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This annual colloquium provides an opportunity for me to speak broadly about the policies motivating science programs and budgets within the Administration. My office has been very active during the past year working with PCAST, interagency committees and other groups to identify issues and form policy responses to them. During this period my OSTP colleagues and I have testified frequently before Congress and addressed many conferences and symposia such as this one. This Administration values science and technology, and believes it underlies its priorities of homeland and national security and economic vitality. We have attempted to be clear about priorities and to make them widely known.

In view of the widespread availability of information about science policy and priorities, I decided to narrow my remarks this morning to a single important issue affecting the science and higher education communities. The issue is the ability of foreign technical personnel, including students and scientists, to visit the United States for meetings, research collaborations, or educational pursuits. This week's *Chronicle of Higher Education* has a special section entitled "Closing the Gates: Homeland Security and Academia" with articles focusing on the issue. The thrust of the articles is that in our determination to protect the homeland, America is cutting itself off from the vast benefits foreign students and technical personnel bring to our country.

Let me begin by stating clearly that this Administration values the contribution foreign scientists and students make to the nation's scientific enterprise, to our economy, and to the appreciation of American values throughout the world. We want to make it possible for any visitor who does not mean us harm to come and go across United States borders without significant inconvenience or delay. We believe it is possible to take appropriate precautions against terrorism without inhibiting the numerous relationships with other nations that are essential in today's globalized technical society. And we mean to apply ourselves to the development of efficient ways of taking these precautions until that goal is achieved.

My purpose this morning is to review "the visa situation" and attempt to clarify current policy and current actions that are being taken to achieve that policy. I will not talk at all about monitoring of foreign visitors once they are in the country, and I will say little about the details of the Student and Exchange Visitor Information System (SEVIS). My aim is to characterize the visa system as it applies to students and scientists, and describe what is being done to make it work better. Just two weeks ago, on March 26, the State Department's Deputy Assistant Secretary for Visa Services, Janice Jacobs, testified on these issues before the House Science Committee. I commend her testimony to you as a current authoritative source of information.

The visa is a travel document that permits someone to reach the U.S. border and seek admission. The Department of State administers the visa process. Admission to the country is determined by the immigration border inspectors of the new Department of Homeland Security, to which this responsibility was transferred by the Homeland Security Act of 2002. In general, *the visa process remains essentially the same today as it was prior to 9/11*. One important new provision is the statement in Section 306 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107-173) that "No nonimmigrant visa ... shall be issued to any alien from a country that is a state sponsor of international terrorism unless the Secretary of State determines, in consultation with the Attorney General and the heads of other appropriate U.S. agencies, that such an alien does not pose a threat to the safety or national security of the United States." The State Department has also made some changes to the process under the existing authorities of the Immigration and Nationality Act, section 212 (1182 in the US Code), which I will describe later. Also, shortly after 9/11 (Oct 29) President Bush issued Homeland Security Presidential Directive 2 (HSPD2), which among other things called for enhanced immigration enforcement capability, and an end to abuse of international student status. To quote from that directive:

"The United States benefits greatly from international students who study in our country. The United States Government shall continue to foster and support international students. The Government shall implement measures to end the abuse of student visas and prohibit certain international students from receiving education and training in sensitive areas, including areas of study with direct application to the development and use of weapons of mass destruction. The Government shall also prohibit the education and training of foreign nationals who would use such training to harm the United States or its Allies. "

The Directive calls for the creation of a program that "shall identify sensitive courses of study, and shall include measures whereby the Department of State, the Department of Justice, and United States academic institutions, working together, can identify problematic applicants for student visas and deny their applications." This is the Directive for which the process known as IPASS was devised and presented to the higher education community last year. I described IPASS in testimony to the House Science Committee on October 10, 2002. This "Interagency Panel on Advanced Science and Security" would provide systematic input from scientific experts to define and identify the "sensitive areas" mentioned in the Presidential Directive. The legislation creating the Department of Homeland Security changed the status of the agencies participating in the original IPASS process, and new roles are not yet completely defined. Consequently, IPASS is not yet in place.

There is a potential downside to IPASS which you will understand as I move on to describe the current visa situation. The worst aspect of the situation is the long delays in processing some visa applications. If IPASS adds even more steps to the process without adding value, it may increase wait times, which is not our intention.

