



Report to the Chairman, Committee on
the Judiciary, House of Representatives

July 2006

BORDER SECURITY

Stronger Actions Needed to Assess and Mitigate Risks of the Visa Waiver Program



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Highlights of [GAO-06-854](#), a report to the Chairman, Committee on the Judiciary, House of Representatives

Why GAO Did This Study

The Visa Waiver Program enables citizens of 27 countries to travel to the United States for tourism or business for 90 days or less without obtaining a visa. In fiscal year 2004, more than 15 million people entered the country under the program. After the September 11, 2001, terrorist attacks, the risks that aliens would exploit the program to enter the United States became more of a concern. In this report, we (1) describe the Visa Waiver Program's benefits and risks, (2) examine the U.S. government's process for assessing potential risks, and (3) assess actions taken to mitigate these risks. We met with U.S. embassy officials in six program countries, and reviewed relevant laws, procedures, and reports on participating countries.

What GAO Recommends

GAO is making a series of recommendations to DHS to strengthen its ability to assess and mitigate the program's risks, such as providing more resources to the program's monitoring unit and issuing standards for the reporting of lost and stolen passport data. Congress should also consider establishing a deadline for the mandated biennial report to Congress.

DHS and State generally agreed with the report. DHS either agreed with, or said that it would consider, all of our recommendations, but did not agree that Congress should establish a deadline for the biennial report.

www.gao.gov/cgi-bin/getrpt?GAO-06-854.

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

BORDER SECURITY

Stronger Actions Needed to Assess and Mitigate Risks of the Visa Waiver Program

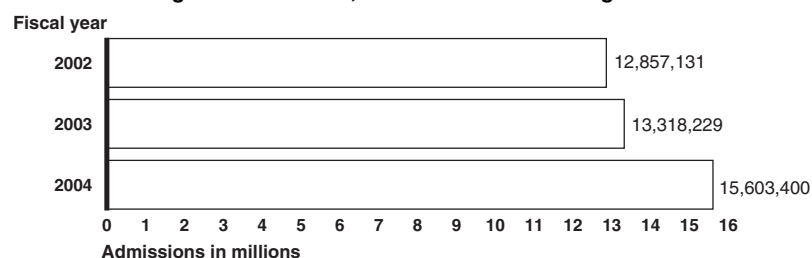
What GAO Found

The Visa Waiver Program has many benefits as well as some inherent risks. It facilitates travel for millions of people and eases consular workload, but poses challenges to border inspectors, who, when screening visa waiver travelers, may face language barriers or lack time to conduct in-depth interviews. Furthermore, stolen passports from visa waiver countries are prized travel documents among terrorists, criminals, and immigration law violators, creating an additional risk. While the Department of Homeland Security (DHS) has intercepted many fraudulent documents at U.S. ports of entry, DHS officials acknowledged that an undetermined number of inadmissible aliens may have entered the United States using a stolen or lost passport from a visa waiver country.

The U.S. government's process for assessing the risks of the Visa Waiver Program has weaknesses. In 2002, Congress mandated that, every 2 years, DHS review the effect that each country's continued participation in the program has on U.S. law enforcement and security interests, but did not set a reporting deadline. In 2004, DHS established a unit to oversee the program and conduct these reviews. We identified several problems with the 2004 review process, as key stakeholders were not consulted during portions of the process, preparation for the in-country site visits was not consistent, and the final reports were untimely. Furthermore, DHS cannot effectively achieve its mission to monitor and report on ongoing law enforcement and security concerns in visa waiver countries due to insufficient resources.

DHS has taken some actions to mitigate the program's risks; however, the U.S. government has faced difficulties in further mitigating these risks. In particular, the department has not established time frames and operating procedures regarding timely stolen passport reporting—a program requirement since 2002. Furthermore, DHS has sought to require the reporting of lost and stolen passport data to the United States and the International Criminal Police Organization (Interpol), but it has not issued clear reporting guidelines to participating countries. While most visa waiver countries participate with Interpol's database, four do not. DHS is not using Interpol's data to its full potential as a border screening tool because DHS does not automatically access the data at primary inspection.

Visa Waiver Program Admissions, Fiscal Years 2002 through 2004



Source: GAO analysis of DHS data.

