the biometrics field.

We estimated that if State were to interview 10 percent of all visa applicants, initial costs would likely range from \$739 million to \$821 million. If State were to interview 95 percent of all visa applicants, initial costs would likely range from \$1.12 billion to \$1.28 billion.

Figure 4 shows annual recurring costs, which include elements such as consular personnel salaries, biometric hardware and software maintenance, facility leasing and maintenance, and supplies.

Figure 4: Estimates of State Department's Annual Recurring Costs if the Visa Waiver Program Were Eliminated



Source: GAO analysis based on State's Bureau of Consular Affairs and information from experts in the biometrics field.

If State were to interview 10 percent of all visa applicants, recurring costs would likely range from \$522 million to \$587 million. If State were to interview 95 percent of all visa applicants, recurring costs would likely range from \$723 million to \$810 million. For fiscal year 2003, State requested \$3.36 billion for ongoing operations related to diplomatic and consular programs, including the operation of all overseas facilities.

It could take at least 2 to 4 years to put the necessary people and facilities in place to handle the increased workload, according to State officials. Using State's staffing and workload assumptions, we estimated that the department would need, in addition to the approximately 840 Foreign Service officers who are currently overseas, more than 350 additional Foreign Service officers to handle the extra nonimmigrant visa workload if

required to interview 10 percent of all applicants and more than 800 additional officers if required to interview 95 percent of all applicants. According to consular officials, hiring Foreign Service officers and training them for general Foreign Service and languages could take a year or more. It could take several months to hire Foreign Service nationals, depending on the availability of qualified candidates and their ability to pass the security background check. In cases where a significant number of new consular staff were added and new facilities were acquired, posts might also need to employ administrative staff such as human resource managers, post security guards, and additional facilities management and maintenance staff.³⁴

A portion of the initial and recurring costs shown in figures 3 and 4 would be used for new or renovated facilities that the post would need in order to process an increased number of nonimmigrant visa applications. In some countries, including but not limited to Belgium, France, Italy, Slovenia, Spain, and the United Kingdom, State would need additional work and waiting room space to process applications; this could involve acquiring new facilities or reopening and renovating additional posts for the nonimmigrant visa workload.³⁵ For example, in Italy, State officials said that they would need to renovate or reopen facilities in Naples, Sicily, Rome, Milan, and Florence. In some U.S. embassies, such as those in Slovenia and Uruguay, available space would have to be adapted for processing the additional workload. Identifying, procuring, and fitting out lease space can take 24 to 48 months, on average, according to State officials.

State officials in most countries we visited and analysts in Washington said that until they acquired additional space for handling nonimmigrant visas, there would be long lines of visa applicants waiting outside the current posts, posing a potential security threat for both the applicants and U.S. embassy officials. Also, if additional space was acquired in unsecured buildings separate from the embassy, personnel working in such buildings would be put at risk until the space was upgraded for security. A U.S. ambassador pointed out that acquiring additional space for visas would

³⁴Costs to employ additional administrative staff were not included in our cost estimates.

³⁵State consolidated some of its posts in visa waiver countries in the 1990s in response to budget constraints and shifting objectives in the post-Cold War era. For example, in Italy, State closed consulates in Palermo in January 1994 and Genoa in June 1993.

conflict with the department's efforts to consolidate Americans into joint space to improve their security and protect them.

Although revenues from the surcharge for machine-readable visas would not cover the additional initial costs related to the elimination of the Visa Waiver Program, State could cover additional recurring costs over time.³⁶ To pay for the costs associated with the processing and issuing of machine-readable visas and with State's Border Security Program, State currently charges applicants a \$65 fee each time they apply for a machine-readable visa.³⁷ On November 1, 2002, State increased the fee to \$100 to compensate for increases in the actual cost of providing visa service. State officials have not determined how they will fund the costs of collecting biometrics. The options they have discussed include requesting an appropriation from the Congress, passing the cost to the visa applicant, or a combination of the two.

Agency Comments and Our Evaluation

The Justice Department and the State Department provided written comments on a draft of our report. These comments, along with our responses to specific points, are reprinted in appendixes II and III.

