



# Statement of the U.S. Chamber of Commerce

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**ON: "BALANCING OPENNESS & SECURITY IN CONSULAR  
PROCESSING"**

**TO: HOUSE COMMITTEE ON GOVERNMENT REFORM**

**BY: ELIZABETH C. DICKSON**

**DATE: APRIL 4, 2006**

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

**Testimony of Elizabeth C. Dickson  
Advisor, Immigration Services, Ingersoll-Rand Company  
Chair, U.S. Chamber of Commerce Immigration Subcommittee**

**Before the  
House Committee on Government Reform  
U.S. House of Representatives  
April 4, 2006  
10:00AM**

**“Balancing Openness & Security in Consular Processing”**

Mr. Chairman and members of the Committee, good morning. Thank you for the opportunity to testify today before the Committee on the subject of balancing openness and security in consular services. I am Elizabeth Dickson, an Immigration Services Manager and a member of the Global Mobility Services Team for Ingersoll Rand Company. I am also Chair of the U.S. Chamber of Commerce Subcommittee on Immigration. I am testifying today on behalf of Ingersoll Rand Company and the U.S. Chamber of Commerce. It is a privilege for me to be here today discussing immigration policy issues as the Senate wrestles with the larger comprehensive immigration reform issues. It is very important to note that an overhaul of our immigration policy to meet our national security and economic needs is so very necessary after a 20-year hiatus.

The U.S. Chamber of Commerce is the world’s largest business federation, representing more than three million businesses of every size, sector and region. The Chamber’s membership also includes 104 American Chambers of Commerce abroad (“AmChams”) located in 91 countries, which represent American companies and individuals doing business overseas as well as foreign companies with significant business interests in the United States.

Ingersoll Rand Company Limited, a Bermuda corporation, and its affiliated group (“Ingersoll Rand” or “IR”) with worldwide corporate headquarters located in Montvale, NJ, USA, is a global provider of products, services and integrated solutions to industries as diverse as transportation, manufacturing, construction and agriculture. The company brings to bear a 100-year-old heritage of technological innovation to help companies be more productive, efficient and innovative. Its business sectors encompass the global growth markets of Climate Control Technologies, Industrial Technologies, Compact Vehicles Technologies, Construction Technologies, and Security Technologies. Ingersoll Rand features a portfolio of worldwide businesses comprising leading industrial and commercial brands such as Bobcat compact equipment, Club Car golf and utility vehicles, Hussmann stationary refrigeration equipment, Ingersoll Rand industrial and construction equipment, Schlage Locks, and Thermo King transport temperature-control equipment.

Ingersoll Rand operates more than 80 manufacturing facilities, 38 of which are located within the United States, and markets its products and services, along with its subsidiaries, through a broad network of distributors, dealers, and independent sales and service/repair

organizations. Ingersoll-Rand employs approximately 40,000 employees worldwide. Annual net sales of IR products in 2005 were in excess of \$10.5 billion. Since 2000, the company has acquired more than 50 businesses, extending the range of products and services it can provide to customers and enhancing its ability to drive total and recurring revenue growth in international markets.

America's trade relationships and economic goals depend a great deal on the ability of foreign customers (and potential ones) to travel to the United States to visit our manufacturing operations, inspect products and services they are purchasing, and negotiate contracts. Additionally, global companies such as Ingersoll-Rand depend on the ability to bring our own key personnel to the United States from overseas locations to attend meetings, receive training, integrate project work, and interface with U.S. business partners.

As American companies such as Ingersoll Rand search for new opportunities and markets, promising geographic regions include Asia-Pacific and Latin America and Ingersoll Rand's recent acquisitions have substantially expanded our presence in China, India and Europe. In a recent interview, our Chairman predicted that in 5 to 10 years Ingersoll Rand's annual business growth in East Asia should increase by 20 percent as the company's business focus increasingly shifts to the region. For example, Ingersoll Rand has introduced all of its five major businesses and 250 brands to China since it established its first office in Shanghai in 1922. We expect that our sales in China will exceed \$1 billion (US) in the near future.

