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“Finding the Needle, Facilitating the Haystack”

I appreciate the opportunity to be here today with so many of our good partners. These partners include not only fellow administration officials like Under Secretary Aldonas and Deputy Assistant Secretary Baker, but many of you in the audience who have worked closely with the Department of Homeland Security and the rest of the government to respond to the increased security threat while maintaining or even improving the climate for international travel.

I would be remiss if I did not mention the passing of former President Reagan. With everybody from the President to every pundit in town working on finding the right words to remember our former leader, I won't try to find a catchy phrase that ties his vision to today's conference, except to say that the image he fostered of America as a welcoming, exciting nation determined to make the world safe for each individual to fulfill his or her dreams is certainly relevant today.

And for the many of us who have had the pleasure of working with her, we were very saddened to hear of the death of the brother of Deputy Assistant Secretary for Visa Services Janice Jacobs at the Department of State in Saudi Arabia earlier this week. Janice has been at the forefront of our efforts to protect our country and our economy, and we pass along our prayers at this difficult time.

Janice and I have been working closely on the topics “in play” at today's conference. We in many ways are perhaps halfway through the revolutionary changes that are necessary and possible in how we decide whether a prospective visitor should be admitted to this country, and how that visitor is screened and vetted along the way. If you think of the points along the way where our government interacts with a prospective visitor, almost none are the same as in 2001. The visa process, the international flight, the port of entry, the departure, all have changed significantly in less than three years, and many more changes are in store.

Our investments in better and more comprehensive watchlists, in better data-sharing, and in advanced technology make it much more likely that we will be able to identify a terrorist or criminal. As these capabilities improve, the need for more “dragnet” programs should and will subside.

I'm going to take a few minutes to talk about visa policy, the visa waiver program, international aviation, and US-VISIT in a minute, but let me take just a second to describe my role in this issue area. I direct the Border and Transportation Security Office of Policy and Planning and advise BTS Under Secretary Asa Hutchinson and Secretary Tom Ridge on policies related to immigration and visa issuance, cargo and international commerce, international trade,

transportation security, counternarcotics, and federal law enforcement training. These policies are implemented on an operational level by the BTS component agencies and program offices: U. S. Customs and Border Protection, U. S. Immigration and Customs Enforcement, the Transportation Security Administration, the Federal Law Enforcement Training Center, US-VISIT and Office of International Enforcement.

And I can assure you that, right now, no set of issues is more “in play” than the question of facilitating legitimate international travelers. The United States is proud to be a welcoming country with open doors. The overwhelming visitors who come to the United States intend to vacation, study, conduct business or research in the United States, and then return home. DHS wants to facilitate the ability of these persons to enter the United States, enrich our society, improve our economic competitiveness, and spread our democratic traditions. There’s the old Yogi Berra line about one of his favorite restaurants: “Nobody goes there anymore, it’s too crowded.” That kind of word of mouth from the Yogis around the world to prospective students, scientists, tourists, or business partners, telling them “no” when they want to visit, either because they are actually rejected for a visa, or because they believe that travel is too inconvenient, will have a devastating effect on our economy in the short-run and in our foreign and homeland security affairs in the medium and long term.

Having come directly from a company that owned a few major theme parks, I understand the impact government policy can have on the travel business. So what are we doing to, as I have titled my remarks, find the terrorist needle, and facilitate the traveler hay? We’re doing quite a bit.

First, visa policy. As you know, the Administration has made significant changes to the visa process and entry screening requirements since 9/11 to provide better security in light of the revised threat assessment to our national security. On August 1, 2003 new regulations were implemented which limit waiver of personal appearance for nonimmigrant visa applicants to only a few categories of exceptions, such as diplomats. These appearances are critical for collection of the biometrics that makes the system work. And in coordination with the Department of Justice and Department of State, we have added more interagency security checks for certain groups of visa applicants from certain countries.

Under the Homeland Security Act, the Department of Homeland Security has assumed lead responsibility for establishing visa policy, and has begun stationing employees in high-risk areas to assist the consular officers in the visa process. Subject to certain exceptions, DHS can establish visa policy and has final authority over DOS-initiated visa guidance concerning: alien admissibility, classification, and documentation; place of visa application; personal appearance/interviews; visa validity periods and the Visa Waiver Program.