Justice expressed optimism that the requirements of recent border security laws will be met. Specifically, Justice stated that it does not anticipate significant delays in the incorporation of standardized, machine-verifiable biometrics in the national passports of most Visa Waiver Program countries. We continue to believe, however, that some countries may be unable to add biometrics to their passports by the 2004 deadline. Our assessment is based on the statements of U.S. State Department and law enforcement officials as well as the responses from several Visa Waiver Program countries concerning their ability to issue passports with biometrics.

Justice also stated that our discussion of the entry–exit system leaves the impression that implementation of the system is not moving forward. We

³⁶The additional machine-readable visa fees collected for 14 million applicants at the current rate of \$65 would be \$910 million. According to State, the fee will increase to \$100 beginning November 1, 2002, resulting in total estimated collections of \$1.4 billion.

³⁷The machine-readable visa and border crossing card application fees pay for all costs associated with processing and issuing the visas and the cards. See *Federal Register*, Vol. 67, No. 60, March 28, 2002.

acknowledge that INS is taking steps to implement the system, and we have added information on INS's progress to the report. However, the report points also out that an entry–exit system covering all nonimmigrant travelers to the United States has been required since 1996.

State generally concurred with the report and stated that our comments on the Visa Waiver Program are in keeping with its assessment of the implications and costs resulting from a blanket suspension of the program. However, State expressed concern that the report did not discuss the border inspection process at the U.S. port of entry as an alternative solution to the visa application process to address perceived weaknesses in the program. We acknowledge the importance of the inspection process for aliens seeking to enter the United States under the Visa Waiver Program as well as with visas. We have added a discussion of the inspection process to the report. The Justice Department Inspector General and GAO have work under way that will provide a more thorough assessment of the border inspection process.

We are sending copies of this report to interested congressional committees, the Secretary of State, the Attorney General, the Commissioner of the INS, and the Assistant to the President for Homeland Security. We will make copies available to others on request. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-4128. Additional GAO contacts and staff acknowledgments are listed in appendix IV.

Sincerely yours,

A handwritten signature in black ink that reads "Jess Ford". The signature is written in a cursive style with a large, looping initial "J" and a distinct "F".

Jess Ford
Director, International Affairs and Trade

Scope and Methodology

To describe the process for assessing countries' eligibility to participate in the Visa Waiver Program, we examined laws establishing the program, relevant congressional reports, regulations and agency protocols governing the program, Department of Justice Office of Inspector General reports, and other relevant documents. To assess steps being taken to increase the requirements for the program and enhance U.S. border security, we reviewed recent laws such as the USA PATRIOT Act and the Enhanced Border Security and Visa Entry Reform Act of 2002, Departments of State and Justice reports, and recent GAO reports.

To describe U.S. national security issues related to the Visa Waiver Program, we reviewed Immigration and Naturalization Service (INS) data on terrorists who entered the United States under the Visa Waiver Program as well as with valid visas. We reviewed State, INS, Federal Bureau of Investigations (FBI), and Drug Enforcement Agency (DEA) data and databases on inadmissible aliens, the immigration status of criminals, the number of aliens refused entry to the United States, and the reasons aliens were refused entry. We also examined Justice officials' testimony before Congress, the *President's National Strategy for Homeland Security*, and GAO's report *Border Security: Visa Process Should Be Strengthened as an Antiterrorism Tool*. Given the limited amount of data addressing this issue, we interviewed officials from State, including the Bureaus of Consular Affairs and Diplomatic Security, and Justice, including the INS, FBI, and DEA in the United States and in Argentina, Belgium, Italy, Slovenia, Spain, and Uruguay. We selected five of these countries because they were the first countries whose participation in the program was being evaluated by the Departments of Justice and State. We selected the sixth country, Spain, to provide a perspective on countries that had not been evaluated. We discussed with U.S. officials their views about whether eliminating the Visa Waiver Program would increase U.S. national security.