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Abbreviations

CBP	Customs and Border Protection
DHS	Department of Homeland Security
Interpol	International Criminal Police Organization
OIE	Office of International Enforcement
OIG	Office of the Inspector General
US-VISIT	U.S. Visitor and Immigrant Status Indicator Technology

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United States Government Accountability Office
Washington, DC 20548

July 28, 2006

The Honorable Jim Sensenbrenner, Jr.
Chairman
Committee on the Judiciary
House of Representatives

Dear Mr. Chairman:

In fiscal year 2004, more than 15 million travelers entered the United States under the Visa Waiver Program. This program facilitates international travel and commerce, and eases consular workload at overseas posts, by enabling citizens of 27 participating countries to travel to the United States for tourism or business for 90 days or less without first obtaining a visa¹ from U.S. embassies and consulates.² The Visa Waiver Program was created as a pilot program in 1986,³ and it became a permanent program in 2000,⁴ about 1 year prior to the terrorist attacks of September 11, 2001. Participating countries were selected because their citizens had demonstrated a pattern of compliance with U.S. immigration laws, and the governments of these countries granted reciprocal visa-free travel to U.S. citizens. After the terrorist attacks, the potential risks of the program became more of a concern. In particular, convicted terrorist Zacarias Moussaoui and “shoe-bomber” Richard Reid both boarded flights to the United States with passports issued by Visa Waiver Program countries. In May 2002, Congress mandated that the Department of Homeland Security (DHS) evaluate and report to Congress at least biennially on the effect that each country’s continued participation in the

¹The United States also issues visas to those who intend to immigrate to the United States. In this report, we use the term “visa” to refer to nonimmigrant visas only.

²The participating countries are Andorra, Australia, Austria, Belgium, Brunei, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, the Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom (see app. II for a map of these countries). Canada and Bermuda are not participants in the Visa Waiver Program; however, nationals of Canada and Bermuda may, under certain circumstances, qualify for visa-free travel to the United States.

³The Immigration Reform and Control Act of 1986, P.L. 99-603.

⁴The Visa Waiver Permanent Program Act, P.L. 106-396.

program has on U.S. law enforcement and security interests.⁵ Effective oversight of the Visa Waiver Program is essential to find the right balance between facilitating legitimate travel and screening for potential terrorists, criminals, and others that may pose law enforcement and immigration concerns.

In response to your request, this report (1) describes the Visa Waiver Program's benefits and potential risks; (2) examines the U.S. government's process for assessing the program's risks; and (3) assesses actions taken to mitigate these risks.

To identify the benefits of the program, we reviewed relevant documentation, including DHS's Office of the Inspector General (OIG) reports and our 2002 report on the implications of eliminating the program.⁶ We also interviewed political, economic, consular, commercial, and law enforcement officials at U.S. embassies in six Visa Waiver Program countries. To determine the risks the Visa Waiver Program, we interviewed officials from DHS's National Targeting Center, Intelligence and Analysis Directorate, and Forensic Document Laboratory. In addition, we observed fraudulent document detection training of Customs and Border Protection (CBP) agents at the Federal Law Enforcement Training Center. To evaluate the U.S. government's efforts to assess and mitigate these risks, we analyzed the laws governing the program, relevant regulations and agency operating procedures, and OIG reports. We also examined 15 of the 25 completed reports from the 2004 review process assessing the participation of Visa Waiver Program countries.⁷ As of June 2006, the remaining 10 assessments were pending classification review. We met with officials from several DHS component agencies and offices, the Department of State's (State) Consular Affairs Bureau and its Europe and Eurasia Bureau, and the International Criminal Police Organization (Interpol) in Lyon, France. We also met with the Department of Justice's (Justice) Interpol-U.S. National Central Bureau in Washington, D.C., which facilitates international law enforcement cooperation among the United States and Interpol and its other member countries. In addition to U.S.

⁵Prior to this change, DHS was required to report at least once every 5 years. See the Enhanced Border Security and Visa Entry Reform Act, P.L. 107-173.

⁶See GAO, *Border Security: Implications of Eliminating the Visa Waiver Program*, [GAO-03-38](#) (Washington, D.C.: Nov. 22, 2002).

⁷As of June 2006, the reviews of the remaining two participating countries—Italy and Portugal—were in process.

officials in the six Visa Waiver Program countries, we spoke with foreign government officials in three of these countries. We conducted our evaluation from September 2005 through June 2006 in accordance with generally accepted government auditing standards.