Within DHS, visa policy is principally developed by my office, Border and Transportation Security Directorate’s (BTS) Office of Policy and Planning, and by U.S. Citizenship and Immigration Services’ (USCIS) Office of Policy and Strategy. BTS focuses on the security reviews necessary for all travelers, while USCIS is responsible for reviewing visa applicants required to prove their eligibility for certain visa categories.

Over the past several months, my staff and I have conducted a comprehensive review of the existing immigration laws, regulations, and policies that pre-date the creation of the Department to ensure that our immigration goals, policies, and laws are properly aligned in relation to visa issuance and policy. We have called on staff from US-VISIT, Customs and Border Protection and Immigration and Customs Enforcement to bring their best people and thoughts to the table to aggressively effectuate change in this arena. Furthermore, senior DHS leadership, including myself, have met with numerous private sector groups and schools to discuss their concerns and identify what policies have an impact on the business travel, international students, and scientific research, which are all vital to our economy.

Consider this: In 2003, over 945,000 international students and scholars, as well as their spouses and children, resided in the United States, and it is estimated they contributed over \$12 billion to the U.S. economy in 2002-2003. And the number of foreign business travelers to the U.S. reflects our global economic interdependence. In 2002, more than 4.37 million business visitors were admitted to the U.S. Of these, over two million entered pursuant to the Visa Waiver Program.

We have listened and over the next few months DHS will work with the White House and interagency partners to implement changes to programs like Visa Mantis and Condor which are causing unnecessary travel delays while looking at new ways to facilitate secure travel through biometrics. We will build upon the US-VISIT system to create a seamless process that will not only facilitate travel but also ensure the integrity of our system. We are taking a fresh look at old doctrines like reciprocity and the customer service aspects of visa issuance. It is a comprehensive review and will bear fruit in the near future.

I mentioned the Visa Waiver Program, a vital facilitator of international travel to the United States. As I am sure you are aware, the program was established as a pilot in 1988 to facilitate travel and ease the consular office workload. Under the program, nationals of designated countries who are in possession of valid passports may visit the United States for business or pleasure for 90 days or less without first obtaining a nonimmigrant visa. The program was made permanent in 2000 and currently 27 countries participate. In FY03, over 13.5 million visitors (about 46% of all controlled arrivals) entered under the VWP.

There have always been concerns about possible security vulnerabilities created by any “visa free” travel programs. This is particularly true now, in light of recent enhancements to the visa issuance process. However, the permanent program legislation and subsequent amendments include provisions to address the law enforcement and security interests of the United States. The program now requires that:

- each participating Visa Waiver Program (VWP) country certify that it has Machine-readable Passport (MRP) program;
- a VWP traveler present an MRP on 10/26/04 – following a one-year waiver by the Secretary of State;
- participating countries be evaluated against statutory criteria every 2 years;
- participating countries establish a program to issue MRPs that are tamper-resistant and incorporate biometric and document authentication identifiers that comply with standards established by the International Civil Aviation Organization (ICAO) by October 26,

- 2004; and
- requires VWP travelers to present “Biometric-enabled” passports if the documents are issued after that date.

As I mentioned above, DHS is required to review all participating countries periodically for continued participation and report to Congress. Several countries (Slovenia, Belgium, Italy, Portugal, Uruguay, and Argentina) were reviewed by the INS, and two (Argentina and Uruguay) were removed from the program. DHS is currently conducting reviews of the remainder of the countries and will complete the reviews by October. This will be the first comprehensive review of the countries and will form the “baseline” for future reviews. I can assure you that these reviews will not be a cursory process: we will be asking tough questions as to a VWP country’s compliance with the statutory criteria. Among these are:

- a low nonimmigrant visa refusal rate;
- a machine-readable passport program, and after 10/26/04, biometric-enabled passport programs must be in place;
- a country designation may not compromise U.S. law enforcement and security interests, including enforcement of U.S. immigration laws and procedures for extraditions to the U.S.;
- the country must certify that it reports to the U.S. on a timely basis the theft of blank passports issued by that country; and
- low immigration violation rate (overstays, etc.).

I mentioned the October 2004 biometric passport deadline. Under the Enhanced Border Security Act, after October 26, 2004, VWP applicants with non-biometric passports issued after October 26, 2004 will not be eligible to apply for admission under the VWP. While most VWP countries will be able to certify that they have a program in place, due to technological limitations, actually producing biometric passports by that date will not be possible. Limiting VWP participation could lead to serious disruptions to travel and tourism because millions of VWP travelers may choose not to travel to the U.S. resulting in billions of lost revenue to the U.S. economy. It may also cause friction with some of our closest allies in war on terror.