To describe the importance of the Visa Waiver Program to U.S. relations with other countries, we reviewed government reports, including the U.S. Department of Defense's *Fact Sheet: International Contributions to the War Against Terrorism*, the State Department's *Patterns of Global Terrorism—2001*, and the U.K. Coalition Information Centre's *Campaign Against Terrorism: A Coalition Update*. We reviewed European Union documents, including European Council positions and regulations. We also interviewed officials from the Departments of State, including the Bureaus of Consular Affairs and Diplomatic Security, and Justice, including the INS, FBI, and DEA in the United States and in Argentina, Belgium, Italy, Slovenia, Spain, and Uruguay. We discussed with them whether eliminating

countries' participation in the Visa Waiver Program could affect U.S. relations with those countries and, if so, what the effects might be. Because of the sensitivity of the issues, in four of the six countries, the State Department requested that we not meet with representatives from other countries' governments or chambers of commerce. We met with the governments of Argentina and Uruguay and with the American Chamber of Commerce in Argentina.

To determine whether requiring citizens of visa waiver countries to obtain visas would affect their decision to travel to the United States, we examined the existing economic literature on tourism and interviewed industry experts. We interviewed officials from State, Foreign Commercial Service Officers in overseas posts, the Department of Commerce's Office of Travel and Tourism Industries, the Travel Industry Association of America, the World Travel and Tourism Council, and the World Tourism Organization. To determine the contribution of travel from visa waiver countries to the U.S. economy, we reviewed official travel data for 1991–2001 from Commerce, a 2002 study from Commerce, and data from the Travel Industry Association of America and the World Travel and Tourism Council.

To determine the potential effects that requiring visas and biometrics from current visa waiver travelers would have on State's resources, we created a cost estimating model using workload and staffing data from State's Bureau of Consular Affairs and information on the time and costs involved in collecting biometrics. Such information included analogies to the Integrated Automated Fingerprint Identification System, averages of biometric vendor costs, expert opinions from the field of biometrics, and cost estimates developed by the International Biometrics Group. We conducted a simulation that varied the cost estimating model approximately 1,000 times with information on variables such as personnel and facility costs to forecast a range for both initial and recurring costs. During our simulation, costs fell below the top of the shaded areas in Figures 3 and 4 in the report 90 percent of the time, while costs fell below the bottom of the shaded areas only 10 percent of the time. In other words, 80 percent of the times we varied our simulation, costs fell within our reported ranges. We chose to report large ranges of cost estimates to reflect the uncertainty of key variables in our cost estimating model, such as costs for consular personnel, space, and supplies; the percentage of visa applicants that State interviews; and the method by which State collects

biometrics.³⁸ We based our estimates on the following assumptions:

- All costs were expressed in constant fiscal 2002 dollars.
- The amount of additional visa applications for current visa waiver travelers would remain about 14 million per year.³⁹
- Cost estimates provided to us by State, such as Foreign Service national salaries and leasing and maintenance fees, could vary by about 10 percent, barring unforeseen circumstances.
- The ratio of Foreign Service nationals needed to assist each Foreign Service officer with nonimmigrant visa processing is 2.5 to 1 but can vary between 2 and 4 to 1.
- Under a “low interview” scenario, State would interview 10 percent of all visa applicants and, under a “high interview” scenario, State would interview 95 percent of all visa applicants. Estimates are based on a 4-minute interview.⁴⁰
- Consular officers would capture four flat fingerprints from each visa applicant at the embassy or consulate and would store the biometric data in a separate memory storage card from the visa.⁴¹
- Resources would be in place at all visa-issuing posts to collect biometrics for the current 10.3 million visa applications.

³⁸See [GAO-03-174](#) for a detailed description on different scenarios in which biometrics could be collected and the costs that each scenario would entail; also see that report for the assumptions used in estimating the initial and annual recurring costs of each scenario. We chose to use the scenario for fingerprint recognition. Finally, see the report for more specific details of the assumptions used to estimate costs involved with collecting fingerprints.

³⁹The number of visa waiver travelers who would apply for visas is highly variable and is based on many factors, including the economy and personal preferences. We did not vary this number in our analysis.

⁴⁰Interview length could vary with new security screening parameters in place, which could require interviews of 15 minutes or longer. We did not vary interview length in our analysis.

⁴¹This assumption is not the recommendation of the State Department for implementation of biometrics in the visa process.

- Some Foreign Service nationals would spend time both processing visa applications and collecting biometrics.
- Visa applicants whom State must interview would visit the embassy to be interviewed and have their biometrics collected on the same day.

