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**BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON FOREIGN AFFAIRS, SUBCOMMITTEE ON EUROPE**

**IMPROVING AMERICA'S SECURITY, STRENGTHENING TRANSATLANTIC RELATIONS:
AN UPDATE ON THE EXPANSION OF THE VISA WAIVER PROGRAM**

**WEDNESDAY, MAY 14, 2008
2200 RAYBURN HOUSE OFFICE BUILDING
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Chairman Wexler, Mr. Gallegly, and Distinguished Members of the Subcommittee: I would like to thank you for the opportunity to appear before you today to discuss how the Department of Homeland Security (DHS or the Department) is enhancing the security of the Visa Waiver Program (VWP) as it works to expand the program's membership pursuant to the requirements of the "Implementing Recommendations of the 9/11 Commission Act of 2007" (9/11 Act).

A modernized VWP that strengthens our country's national security, law enforcement and immigration interests is a clear top priority for the Administration. Section 711 of the 9/11 Act supports this objective by concurrently enhancing the VWP's security requirements and expanding opportunities for new countries to become VWP members. These twin goals of security and expansion are complementary: expanding the circle of countries admitted to the Program creates tremendous incentives for VWP aspirants to enhance their security standards and deepen their cooperation with the United States on security-related issues. Current VWP members include our closest international partners; DHS will ensure that these countries continue to meet this same high security bar as well.

Let me spend a few moments updating you on the steps the Department has taken to further strengthen the VWP's security features and expand the program's membership.

Since summer 2007, DHS has engaged both current and aspirant VWP countries alike to explain the enhanced security measures mandated by the 9/11 Act. This outreach effort has involved both high-level consultation and working-level technical conversations between foreign partners and DHS personnel, in collaboration with our colleagues in the Departments of State and Justice. More recently, the Department has formalized the security enhancements into memoranda of understanding (MOUs) and has started to discuss implementing arrangements that detail the terms of the new security measures. DHS is requiring each member and aspirant country to sign an MOU and to agree to the appropriate implementing arrangements, unless other arrangements or agreements already in place fulfill the new security requirements of the VWP legislation. Those countries seeking to join the VWP will have to comply with all of the new security measures upon admission; current participants will have to meet those new requirements no later than October 2009. Staggering the times for compliance in this way best enables us to ensure a smooth and efficient path to uniform security standards for all VWP members. As we have stated before, uniform security standards are essential because the terrorist threat is not confined to particular corners of the globe.

To date, eight countries have signed MOUs – the Czech Republic, Estonia, Hungary, the Republic of Korea, Latvia, Lithuania, Malta, and Slovakia. Discussions on the associated implementing arrangements are currently ongoing with these countries as well. The aspirant countries with which we have signed MOUs have strong incentives to commit to implementing the full suite of security standards – not just the four mandatory measures of the 9/11 Act, but the three discretionary measures as well – and each has indicated its willingness to do so. Talks are also underway with several current VWP members on compliance with the new standards.

We believe that the arrangements under discussion — which include requirements to provide certain information on air passengers, serious crimes, known or suspected terrorists, asylum and migration matters, and timely reporting of lost and stolen passport data, as well as cooperation on airport and aviation security — will provide our operators and analysts with new tools to secure our nation as well as help prevent terrorist and criminal activities in our VWP partner nations. As such, they will in many ways substantially enhance travel security with our Visa Waiver partners.

Indeed, we are already seeing tangible security benefits from these agreements, well in advance of VWP expansion. For example:

- Sharing screening information on known and suspected terrorists will be required for VWP membership. As a direct result of this link to VWP, the majority of aspirant countries have concluded, or are close to concluding, agreements with the United States to share their known or suspected terrorist watch-lists.
- The timely reporting of lost and stolen passports is a VWP entry requirement. As a result of the connection to VWP accession, several VWP aspirant countries have improved their lost and stolen passport reporting to Interpol and are also sharing the information directly with the U.S. government. This improved reporting enables U.S. Customs and Border Protection (CBP) to more effectively screen arriving passengers in order to detect, apprehend, and limit the movement of terrorists, fugitives, and other criminals who use fraudulent travel documents.
- Agreeing to accept U.S. Air Marshals is another consideration for VWP designation. As a result of the connection to the VWP, we have seen a willingness to conclude negotiations with the Transportation Security Administration (TSA) on Air Marshals.