First let me give you some numbers. For the past four years, the annual number of nonimmigrant visa applications has varied between 8 and 10 million, of which about 75% are granted. There are multiple attempts per individual, so the actual success rate of individuals is higher. Of those admitted, approximately 20% are in the F, M, and J categories in which students and exchange visitors fall. In 2000, for example, those admitted in these categories totaled about one million individuals. Prior to 9/11, an estimated 75,000 institutions were

certified to admit foreign students. This number has dropped to about 8,000 today. The large decline is attributed to English language and small vocational schools that are no longer in business. DHS has adjudicated all timely and complete applications for recertification. By this August all international students must be registered through SEVIS. National Laboratories and other institutions also use SEVIS to enter and track foreign visitor information.

Congress had mandated an automated foreign student tracking system in section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, responding to the first World Trade Center bombing. A pilot project began in the INS Atlanta District the following year, but further implementation was slow. After 9/11, the pilot project was converted to SEVIS. The USA Patriot Act of January 2003 required SEVIS to be implemented by January 1, 2003. The system has experienced well-publicized glitches. DHS has hired experts to identify and resolve issues, and is monitoring and correcting problems, a process that will continue as long as necessary. We have to make this system work, because it provides information to decision makers at multiple steps in the visa control process.

The visa process begins at the consular office in the country of origin, and the first challenge for applicants is filling out the forms correctly and submitting them well in advance of the intended visit. It appears that expectations for the accuracy and completeness of the visa application forms and the accompanying I-20 pertaining to students, have increased since 9/11, and I think most would agree that is appropriate. Consular officers judge each application on its merits in accordance with existing immigration laws and procedures. The Immigration and Nationality Act (INA) lists specific grounds for ineligibility, each of which must be considered by the officers. The first opportunity for rejection comes at this stage, and the most common cause by far is "failure to establish intent to return to the home country." This refers to Section 214(b) of the INA. *The law presumes that a nonimmigrant applicant intends to immigrate until he/she can demonstrate otherwise.* The burden of proof is on the applicant to show compelling ties outside the U.S. that will cause the applicant to leave the U.S. after the authorized temporary stay. Examples of what kind of proof is necessary are provided as guidance to applicants, and they do not appear to be unreasonable. I have heard complaints that this particular provision of the INA is contrary to our desire to capture the most talented students into our domestic workforce. But there are, and clearly should be different visa categories for those who intend to immigrate versus those who merely intend to study. Student visas are not immigrant visas or temporary worker visas, and applicants should be aware of this.

The next largest cause of rejection at the consular stage seems to be "Application does not comply with INA requirements." As far as I can tell from the data I have seen, no other category of rejection comes within orders of magnitude of these top two. Generally, the latter category covers denials pending receipt of additional documents or interagency security clearances. The INA contains several additional grounds of ineligibility, including provisions based on national security grounds. I have personally reviewed detailed statistics for rates of acceptance and rejection over the past five years in various visa categories from various countries, and find a small but significant decrease in acceptance rates over all categories. Changes in student and scientist rates do not appear to differ from those of other categories.

So where is the problem? Unfortunately, while rejection rates for science- or study-related activities remain small, the number of cases submitted for additional review has increased dramatically since 9/11. This increase, plus more careful scrutiny of the submitted cases, has led

to processing backlogs that have created excessive delays in notification. Solutions focus on removing these backlogs and changing the way cases are processed, without sacrificing the rigor of the review.

Three different review procedures dominate the process for the classes of visas we are considering. First, all applications are checked with the Consular Lookout Automated Support System (CLASS). This system compares names with lists from the FBI's National Criminal Information Center, and the intelligence community's TIPOFF data base on terrorists, etc. If a "hit" occurs, then the consular officer must take certain steps. In some cases, the application must be sent to Washington for further review. These reviews seem to be resolved within 30 days in nine cases out of ten.