We also met with consular officials at the U.S. consulate in Buenos Aires, Argentina, to determine the effect that the elimination of the Visa Waiver Program had on their staff and facility levels. Similarly, we met with consular officials in U.S. consulates in Brussels, Belgium; Rome, Italy; Ljubljana, Slovenia; Madrid, Spain; and Montevideo, Uruguay, to determine how the elimination of the Visa Waiver Program would affect their resources.

We performed our work from February 2002 through August 2002, in accordance with generally accepted government auditing standards.

Comments from the Department of Justice

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



U.S. Department of Justice

Washington, D.C. 20530

November 4, 2002

Cheryl Goodman
Assistant Director
International Affairs and Trade Team
U.S. General Accounting Office
441 G Street, NW
Washington, DC 20548

Dear Ms. Goodman:

On October 10, 2002, the General Accounting Office (GAO) provided the Department of Justice (DOJ) copies of its draft report entitled, "BORDER SECURITY: Implications of Eliminating the Visa Waiver Program," with a request for comment. The DOJ has reviewed the report and would like to respond to the concerns that the GAO has raised in this report regarding its ability to meet certain requirements of the law. We believe there are factors that suggest greater optimism for achieving these requirements.

The GAO reports that recent legislation has resulted in stricter requirements for country participation in the Visa Waiver Program (VWP) including requirements to: 1) improve the tamper resistance of foreign passports; and 2) hold partnering governments responsible for reporting thefts of stolen blank passports to the United States. The GAO expresses concern regarding the ability of the Immigration and Naturalization Service (INS), the Department of State, and the governments of VWP participating countries to implement these requirements by the specific deadlines called for under U.S. law. The GAO suggests that the current lack of a single international standard for biometric identifiers may preclude participating countries from certifying by October 26, 2004, that they are issuing machine-readable passports with internationally acceptable biometric identifiers. However, we note that the current standards for machine-readable passports endorsed by the International Civil Aviation Organization (ICAO) already include the use of some form of biometrics. Moreover, the ICAO technical advisory group on machine-readable travel documents is substantially involved in ensuring the global interoperability of different biometric technologies in the issuance and inspection of machine-readable passports. Further we note that over half the countries currently participating in the VWP are or will soon be members of the European Union. These countries have been issuing a uniform passport meeting ICAO specifications since 1985. Thus, we do not believe there will be significant delays in the incorporation of standardized, machine-verifiable biometrics in the national passports of most VWP participating countries.

See comment 1.

Appendix II
Comments from the Department of Justice

Ms. Cheryl Goodman

2

See comment 1.

Moreover, the Administration has been studying the biometrics issue for some time. In fact, the United States government is working through the G-8 to coordinate biometric standards. On October 22, 2002, experts from the G-8 countries (Canada, France, Germany, Italy, Japan, Russia, the United Kingdom, the United States) and the European Union met in Montreal to discuss various issues related to migration, including biometrics. The U.S. delegation was tasked with providing a draft report on biometric requirements by December for review at the next G-8 Migration meeting. The group agreed to work towards developing recommendations on minimum standards for the application of biometrics in procedures and documents by the spring of 2003, with a view to forwarding them to standards organizations. In addition, the Administration is currently drafting a report to Congress required by Section 303 of the Enhanced Border Security Act of 2002, Pub. L. 107-173 (May 14, 2002). This report will address issues related to "machine-readable, tamper-resistant visas and other travel and entry documents that use biometric identifiers." Section 303(b)(1) of the Enhanced Border Security Act of 2002. We would suggest that you include the above information on the report at page 17.

See comment 2.