Results in Brief

The Visa Waiver Program provides many benefits to the United States; however, travelers attempting to enter the United States under the program may pose security or law enforcement risks, including immigration law violations, because they are not subject to the same degree of screening as non-visa-waiver travelers. The program was designed to boost international business and tourism, and allows State to shift its consular resources to posts with higher-risk visa applicants. However, travelers visiting the United States under the Visa Waiver Program are not subject to the same degree of screening as travelers with visas because they need not be interviewed by a consular officer before arriving at a U.S. port of entry. In addition, border inspectors at U.S. ports of entry are disadvantaged in screening visa waiver travelers because they may not know the alien's language or local fraudulent document trends in the alien's home country, nor have the time to conduct an extensive interview. In contrast, visa-issuing officers at U.S. embassies generally have more time to interview applicants—often in the applicants' native language—and have more country-specific knowledge of passports and fraud trends. Furthermore, lost and stolen passports from visa waiver countries are highly prized among those travelers seeking to conceal their true identities or nationalities, creating an additional program risk. In our discussions with DHS officials, they acknowledged that an undetermined number of inadmissible aliens may have entered the United States using a stolen or lost passport from a visa waiver country, and, in fact, passports from Visa Waiver Program countries have been used illegally by travelers attempting to enter the United States. For example, from January through June 2005, at U.S. ports of entry, DHS confiscated 298 passports issued by Visa Waiver Program countries that travelers were attempting to use fraudulently for admission into the United States. Thus, there is a potential risk that the program could be exploited for illegal entry into the United States.

DHS, in coordination with State and Justice, has developed a process for assessing the law enforcement and security risks of the Visa Waiver Program; this process has weaknesses, however. In 2002, Congress mandated that DHS review the security risks posed by each visa waiver country's participation in the program at least every 2 years. In 2004, DHS established the Visa Waiver Program Oversight Unit within the Office of

International Enforcement (OIE).⁸ DHS conducted its first mandated biennial reviews in 2004, and determined that all of the countries it reviewed should remain in the program.⁹ In general, the reviews contained an analysis of issues, such as individual countries' border controls, security over passports and national identity documents, and other matters relevant to law enforcement, immigration, and national security. However, we identified several problems with the country review process. Specifically, key interagency stakeholders,¹⁰ such as embassies overseas, State's regional bureaus, and forensic document analysts were left out of portions of the 2004 country review process; preparation for the in-country site visits was not always consistent; and, the review process lacked clear criteria and guidance to make key judgments. Also, the country assessments prepared by DHS were not completed in a timely fashion and contained some dated information that did not necessarily reflect the current risks posed by a country's continued participation in the program. In particular, interagency teams conducted site visits as part of the country assessments from May through September 2004, and transmitted the final report to Congress more than 1 year later, in November 2005. Moreover, DHS has not provided sufficient resources to OIE to effectively monitor the risks posed by visa waiver countries on an ongoing basis. While the Visa Waiver Program Oversight Unit developed a strategic plan to monitor the program, it has been unable to implement this plan with its current staff of two full-time employees. In addition, DHS has not established points of contact within the U.S. embassies so it can communicate directly with foreign government contacts and field officials, who are best positioned to monitor compliance with the program's requirements and report on current events and issues of potential concern. Without this outreach, DHS is not able to leverage the existing resources at U.S. embassies in all visa waiver countries to obtain current information on potential risks, as well as countries' progress in addressing these risks.

⁸OIE is located in the Office of Policy Development under the direction of the Assistant Secretary of Homeland Security for Policy.

⁹DHS's Office of Policy began this review in early 2004, several months before the Visa Waiver Program Oversight Unit was established in July of that year.

¹⁰The interagency working group charged in 2004 with assessing participating countries' adherence to the program's statutory requirements comprised officials from Justice's Office of International Affairs, State's Bureau of Consular Affairs, and several components within DHS, including the Intelligence and Analysis Directorate, CBP's Office of Field Operations, and Immigration and Customs Enforcement's Forensic Document Laboratory, among others. Representatives from some of these agencies formed the in-country site visit teams.