Likewise, 80 years ago, Ingersoll-Rand India Private Ltd was formed, with headquarters in Calcutta and a branch office in Bombay. Ingersoll-Rand is now the oldest American company doing business in India. Today IR India has several manufacturing operations in India and employs over 900, with a network of 22 company offices and more than 80 distributors offering IR services and products in every region across the country.

We were greatly encouraged by the recent visit of President Bush to India and the surrounding countries. He made it clear that we have significant policy interests in the region, and that we should be doing more to promote the economic interests of both countries through workable immigration and trade policy. The President recognizes that we have a competitiveness issue that can be more broadly addressed through workable immigration policies.

We are also encouraged by the various improvements the Department of State ("State") has implemented in the last few years, and the "Joint Vision: Secure Borders and Open Doors in the Information Age" initiative announced by Secretary of State Rice and Secretary of Homeland Security Chertoff this past January, which we certainly support. In addition, State has reinstated the "pre-screening" partnership with the AmChams, which has worked particularly well in China. In addition, the Security Advisory Opinion ("SAO") process has improved, online visa interview appointments have made it easier for people to schedule interviews, and the State Department's posting of visa interview wait times on the web site has been very helpful. There has been measurable progress, but there are many improvements that still need to be made.

We continue to experience challenges at the consulates to obtain visas for our employees and valued customers to visit the United States. Currently, the wait for visa appointments in many countries has increased significantly and does not meet pressing business needs. Despite the Department of State's efforts to improve the process, many problems still exist in India, China, Mexico and Brazil, with the consulate in Chennai, India the most problematic. In India, Chennai is posting wait times of 163 days, Mumbai at 162 days, and New Delhi at 98 days. Mexico is posting 100 days in Ciudad Juarez, 84 days in Monterrey, and 73 days in Mexico City. Rio de Janeiro, Brazil has a 92-day wait and Sao Paulo lists 49 days. Due to France's inability to meet the biometric passport deadline under the Visa Waiver Program, Paris is currently listing a wait of 116 days to obtain a visa appointment. But there have been some improvements in visa wait times at certain consular posts as well. In Caracas, Venezuela, the wait time has gone from well over 100 days in 2005, to only around 20 days, and in Bangkok, China, the wait has gone from over 60 days to only around a week.

In addition to the delays in getting an interview, processing times to actually obtain a visa after being approved is almost a month in some countries. In particular, processing time in Mexico is usually long—it currently takes 30 days in Monterrey and Mexico City and 28 days in Meridia to receive a visa after the interview takes place. This means that people in Mexico usually have to wait at least four months to be able to come to the United States.

These delays impact Ingersoll Rand's business objectives most severely in India and China, and has caused China/India managers and professional employees to miss critical business meetings and training sessions scheduled in the United States. It is important to remember that all Ingersoll Rand sector headquarters and the corporate executive offices are located in the United States as well as Ingersoll-Rand University, our global training center, which is located in Davidson, NC. So there is an urgent need for foreign nationals to visit the United States to conduct business with our company.

Under the new procedures implemented at the consulates, in addition to the long wait for visa appointments, passports with visas are no longer returned to applicants on the day of the interview but returned by mail usually within three to five business days. Upon return, employees and customers have frequently discovered errors in visas that need to be corrected before they can depart for the United States.

At the Chennai consulate in India, we have experienced the greatest number of errors in conjunction with the company's J-1 Exchange Visitor Program. Such errors include incorrect application of the 2-year home country rule for J-1 trainees in occupations not on the skills list, DS-2019 forms returned without consular signature and endorsement, or the wrong classification or expiration date on the visa issued.

Our trainees travel eight hours each way from the Ingersoll Rand Bangalore facilities to Chennai for the visa interview and in many cases, we must schedule another visa appointment for them to return to Chennai and back to correct the error prior to departure for the U.S. This is costly to the company in time, productivity, and often legal costs are incurred. In the first half of 2005 IR spent \$19,000 on legal fees to correct consular errors and advance appointments to meet critical business needs for IR India employees alone. Things seemed to improve briefly until the

end of the summer when errors increased again and in 2005, Ingersoll Rand spent a total of \$41,248 resolving consular issues in India. Each of these situations required a second or third interaction with the consulate to correct.