The GAO report also expresses concern over the INS's ability to implement the automated entry-exit system mandated under section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 and subsequently amended. The GAO reports that the Visa Waiver Permanent Program Act (VWPPA) directs that an automated system to monitor the entry-exit of aliens under the visa waiver program be implemented by October 2001 and that this system, has not been implemented as of October 1, 2002. It should be noted that after the amendment creating the VWPPA passed on October 30, 2000, the INS began to use the Interagency Border Inspections System in conjunction with the Arrival Departure Information System. The paired use of these two systems allows the Attorney General to fulfill his reporting requirements under the Act. This automated control system was to be based, to the maximum extent practicable, on passenger data collected and electronically transmitted by each carrier that has an agreement with the INS to transport aliens to the United States. As of October 1, 2002, the system became operational and began receiving arrival and departure data on all passengers entering and leaving through air and sea ports of entry, and on October 11, 2002, the INS promulgated an interim rule to this effect. See 67 FR 63246-63250. Currently, over 140 carriers submit electronic arrival passenger information. Moreover, the VWPPA also specifies that, as of October 1, 2002, no alien may be admitted under the VWP if the carrier is not electronically transmitting passenger manifest data as required by the Attorney General. On October 1, 2002, the INS began collecting the arrival and departure data for VWP countries at air and seaports and on October 11, 2002, the INS promulgated an interim rule to this effect- See 67 FR 63246-63250. Currently, inspectors at only 3 ports of entry are able to annotate the passengers' records differentiating the Visa Waiver passengers from all others. However, the INS expects to make this necessary feature available nation-wide before the end of November 2002.

See comment 2.

Further, the discussion in the report on entry-exit leaves the impression that this is not moving forward, but for the statement that "INS and other agencies are working together to develop the system." The INS has established a multi-agency Project Management Office to coordinate all activity associated

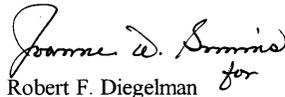
Ms. Cheryl Goodman

3

with the establishment of an Entry-Exit program, to include a fully integrated automated system of systems to be deployed at over 300 ports of entry, and infrastructure enhancements. In addition to several components within the INS, the Project Office has membership from other Department of Justice components, the United States Customs Service, the Department of State's Visa and Passport Offices and the Department of Transportation. In addition, the INS is working with the Department of State and the National Institute of Standards and Technology to develop a technology standard that would allow for the use of biometrics in the Entry-Exit system. The first phase of the program was launched on September 11, 2002, with the National Security Entry Exit Registration System (NSEERS). The NSEERS focuses on a specific population and requires additional information including two live-scan fingerprints and a photograph. The NSEERS is deployed to all major airports and land border ports of entry. Both NSEERS and the systems established as part of the Visa Waiver Permanent Program will be integrated into the larger Entry-Exit System.

I hope you will consider our concerns in preparing the final GAO report on this subject. If you have any questions regarding the Department's comments, you may contact Vickie L. Sloan, Director, Audit Liaison Office, on (202) 514-0469.

Sincerely,



Robert F. Diegelman *for*
Acting Assistant Attorney General
for Administration

The following are GAO's comments on the Department of Justice's letter dated November 4, 2002.

GAO Comments

1. Justice stated that it does not anticipate significant delays in the incorporation of standardized, machine-verifiable biometrics in the national passports of most Visa Waiver Program countries. We believe that some countries may not be able to establish programs to issue the passports by the 2004 deadline. Our assessment is based on the statements of U.S. State Department and law enforcement officials in Europe and the United States. Moreover, our concern is supported by additional information that we subsequently obtained from the State Department. As of October 2002, State found that only 3 of the 17 countries discussing their plans for issuing biometric passports would meet the deadline. Most of the respondents stated that they did not know if they would meet the deadline. Some of these respondents cited the lack of an international standard as a reason for the uncertainty.
2. Justice also commented that our discussion of the entry–exit system leaves the impression that implementation of the system is not moving forward. We acknowledge that INS has implemented systems, as of October 1, 2002, to fulfill the requirement for an automated system to monitor the entry and exit of aliens under the Visa Waiver Program. We have added this information to the report. However, we note that there have been delays in implementing the entry–exit system for Visa Waiver Program travelers. Implementation of such a system has been required since 1986. However, the report also points out that an entry–exit system covering all nonimmigrant travelers to the United States has been required since 1996. Moreover, the Justice Inspector General has reported that completion of the entire entry–exit system will take several years.⁴²

⁴²U.S. Department of Justice, *Follow-up Report on INS Efforts to Improve the Control of Nonimmigrant Overstays* (Washington, D.C.: April 2002).