DHS has taken some actions to mitigate the risks of the Visa Waiver Program, including terminating the use of the German temporary passport under the program; however, the department has faced difficulties in further mitigating the risks of the program, particularly regarding lost and stolen passport reporting—a key vulnerability. For example, not all countries have consistently reported their data to the United States on stolen blank passports, even though reporting such data is vital to mitigating program risks. In one instance, a visa waiver country reported to the United States the theft of nearly 300 blank passports more than 9 years after the theft occurred. In 2002, timely reporting of such thefts became a statutory requirement for continued participation in the program, but DHS has not issued standard operating procedures for obtaining these data. DHS has also sought to expand this requirement to include the reporting of data, to the United States and Interpol,¹¹ about lost and stolen issued¹² (as well as blank) passports; however, the United States lacks a centralized mechanism for foreign governments to report all stolen passports, and DHS has not identified the U.S. government entity to which participating countries should report this information. While most visa waiver countries contribute to Interpol's database, four do not. Moreover, some countries that do contribute do not do so on a regular basis, according to Interpol officials. In addition, Interpol's data on lost and stolen travel documents is not automatically accessible to U.S. border inspectors at primary inspection—one reason why it is not an effective border screening tool, according to DHS, State, and Justice officials. According to the Secretary General of Interpol, until DHS can automatically query Interpol's data, the United States will not have an effective screening tool for checking passports. However, DHS has not yet finalized a plan to acquire this systematic access to Interpol's data.

We are making a series of recommendations to DHS to strengthen its ability to assess the risks of the Visa Waiver Program, including a recommendation to create real-time monitoring mechanisms to improve communication between the department and overseas posts, and to

¹¹Interpol is the world's largest international police organization, with 184 member countries. Created in 1923, it facilitates cross-border police cooperation, and supports and assists all organizations, authorities, and services whose mission is to prevent or combat international crime. In July 2002, Interpol established a database on lost and stolen travel documents. As of June 2006, the database contained about 11.6 million records of lost and stolen passports.

¹²Issued passports have been officially personalized with the bearer's biographical information.

provide additional resources for the Visa Waiver Program Oversight Unit. We are also making a series of recommendations to mitigate the program's risks, including communicating clear standard operating procedures for the reporting of lost and stolen, blank and issued, passport data. Finally, we are including a matter for congressional consideration: to improve the timeliness of DHS's assessments of the risks of each country's continued participation in the program, Congress should consider establishing a deadline by which the department must complete its biennial country assessments and report to Congress.

We received written comments from DHS, State, and Interpol, which we have reprinted in appendices IV, V, and VI, respectively. DHS either agreed with, or stated that it is considering, all of our recommendations. Regarding our matter for congressional consideration, DHS did not appear to support the establishment of a deadline for the biennial report to Congress. Instead, DHS suggested that Congress should require continuous and ongoing evaluation of the risks of each country's continued participation in the program. We agree that continuous and ongoing evaluation is necessary, which is why we recommended that DHS create real-time monitoring arrangements and provide additional resources to the Visa Waiver Program Oversight Unit to achieve this goal. Regarding the mandated biennial country assessments, we believe that they can serve a useful purpose if they are completed in a timely fashion. State agreed with our report, and welcomed our recommendations calling for enhanced communication to and from DHS, and for the timely reporting of lost and stolen passport data. Interpol did not comment on our recommendations, but provided information about its lost and stolen travel document database and tools that it has developed to allow law enforcement officers to instantly check this database at airports and other border entry points.

Background

The Immigration Reform and Control Act of 1986 created the Visa Waiver Program as a pilot program.¹³ It was initially envisioned as an immigration control and economic promotion program, according to State. Participating countries were selected because their citizens had a demonstrated pattern of compliance with U.S. immigration laws, and the

¹³P.L. 99-603.

governments of these countries granted reciprocal visa-free travel to U.S. citizens. In 2000, the program became permanent under the Visa Waiver Permanent Program Act.¹⁴ In 2002, we reported on the legislative requirements to which countries must adhere before they are eligible for inclusion in the Visa Waiver Program.¹⁵ In general, these are the requirements:

- *A low nonimmigrant visa refusal rate.* To qualify for visa waiver status, a country must maintain a refusal rate of less than 3 percent for its citizens who apply for business and tourism visas.
- *A machine-readable passport program.* The country must certify that it issues machine-readable passports to its citizens. As of June 26, 2005, all travelers are required to have a machine-readable passport to enter the United States under this program.
- *Reciprocity.* The country must offer visa-free travel for U.S. citizens.

Figure 1 shows the number of foreign nationals admitted to the United States under the program in recent years (see app. III for more detailed admissions statistics). Persons entering 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 for business or tourism;¹⁶
- have been determined by CBP 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 (for example, individuals must have stayed in the United States

¹⁴P.L. 106-396.