Two weeks ago, on March 20, 2006, we had another incorrect application of 212(E) at the Consulate in Chennai – so the cycle begins again - possibly due to changes in personnel at the consulate who are not properly trained. Ingersoll Rand has had a J-1 Exchange Visitor Program for over 20 years and all trainees have returned to their home country or region upon completion of their training assignments – in fact, it is a requirement for participation in the program. Incorrect visa restrictions can affect the employee’s future travel to the United States and can severely impact product design projects where concurrent design work and manufacturing processes need to be coordinated with overseas Ingersoll Rand locations.

We feel there are not enough visa officers to handle the workload in India, training of consular officers is inadequate, there is no “hand off” of visa processing knowledge when personnel are replaced, consular officers frequently refuse to read the company letters provided that fully explain the “business necessity” for travel, and base their decision on a brief 30-second interview.

Inconsistent processing and frequent abuse of 214(B) for “immigrant intent” leaves companies at a loss to understand the visa process and what they can do to ensure visa issuance. I recently sent five J-1 applicants to the Chennai Consulate with identical employment with IR India, similar credentials, and basically the same company letter that contained detailed weekly/monthly training plans. One visa was initially denied and approved on re-application with the same documentation, two were incorrectly issued 212(E) two-year home country rule, and one DS-2019 was not properly endorsed by the consular officer. American companies have the right to expect some transparency in visa issuance and a predictable processing timeline.

The Bureau of Consular Affairs has encouraged business to provide additional evidence to assist consular officers to determine an applicant’s eligibility for the visa classification, including applications for B-1 business visas. As a company, we have adopted an internal process to assist our foreign employees and customers through the application process by trying to address in company letters the bona fide business reason for travel, how the applicant meets the criteria for business visitor as outlined in the Foreign Affairs Manual, and what factors demonstrate their strong ties to their home country. We have developed questionnaires for this purpose and these additional letters of support are prepared by corporate Immigration Services. In many cases this has facilitated visa issuance, however, consular officers have frequently refused to read the letters and processing is still very inconsistent.

For example, Construction Technologies, which manufactures road development equipment, is one of our most established businesses in China. The Ingersoll Rand subsidiary in Wuxi, China was trying to sponsor a targeted business delegation to visit the Road Development headquarters and manufacturing operations in Shippensburg, PA and an IR Equipment Store in Philadelphia for an October business trip to the U.S. that would also include a visit to Washington, DC and New York City as tourists. The trip was limited to two (2) weeks in duration and all customers invited represented substantial future sales for the company. Five

applied in Beijing and were initially denied and approved at second appointments in November, two were denied in Shenyang, and two were approved in Shanghai.

This delegation was composed of key managers at Chinese companies that have the authority to purchase equipment and a visit to the U.S. operations would expose them to our full product lines. All had long employment and key positions with the companies they represent and were married, with their family members remaining in China during this brief visit to the U.S. This was clearly stated in company letters of support. It is an embarrassment for the company and has a negative impact on future sales when visas are denied despite the invitation and support of a major U.S. company.

Face-to-face business meetings in the United States are an essential part of American companies' ability to function and compete in a global economy. Within 5 to 10 years, China is expected to invest \$20 billion in expressway equipment purchases. Ingersoll Rand has now established distribution sites in Shanghai, Wuxi, in East China's Jiangsu Province, and in Chengdu, in Southwest China's Sichuan Province, to meet projected growth but it is important that these customers can visit our U.S. manufacturing operations to develop ongoing trade partnerships.

The approaching 2008 Beijing Olympics are a huge opportunity for American businesses to sell merchandise in China. Ingersoll Rand recently met with officials from the Beijing Olympic Committee to negotiate the purchase of Ingersoll Rand Club Car vehicles for use in the Olympic village. As the Chair of the U.S. Chamber of Commerce Immigration Subcommittee, I am frequently contacted regarding other member companies' inability to obtain visas for Chinese customers to visit U.S. manufacturing operations, including manufacturers of power generation equipment, gasoline engines, and custom power supplies who are also trying to negotiate contracts for these Beijing Olympics.