Comments from the Department of State

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



United States Department of State

Washington, D.C. 20520

NOV 7 2002

Dear Ms. Westin:

We appreciate the opportunity to review your draft report, "BORDER SECURITY: Implications of Eliminating the Visa Waiver Program," GAO-03-38, GAO Job Code 320101.

The Department's comments are enclosed for incorporation, along with this letter, as an appendix to the GAO final report. Please find technical comments also attached.

If you have any questions regarding this response, please contact Colombia Barrosse, Office of Executive Director, Bureau of Consular Affairs on (202) 663-2504.

Sincerely,


Christopher B. Burnham
Assistant Secretary of
Resource Management and
Chief Financial Officer

Enclosure:

As stated.

cc: GAO/IAT - Mr. Brummet
State/OIG - Mr. Berman
State/CA - Mr. Moss

Ms. Susan S. Westin,
Managing Director,
International Affairs and Trade,
U.S. General Accounting Office.

Department of State Comments on GAO Draft Report

BORDER SECURITY: Implications of Eliminating the Visa
Waiver Program (GAO-03-38, GAO Code 320101)

The Department appreciates the balanced approach taken by GAO in its evaluation of how the Visa Waiver Program (VWP) functions, and its contributions to our economy and to our relations with participating countries. In general, we find the comments about the VWP to be in keeping with our own views as well as with our assessment of the implications and costs resulting from a blanket suspension of the Program. As the GAO report makes clear, the VWP has been effective in achieving its original goals - promoting the effective use of scarce government resources by focusing them away from lower risk countries, and facilitating international travel between the United States and countries that grant reciprocal privileges to U.S. travelers. The VWP has also contributed significantly to the U.S. economy, particularly the tourism industry. The Department is pleased that the GAO report also highlights the effectiveness of the VWP's formal review mechanisms in ensuring that individual member countries adhere to membership criteria in order to remain in the program. The removal of Argentina from the program in early 2002 is a demonstration of the VWP's self-regulating capacity.

What is still in question, therefore, is whether the VWP can continue to function "without unduly threatening national security", particularly in the post-9/11 world. It is the exploration of this issue in the GAO report that raises some concerns for the Department. The GAO points out, for example, that it is not clear how many individuals with terrorist or criminal backgrounds have entered the United States under the Visa Waiver Program. It names Zacarias Moussaoui as one of those individuals, but does not describe the circumstances surrounding his port of entry processing prior to admission into the United States. The report does not explain whether there was a flaw in the processing of that particular case or a systemic flaw in the screening of VWP travelers. Thus, the report does not address whether the INS inspector conducted an interview or, indeed, whether Moussaoui's name was run through the name-check system. It does not inform the reader that INS

See comment 1.

Appendix III
Comments from the Department of State

computers at port of entry contained no derogatory information about Moussaoui that would have lead the INS inspector to deny him entry. It does not mention that Moussaoui had been in federal (FBI) custody undergoing professional interrogation prior to 9/11 and that only after the attacks did any information linking him to terrorist activities become available to border security agencies, or, indeed, to the Department of State.

See comment 2.

The report then refers to the visa process but does not provide the type of detailed information that would permit the reader to adequately compare the two processes, that is, a process of port-of-entry inspections each time a person seeks to enter the United States, with no prior visa issuance (visa waiver), and a process of port-of-entry inspections each time a person seeks to enter the United States, with a visa having been issued to the alien some time in the past. (In the case of a visa waiver country national, the relevant visa would generally be a multiple entry visa valid for up to ten years.) Given the time lag between visa issuance and actual travel, it should be clear that the visa cannot substitute for INS inspection at port of entry, including a check against the INS lookout system for information about the alien available at that time. In this regard, it is important for the report to also make clear that the visa application process does not guarantee admission into the U.S. The visa application process can only result in permission to "apply" to enter the United States. As with VWP travelers, the ultimate authority to admit or deny entry rests with the INS inspector. Visa issuance cannot eliminate the need for a comprehensive and thorough screening at port of entry, and INS is free to deny entry to persons who hold valid visas. INS screening (which also relies on the law enforcement database for national security information) of both visa holders and visa waiver program participants can, and does, result in denial of admission into the U.S. In fact, since the inception of the VWP, approximately 150 individuals have been turned away at port of entry on terrorism-related grounds - information contained in the law-enforcement database. If the report discussed these separate processes more clearly, the reader would better understand that whether an individual with terrorist links enters the United States or not has less to do with the method of entry (with or without a visa) than with the information contained in the name-check database at the time of entry.