The security breakthroughs made possible by these bilateral discussions have also created momentum on the parallel discussions with the EU. The extension of visa-free travel privileges has been and will remain a bilateral matter for legal and very practical purposes: we must measure and evaluate the concrete actions of those countries responsible for implementing security and travel requirements. That said, cooperation with the EU has been and will remain vital. The United States and European Union share a common vision of combating international crime and terrorism while facilitating transatlantic travel for the vast majority of travelers who pose no security or law enforcement risks.

Secretary Chertoff and his EU counterparts agreed to a “Twin Track” approach to the trans-Atlantic dialogue on VWP at the Justice and Home Affairs Ministerial meeting this past March in Slovenia. Under this approach, we will continue our negotiations with the EU member states on issues that, under EU law, fall within the competence of the member states, while simultaneously discussing with the EU Commission issues under EU community competence. The bilateral track of the Twin Track approach is well underway. In the EU track, we have also begun discussions and anticipate a number of possibilities for deeper reciprocal cooperation to enhance security on both sides of the Atlantic. To cite one example, we are discussing ways to share best practices or to reciprocally share information about dangerous individuals prohibited from entry into the United States or the European Union. Such arrangements will enable more effective border screening systems by making additional data available and providing additional tools to officers responsible for making entry decisions. It is important to stress, however, that the results of the bilateral track will determine whether aspirant countries qualify for the VWP.

In addition to the very real security benefits just described, the VWP produces significant economic benefits for this country. In 2006, for example, VWP travelers accounted for 60 percent of travel-related business transactions. That year, Florida welcomed nearly 2.5 million VWP travelers from overseas. These international visitors to Florida typically stayed an average of 11 days, twice as long as domestic tourists. These economic benefits apply to all 50 states and can be expected to increase as more countries are eligible to use the program.

The VWP also contributes to cross-cultural exchanges with American allies and friends throughout the world. VWP travel provides the opportunity for foreigners to expand their understanding of American culture, history, and values. As visitors explore our national parks, museums, and communities, they will

form their own positive opinion of America, beyond the images often portrayed in foreign media. This “people-to-people” diplomacy strengthens our nation’s image around the world, enhancing our ability to take the lead on challenging global issues.

As you know, initial VWP designation (as well as continuing designation) depends on a determination by DHS, in consultation with the Department of State, that such designation would not negatively impact U.S. security, law enforcement, or immigration interests. To that end, DHS-led interagency teams have traveled to the Czech Republic, Estonia, Greece, Hungary, and Slovakia to comprehensively review their counterterrorism capabilities; immigration, citizenship and naturalization laws; passport production and issuance controls; efforts to combat crime; law enforcement cooperation with the United States; and border control mechanisms. DHS will undertake a similar assessment of Latvia, Lithuania, and South Korea next month.^[1] A country cannot be admitted into the Program until it receives a favorable determination from DHS.

As noted earlier in this testimony, the twin goals of security and expansion are mutually reinforcing. The 9/11 Act gives the Secretary greater flexibility with regard to aspirant countries’ nonimmigrant visa refusal rate provided the Department: (1) certifies that an air exit system is in place that can verify the departure of at least 97% of the foreign nationals who exit through U.S. airports and (2) implements an Electronic System for Travel Authorization (ESTA).

As to the first requirement, DHS continues to evaluate and look for ways to ensure accurate and timely receipt of passenger manifest information and to improve the methodology underpinning the air-exit calculations. We expect to make this certification – in a transparent manner – later this year.

The development of the ESTA program is also well underway. ESTA will substantially strengthen the security of the VWP by providing DHS with the capability to conduct enhanced advance vetting of VWP travelers. It is essential to transforming the VWP from a program that evaluates security threats on a country-by-country basis to one that is capable of making traveler-by-traveler judgments. DHS expects that ESTA will be online during summer 2008. In addition to enhancing security, ESTA should provide for greater efficiencies in the screening of international travelers by reducing traveler delays at the ports of entry.

DHS is committed to strengthening the VWP in a substantive way and to bringing new members into the program. Let me assure you that new countries will not be admitted to the program until both they and DHS meet the statutory requirements.

As I have outlined today, the Department is well on its way to achieving the twin goals of a security-enhanced and expanded VWP, as embodied in the 9/11 Act. In fact, we are reaping the rewards of enhanced security cooperation even before VWP expansion is a reality.

Mr. Chairman and Members of the Subcommittee, I want to thank you for the opportunity to present this testimony today. I would be pleased to respond to any questions you might have at this time.

^[1] Although DHS is actively engaged with each of the Roadmap countries, Greece is the only VWP-candidate country that has been formally nominated for designation by the Department of State