Ingersoll Rand is not the only company to face difficulties at the consular offices. Another Chamber member, a leading U.S.-based industrial automation company with customers in more than 80 countries, had three sales engineers from China who were subjected to the Mantis screenings. While not a significant number in and of themselves, these three happened to be critical personnel to their operations. One of the engineers was working on industrial machinery for a mass transportation project in a major Chinese city. The company believes because the Embassy decided this fell under the "Urban Planning" technology field, and the case was sent for a Security Advisory Opinion ("SAO"). Because the engineer could not attend necessary training in the U.S., the project was set back a full year.

Two other employees at another U.S. firm, a software sales engineer and the head of the company's automation research and development center were also delayed. The employer was not able to determine which "critical fields" necessitated the SAO's in these cases, and therefore was not able to provide any additional explanation or help to the consular officer in determining whether or not an SAO might have even been required, much less help the agencies involved determine whether or not to grant the clearance.

Over the past 24 months, as a member of various business delegations, I, and representatives of the U.S. Chamber, have met with the Departments of State and Homeland Security (“DHS”) several times on the subject of the importance of business visitors to the United States. I do appreciate the fact that these agencies have engaged in a dialogue with business to understand the numerous issues, consular procedures, and directives that impact American business activities. In return, the business community has offered up a number of suggestions and process improvements we feel could support business objectives without compromising security initiatives and thereby facilitate business travel to the United States in support of international commerce. Overall, while significant improvements have been made, much more needs to be done.

The U.S. Chamber of Commerce has had an open dialogue with the Department of State and looks forward to the possibility of continuing to work with the agency through the new business advisory panel announced by Secretaries Rice and Chertoff in January of this year as part of the “Joint Vision” mentioned previously, as well as through existing liaison efforts with both agencies. Even as we welcomed the progress embodied in the Joint Vision statement, the U.S. Chamber has conveyed the view to both departments that there remains a number of aspects of visa policy that require further improvements to ensure that the visa application, interview and review processes are not burdensome to American business and our economy going forward. These include the creation of a “trusted traveler” program, technology alert list (“TAL”) reform, benchmarking, visa revalidation changes, as well as the full and timely implementation of current and planned commitments, as articulated in the Rice-Chertoff Joint Initiative. Some of our other recommendations include (see enclosed formal list of issues presented to the Department of State):

- ◆ Establishing special business facilitation programs at each of the 211 visa processing posts around the world, which includes priority visa processing option.
- ◆ Expanding training for consular officers on the importance of international business and the proper application of visa law.
- ◆ Finding ways to reduce consular delays soon, such as additional staff, opening more windows, working shifts to address demand over the course of a longer work day, and adding or shifting staff for “peak” volume periods would be much appreciated. Remember that the travel distances in these countries are significant, and efforts to re-visit the Consulate in order to correct problems/errors or follow-up on visa issuance often result in major difficulties and expense on the part of the traveler.
- ◆ As part of the Security Advisory Opinion (SAO) review process, the TAL (technology alert list) should be narrowed and at least annually reviewed by the Technology Advisory Committees of the Department of Commerce.
- ◆ Establishing benchmarks should be encouraged, with a wait time of no longer than 30 days targeted at those consulates which are now in excess of that time period. It should be noted that the delays are typically at the front end in terms of getting the interview date, although in some cases the wait occurs after the interview in waiting to have one’s visa processed. The entire process should be benchmarked at 30 days or less with predictability a hallmark. Obviously the shorter, the better.
- ◆ Improving data sharing between DHS, State, and other agencies such as the Social Security Administration (SSA). Since the creation of DHS a goal of coordinated

information sharing has been key. In the visa issuance context, State and DHS need to be more diligent in sharing information relating to non-immigrant visa and immigrant visa approvals. For example, when DHS approves non-immigrant visas, State still demands a hard-copy of the visa approval notice from DHS and will not rely on the electronic confirmation from the DHS database. Likewise, when State issues visas such as E or blanket L visa, information transfer from State to DHS and SSA often takes 3 plus months. With respect to immigrant visa issuance, State is still requiring hard-copy approvals from DHS to begin visa processing for principal and dependents. These antiquated procedures are burdensome to State as well as to the business community.