Appendix III
Comments from the Department of State

See comment 2.

Thus, while the GAO report is not intended (and does not) provide formal recommendations regarding the future of the VWP, it cuts off a line of reasoning for decision-makers by focusing on the visa application process as the single alternative solution to the Program's perceived weaknesses. It overlooks the possibility that these weaknesses could be resolved through changes in border inspection procedures (or by other means, such as pre-inspection programs). It does not address the possibility that if additional resources are needed to ensure the VWP meets our national security needs, while maintaining its economic and political benefits, these resources might be more appropriately dedicated to port of entry processing of VWP travelers and/or to other immigration-related homeland security programs. These alternatives need to be discussed.

The Department stresses the importance it affixes to the protection of the United States' national security. Its comments regarding the future of the VWP are intended to ensure that a final decision on the Program is made with all relevant information and all possible alternatives available to decision makers. The Department is most appreciative of GAO's efforts to bring this information and alternatives to light through this report.

The following are GAO's comments on the Department of State's letter dated November 7, 2002.

GAO Comments

1. State commented that the discussion of Zacarias Moussaoui should include more details. We do not believe additional details are necessary. We discussed Moussaoui and the 19 individuals who carried out the attacks of September 11, 2001, merely as examples of anecdotal evidence about terrorists entering the United States under the Visa Waiver Program and with visas.
2. State commented that the draft report did not provide detailed information on the border inspection process. State also commented that the draft report overemphasizes the visa application as a solution to perceived weaknesses of the Visa Waiver Program and overlooks the possibility that these weaknesses could be resolved through changes in border inspection procedures or other means. We acknowledge the importance of the inspection process for aliens seeking to enter the United States under the Visa Waiver Program as well as with visas. We have added a discussion of the inspection process to the report. The Justice Department Inspector General and GAO are conducting more thorough assessments of the border inspection process.

GAO Contacts and Staff Acknowledgments

GAO Contacts

Cheryl Goodman (202) 512-6571
La Verne Tharpes (202) 512-5961

Acknowledgments

In addition to the persons named above, Lyric Clark, Kendall Schafer, Bruce Kutnick, Mary Moutsos, and Reid Lowe made key contributions to this report.

GAO's Mission

The General Accounting Office, the investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through the Internet. GAO's Web site (www.gao.gov) contains abstracts and full-text files of current reports and testimony and an expanding archive of older products. The Web site features a search engine to help you locate documents using key words and phrases. You can print these documents in their entirety, including charts and other graphics.

Each day, GAO issues a list of newly released reports, testimony, and correspondence. GAO posts this list, known as "Today's Reports," on its Web site daily. The list contains links to the full-text document files. To have GAO e-mail this list to you every afternoon, go to www.gao.gov and select "Subscribe to daily E-mail alert for newly released products" under the GAO Reports heading.

Order by Mail or Phone

The first copy of each printed report is free. Additional copies are \$2 each. A check or money order should be made out to the Superintendent of Documents. GAO also accepts VISA and Mastercard. Orders for 100 or more copies mailed to a single address are discounted 25 percent. Orders should be sent to:

U.S. General Accounting Office
441 G Street NW, Room LM
Washington, D.C. 20548

To order by Phone: Voice: (202) 512-6000
 TDD: (202) 512-2537
 Fax: (202) 512-6061

To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Web site: www.gao.gov/fraudnet/fraudnet.htm

E-mail: fraudnet@gao.gov

Automated answering system: (800) 424-5454 or (202) 512-7470

Public Affairs

Jeff Nelligan, managing director, NelliganJ@gao.gov (202) 512-4800
U.S. General Accounting Office, 441 G Street NW, Room 7149
Washington, D.C. 20548

**United States
General Accounting Office
Washington, D.C. 20548-0001**

**Official Business
Penalty for Private Use \$300**

Address Service Requested

**Presorted Standard
Postage & Fees Paid
GAO
Permit No. GI00**