Additionally, the EBSA requires DHS to deploy passport readers to authenticate these passports. Acknowledging the limits of the current state of technology, Secretary Ridge, on April 21st testified before the House Committee on the Judiciary that DHS, “...is not currently in a position to acquire and deploy equipment and software to biometrically compare and authenticate these documents. DHS cannot today acquire one reader that will be able to read all chips utilized in the ICAO compliant biometrics passports. However we believe that by the fall of 2006, the technology require to implement successfully a security system based on the ICAO standards will be much more settled and allow DHS to derive benefits envisioned when the original EBSA was enacted.” Accordingly, DHS and DOS jointly requested that the October 26, 2004 deadline be extended to November 30, 2006 for the production of ICAO-compliant biometric passports and the deployment of equipment and software to read them.

We will continue working with the Congress on this issue and are appreciative of Chairman Sensenbrenner’s willingness to move extension legislation quickly. We need to

continue the ability of VWP nationals to travel to the United States visa-free. At the same time, we are going to plug the security hole by enrolling VWP applicants in US-VISIT in approximately 120 days.

For passengers arriving by air or sea, we are working well with our partners on improving standards for travel documents, aviation safety, and the exchange of watchlist information. In an effort to scrutinize travelers more effectively and more equitably, we are moving toward individualized review. Appropriate and secure use of biometric identifiers will significantly aid this process by allowing us to authenticate the identity of travelers. By individualizing the process through biometrics, we can be more confident and secure about our admissions and screening decisions. To get there, we are working closely with our European counterparts in the International Commercial Aviation Organization (ICAO) and other fora to discuss how to advance biometric methodologies, both in chip technology and electronic readers.

We are building a layered approach for aviation security. DHS recognizes that there is no single solution to prevent airplanes from being used as weapons of mass destruction. The layered approach includes enhancements to visas, appropriate use of airline passenger data, vetting travelers through US-VISIT, boosting airline security, reinforcing cockpit doors, utilizing air marshals on international flights of concern, and offering voluntary programs for arming pilots on the passenger and cargo planes for domestic flights.

I am happy to report that DHS has just signed an important agreement with the European Union that permits the legal transfer to DHS of advanced passenger name record (PNR) data from airlines flying between EU countries and the United States. During my tenure with Border and Transportation Security (BTS), I have been the lead negotiator for the U.S. with the Commission in our efforts to establish a legal framework to allow CBP, a component of BTS, to access passenger name record (PNR) data from the airlines that carry passengers between Europe and the U.S. The purpose of our negotiations was to obtain an adequacy finding, under the European privacy directive, which allowed CBP to receive PNR data from those airlines affected by the Directive. Prior to the resolution of these issues, airlines were put in a position where they would be subject to fines from EU member states if they provide PNR data to the U.S. I have to admit, however, when I arrived at DHS, I just couldn't understand why the Europeans were so worried about NPR – what was All Things Considered saying about them?

Seriously, PNR data is an essential tool in allowing CBP to accomplish its key goals: (1) PNR data helps us make a determination of whether a passenger may pose a significant risk to the safety and security of the United States and to fellow passengers on a plane; (2) PNR data submitted prior to a flight's arrival enables CBP to facilitate and expedite the entry of the vast majority of visitors to the U.S. by providing CBP with an advance and electronic means to collect information that CBP would otherwise be forced to collect upon arrival; and (3) PNR data is essential to terrorism and criminal investigations by allowing us to link information about known terrorists and serious criminals to co-conspirators and others involved in their plots, including potential victims. Sometimes these links may be developed before a person's travel but other times these leads only become available days or weeks or months later. In short, PNR enables CBP to fulfill its anti-terrorism and law enforcement missions more effectively and

allows for more efficient and timely facilitation of travel for the vast majority of legitimate travelers to and through the United States.

Another important tool is Advance Passenger Information System (APIS) data. This is the information coded in the machine readable zone of your passport and transmitted electronically as part of a crew or passenger manifest to CBP for advanced analysis and for targeting of passengers traveling to and departing from the U.S. The National Targeting Center uses PNR and APIS data in combination with a host of other passenger, cargo intelligence and threat information to conduct a risk analysis that helps to identify potential terrorists and targets for additional scrutiny. During the period of heightened alert last December, the targeting center played a pivotal role in analyzing information that led to the delay of several international flights that were determined to be at risk. In the coming months, DHS expects to issue a CBP rule governing the transmission of APIS data. This rule will combine prior legacy US Customs Service Interim Rule and the legacy INS Proposed Rule, both of which have received substantial comments from the airline industry, together with TSA requirements for crew manifests.