- ◆ Considering the issue of reciprocity, as the U.S. is not tied so closely into what other countries do. State's use of outdated visa reciprocity schedules governing the issuance of employment authorized non-immigrant visas and business visitor visas should be re-evaluated. We believe that in the interest of improving service to the business community, as well as reducing backlogs and the additional burdens imposed upon the Department of State in re-adjudicating visa applications, that applicants for employment authorized visas should receive multiple entry visas for the duration of the DHS Approval. In addition, business visitor visa applicants should be considered for multiple entry visas for a minimum of 5 years. At a minimum, the reciprocity schedules should be re-negotiated to reflect the needs of the U.S. government and business.
- ◆ Revalidating visas without leaving the country within a reasonably short period of time is a very important issue. Suspension of the Visa Office has placed the burden on Consulates in Canada and Mexico where Third-Country Nationals travel to revalidate visas.

While we recognize that the Departments of State and Homeland Security have made many improvements and have entered into an expanded dialogue with the business community on these issues, much remains to be done. We are excited about the prospect of the creation of a private sector advisory committee and seeing real progress on the various initiatives announced by State and DHS, and we look forward to working with Congress as well as both Departments in the future. Thank you for your time.





## **Visa Processing Recommendations**

### **General Recommendations:**

#### *Outreach:*

- We recommend the creation of an advisory committee of private sector stakeholders to advise the Departments of Homeland Security and State on the issues facing the business community and develop cooperative solutions to ensuring both security and continued legitimate travel to the United States.
- The Departments of Homeland Security and State need an aggressive and proactive outreach and communications campaign (perhaps working with the Department of Commerce) to counteract the increasingly negative image the United States is gaining among international business and travelers.
- When appropriate, changes should be phased in gradually by country and security risk, rather than all at once.
- Create a single, easily accessible and multi-lingual Internet portal for comprehensive information on travel to the United States, including requirements for visa appointments, application, documentary burden of proof and what to expect upon arrival (visa inspection process). There is currently no easy way for a potential visitor to easily view a “timeline” or “process chart” for how to travel to the United States. For example, at what point is it necessary/prudent to make airline reservations? Some categories of visa might require a round-trip plane ticket, but travelers may be unwilling to purchase a ticket if there is a high possibility of visa denial or if it is uncertain when a visa might be issued. This information could be disseminated in cooperation with local entities including American Chambers of Commerce abroad and local Visit USA committees.
- Reinstatement of the Transit Without Visa (“TWOV”) and International-to-International (“ITI”) programs as soon as possible, consistent with national security concerns. These two programs were important connections for travelers from Latin America and Asia to the rest of the world, and generated significant income for airlines and airports operating in Miami, Los Angeles, Houston and other cities. The suspensions of these programs, which disproportionately affect Latin America and Asia (the top five transiting nationalities are Brazil, Mexico, Korea, the Philippines and Peru), are perceived as additional evidence abroad that America is “treating all nationalities as terrorists.”

*Resources:*

- Increase funding and authorization for consular positions dedicated to visa processing, focusing on the posts that have seen the greatest increase in workload (both as a percentage and as an absolute number of cases/time to process). Authorize overtime for visa processing to meet increase in workload.
- The Departments of Homeland Security and State should develop criteria to evaluate priority classes of visa cases at consulates, such as by seasonal periods of high demand, or urgency or emergency travel needs to alleviate backlogs, and utilize resources efficiently.
- Reinstate facilitation programs by third-parties such as those previously offered through American Chambers of Commerce, or “AmChams,” to qualified members in cooperation with U.S. consular posts. These programs, which were open to pre-screened members, could be redesigned by the consulate and the organization with specific criteria as to the types of companies and/or applications amenable to this facilitation. Consulates could develop a standardized AmCham and company validated information form (electronic or paper or both) which would support and expedite the visa application and renewal process. Because of the screening by the AmChams (which would not involve adjudication, but case preparation) and the qualification of the companies, the consulates could have better assurance of the bona fides of the sponsor and the applicant, and more confidence that the application will be complete and free of errors. This would allow for better allocation of scarce consular resources. Similarly, as simple a mechanism as regular meetings between top consular officers and AmCham executives and staffs would be helpful in communicating issues and policies.
- Revising visa reciprocity agreements between the United States and key sending countries to extend the duration of visas each country grants citizens of the other would reduce the number of times that visitors must renew their visas.