The other two reviews are conducted only when the consular official judges that the application meets special criteria. One of these, code-named MANTIS, was established under section 212 of the Immigration and Nationality Act, which I mentioned earlier. The purpose of this section is to exclude applicants whom a consular official or, since March 1, the Secretary of Homeland Security, has reasonable grounds to believe intends to violate or evade laws governing the export of goods, technology, or sensitive information. The decision to submit an application for MANTIS review is based on guidance accompanying a Technology Alert List compiled by State Department Officials with input from other federal agencies. The other federal agencies also assist in evaluating the cases. In August 2002, the guidance for the TAL was clarified for each category. The statistics tell a story: In calendar year 2000, about 1,000 cases were reviewed under MANTIS, and 2,500 the following year. In 2002 the figure jumped to 14,000, overloading the system last summer and fall. Today the State Department estimates that at any given time there are about 1,000 visa applications in the MANTIS review process. FBI and State are dedicating fulltime individuals to clean up the backlog. Janice Jacobs' testimony pointed to twelve new personnel, cross-training of existing personnel, and management and technology improvements as evidence of State Department efforts to reduce the backlog.

The second special review, code-named CONDOR, is entirely new since 9/11 and is devoted to identifying potential terrorists. In both systems, the flood of new case submittals following 9/11 required changes in methodology to maintain the quality of the reviews. In the past, if the State Department received no derogatory information from the supporting agencies in 30 days, it was assumed there was no objection to the visa issuance. But in the summer of 2002, the backlog was such that no agency could give assurance that 30 days was enough, and the 30 day rule was suspended. State must now wait for affirmative replies from participating agencies before it informs consular officers that there is no objection to issuance.

My aim in going through this process is not to make you more discouraged, but to give you hope that the visa situation can be improved. We think we understand what is happening, where the problems are, and how they can be addressed. My office, working closely with the Homeland Security Council, has had good cooperation from the Departments of State, Justice, and Homeland Security, all of whom agree that improvements are needed. And there have been notable successes, including cooperation last fall among six offices and agencies to identify and resolve inefficiencies and duplications in the CONDOR process that cleared out nearly 10,000 applications from the backlog. The same group is now working on similar issues in MANTIS. Part of the problem is that all these systems of special review operate in parallel, but impact the

same offices. So backlogs in one system can affect flow rates in all the others. That is why applications for short term visits, including B visas, are held up along with all the others.

I have organized my office to place special emphasis on homeland security issues, including visa issues. Between October 2001 and March 2003 OSTP played an unusual operational role in supporting the Office of Homeland Security. The existence of the new Department of Homeland Security makes it possible for us to focus on our traditional role of coordination, oversight, and policy formation. Within OSTP, homeland and national security functions now report through a Senior Director, Bill Jeffrey, directly to my Chief of Staff and General Counsel, Shana Dale. The visa situation is one of a small number of issues that has received top priority for the past eighteen months. We see solutions emerging, but they involve multiple agencies and large volume processing systems. The stresses resulting from the events of 9/11 cannot be relieved as rapidly as they emerged. But I am optimistic that they will be relieved.

Some general principles that will help this process include,

First, increased and systematic involvement of the expert communities within the federal government in providing guidance to the process. Whether it is crafting the Technology Alert List, or helping consular officials to employ it, or reviewing cases in the CONDOR and MANTIS systems, or IPASS, technical expertise is essential. IPASS, not yet implemented, could be a model for embedding technical expertise.

Second, elimination of duplicate operations among the three screening processes, CLASS, CONDOR, and MANTIS. The Departments of Homeland Security, State, and Justice have already made very beneficial adjustments in methodology and I expect to see more. Gains here have a nonlinear impact on throughput because of the interaction among the different systems.

Third, continued improvement of impact reporting from affected institutions. We have many anecdotes, but they do not add up to trends, and they give little insight into where or how the systems can be adjusted to best advantage.

Fourth, better knowledge among all parties regarding how the visa system works, and what are its objectives. Very few applicants are terrorists, and therefore a properly working system will not reject large numbers on grounds related to terrorism. It should, however, be rejecting some, and that is happening. Most of the current delays and backlogs are related to our efforts to screen applicants more rigorously, and not as the result of policies to exclude. Knowing more, we can advise visa applicants better. Students and visiting scientists need to get accurate information from their institutions and collaborators about how and when to apply for visas. We can all help make the system work better.

Fifth, a frame of mind within the technical and higher education communities that perhaps falls short of patience, but rises above hysteria. We are facing a serious challenge, and this Administration is responding seriously to it. We have evidence of cooperation among agencies, and appreciation for the importance of the task. If the devil is in the details, then so is the opportunity for good will to produce a favorable outcome.

Thank you for the opportunity to address this issue today. I will be glad to answer specific questions.