Finally, in order to institute a comprehensive aviation security system, we must also address screening passengers on domestic flights and those departing the United States before they board an aircraft. Over the course of the last year, TSA has been developing a computerized prescreening system that would use PNR to help to identify passengers and to conduct a risk assessment for those passengers who might need additional screening. The final system has not been announced and is still undergoing development and testing before finalization. We are also leveraging our experiences in the international arena to allow any domestic program to run more smoothly with less impact on carriers and travelers. When completed, the system will include robust privacy protections including redress mechanisms for passengers.

I mentioned US-VISIT, a historical milestone in our efforts to enhance the integrity of our immigration system and reform our borders so that we can expedite travel for the many and capture the few.

Our overall goals are to enhance the security of our citizens and visitors while we facilitate legitimate travel and trade for the millions of visitors we welcome here each year to study, work, see family or tour the country.

As many of you know, the first phase of US-VISIT launched on January 5, 2004, when we deployed the biometric entry capabilities at 115 airports and 14 seaports and began testing a biometric departure confirmation system.

Since then, we have processed more than 4.5 million visitors without impacting wait times. That means we are still processing plane loads and ship loads of passengers at the same rate we did before, only now we are catching criminals and immigration violators who before might have gotten through our system and into our country. To date we have intercepted more than 500 hundred people before they got their visa or were admitted into the country.

Biometric technology – digital fingerscans and photographs -- is what makes US-VISIT clean, simple and effective. In fact, the use of biometrics for identification is fast becoming the standard, and much of the world is following the trend.

Fundamentally, the ability to match people to their travel documents means we can improve security without sacrificing freedom. On the one hand, we must continue to respect our visitors' privacy, treat them fairly, and enable them to pass through inspection quickly so they can enjoy their visit in our country. On the other hand, we must know who they are and that they do not overstay the terms of their visa.

From a timing standpoint, 2004 is an important year for the US-VISIT Program. As many of you know, last month we met a critical deadline when we awarded the Prime Contract to the Smart Border Alliance, an Accenture-led team including some of our nation's most innovative companies. The Smart Border Alliance will provide a wide range of professional services including strategic support, design and integration activities, technical solutions, deployment activities, training, and organizational change management. By harnessing the power of the best minds in the private sector, we have taken a major step toward accomplishing our goals of enhancing the security of our country while increasing efficiency at our borders.

From July through September, we will be testing alternatives for the departure confirmation system at air and sea ports. The biometric departure systems being tested include kiosks in combination with mobile units positioned closer to the departure gates for better exit verification.

By September 30 of this year, we will begin enrolling visitors traveling under the Visa Waiver Program. The system has been tried and tested and is ready for this expansion.

And by December 31, 2004, US-VISIT capabilities will be deployed at our nation's 50 busiest land ports of entry.

Clearly, land borders are different from air and sea ports of entry and present a unique set of challenges. But we are addressing those challenges, we will find the right solutions, and we will see US-VISIT at the 50 busiest land ports of entry by December 31st of this year, with the remaining land ports deployed by December 31, 2005.

While we don't know what the actual solution will be yet, we do have a vision for the land borders. What we see is a smart, integrated approach that leverages all the available technologies to ensure the free flow of trade and travel. It's possible that the solution will combine biometric technology with radio frequency technology. We know biometrics work to match people to their travel documents, and we know RF technology works to expedite the process, so together, we're looking at a powerful solution that meets our needs at the border.

We take very seriously our Congressional and Presidential mandate to enhance security without sacrificing commerce, and we will implement US-VISIT in a way that does not disrupt the social, cultural or economic balance along the border. Jim Williams will be going into more

detail about the deployment of US-VISIT increments, including exit, VWP expansion and land border deployment, as he participates in the panel scheduled for later this morning.

I'll hope you'll agree after this quick overview that DHS and our interagency partners are headed the right direction in protecting our international travel system. It will take the continued input from our industry and educational leaders to make sure we get this right - the consequences of getting it wrong, either because a terrorist clips through our checks, or because would be scientific research or business ventures don't happen, are too great.

Thank you for listening and I look forward to your questions.