**Specific Recommendations for Consular Processing:**

*Interviews:*

- Reassess the policy of blanket, in-person interviews. There should be a security assessment of the validity of these interviews—as they are currently conducted—as a screening tool. It is unclear whether the resources required to conduct these interviews (which, due to high volume, are rarely more than a few minutes), is justified by significantly increased security. As recommended by the Department of State inspector general, a risk-based evaluation of the interview requirement should be conducted.
- Encourage pre-filing and screening of visa applications prior to the interview, with an opportunity to request and provide additional evidence or information prior to or at

the interview. Consider an electronic filing system for applicants to submit visa applications online, similar to Australia's electronic travel authorization (ETA). Low-risk cases could be processed electronically and random and high-risk cases referred to consulates for interviews.

- Allow online visa appointment systems at consulates and embassies and allow appointments to be made while an individual is still in the United States prior to travel.
- Create a program for frequent, low-risk travelers that have proven track records, such as employees of well-vetted international companies that would reduce the need for in-person filing or additional security checks.

*Process Streamlining:*

- Inefficient visa-renewal processes cause lengthy delays and unpredictability for travelers. The Departments of Homeland Security and State should establish a timely process by which individuals can revalidate their visas, or at least begin the visa renewal process, before they leave the United States for business or personal travel. This would allow individuals to make reasonable assessments of their travel itineraries, in particular executives and others who travel frequently on short timetables. In most cases, because these individuals have previously been granted visas in the same category, and/or have had petitions already approved by the Department of Homeland Security, renewals should be processed expeditiously, as low-risk cases.
- There is a lack of transparency and priority-processing in the visa system. The Departments of Homeland Security and State should create processing time goals for all case types. We would suggest that most initial nonimmigrant visa applications should be able to be decided within two weeks, unless additional security checks are necessary, in which case 30 days should be the goal. Creating a mechanism by which visa applicants and their sponsors may inquire about the status of pending visa applications, and a process by which applications pending for more than these goals are given priority processing would be extremely helpful.
- The Departments of Homeland Security and State should consider the collection of biometrics at remote locations to reduce the need for personal appearance at the embassies or consulates of low-risk applicants. The Departments of Homeland Security and State should not require new biometric collection for reissuance or revalidation of previously issued visas.
- Implement a fee-collection system for the Student and Exchange Visitor Information System ("SEVIS") that allows for a variety of simple fee payment methods that are quick, safe, and secure, including payment after the individual arrives in the United States.

*Security Checks:*

- The Departments of Homeland Security and State should clarify and issue specific guidance to consular officers regarding which types of cases should be referred for Security Advisory Opinions. Specifically, there should be detailed training regarding the interpretation of the Technology Alert List, and requests for additional information from a sponsor or applicant to help identify whether the proposed activity is encompassed by the Technology Alert List.
- Allow businesses to assist consular officers in their duties by notifying companies, when appropriate, of the need for additional security checks and requesting specific additional information, such as clarification of duties, scope of business or other information, that could either obviate the need for a clearance or assist in rapid processing of the clearances.
- Have a standard time frame to conduct security checks and visa issuance, with a system that requires status updates every two weeks as a “tickler” for aging cases.
- To decrease repetitive security checks that cause lengthy visa issuance delays, extend the validity of Visas Mantis security clearances from the current one-year time period to the duration of their underlying petition (for H, L, O or P nonimmigrants) or the duration of their studies (for F and J nonimmigrants) or their visit (for B1/B2 nonimmigrants).
- Individuals flagged for additional inspection or security clearances who are subsequently cleared, should have specific, rapid mechanisms for ensuring they are not repeated. There is currently no standard means by which false “hits” can be noted in any systems to prevent the same person from undergoing checks during each and every visit to the U.S. In addition to improving the service to the traveler, such strategies will reduce the amount of resources wasted on performing redundant checks on legitimate travelers.
- Previous security clearances, including export licenses, should be considered in conducting security checks, and when conducting checks for subsequent visa applications, when the underlying activities or sponsors have not changed.