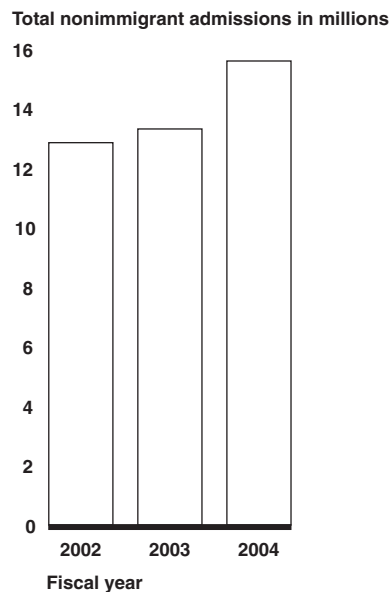
¹⁵GAO-03-38.

¹⁶According to State, the Visa Waiver Program is a substitute entry mechanism for nonimmigrant, short-term, business, and tourism visas only; it does not apply to students, temporary workers, and others who require visas to enter the United States.

for 90 days or less during prior visa waiver visits);

- 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 they intend to return.

Figure 1: Foreign Nationals Admitted under the Visa Waiver Program, from Fiscal Years 2002 through 2004



Source: GAO analysis of DHS data.

Note: As of June 2006, CBP officials stated that admissions data from fiscal year 2005 are not yet available.

Following the events of September 11, 2001, Congress passed additional laws to strengthen border security policies and procedures, and DHS and State instituted other policy changes that have affected a country's qualifications for participating in the Visa Waiver Program. For example, all passports issued after October 26, 2005, must contain a digital

photograph printed in the document; passports issued to visa waiver travelers after October 26, 2006, must be electronic (e-passports).¹⁷ E-passports aim to enhance border security by making it more difficult to misuse the passport to gain entry into the United States. Travelers with passports issued after the deadline that do not meet these requirements must obtain a visa from a U.S. embassy or consulate overseas before departing for the United States. In addition, the May 2002 Enhanced Border Security and Visa Reform Act required that participating countries certify that the theft of their blank passports is reported to the U.S. government in a timely manner. Moreover, the act increased the frequency—from once every 5 years to once every 2 years—of mandated assessments of the effect of each country’s continued participation in the Visa Waiver Program on U.S. security, law enforcement, and immigration interests.

Visa Waiver Program Has Benefits and Risks

The Visa Waiver Program has many benefits, including facilitating international travel for millions of foreign citizens seeking to visit the United States each year, creating substantial economic benefits to the United States, and allowing State to allocate resources to visa-issuing posts in countries with higher-risk applicant pools. However, there are inherent security and law enforcement risks in the program that pose challenges to the United States.

Visa Waiver Program Facilitates Travel to the United States

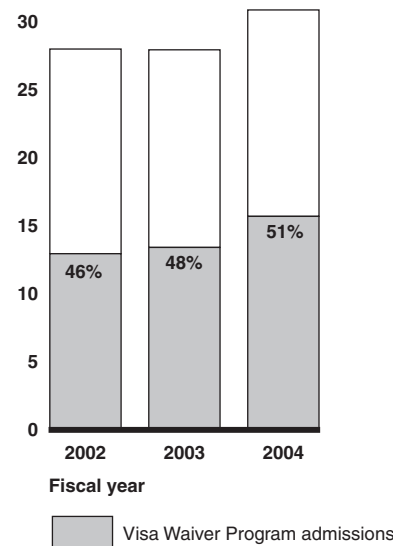
The Visa Waiver Program was created to facilitate international travel without jeopardizing the welfare or security of the United States, according to the program’s legislative history. In fact, visa waiver travelers have represented about one-half of all nonimmigrant admissions to the United States in recent years, as demonstrated by figure 2 below. According to economic and commercial officers at several of the U.S. embassies we visited, visa-free travel to the United States boosts international business travel and tourism, as well as airline revenues, and

¹⁷In general, e-passports will contain a chip embedded in the passport that will store the same information that is printed on the data page of the passport, such as name, date of birth, gender, place of birth, dates of passport issuance and expiration, place of issuance, passport number, and a photo image of the bearer. In addition, e-passports will hold a unique identification number and a digital signature to protect the stored data from alteration. E-passports provide two key pieces of information: the digital signature and the digital image of the passport holder. Digital signatures provide a higher level of security for the passport by providing a means to electronically verify the authenticity of the data on the chip, including the traveler’s photograph and biographical information.

creates substantial economic benefits to the United States. In its report accompanying the 2000 bill to make the program permanent, the House Committee on the Judiciary acknowledged the program's importance to the U.S. travel and tourism industry, and the benefit it provides to American citizens by allowing reciprocal visa-free travel to visa waiver countries. As we reported in 2002, any decision to eliminate the program could discourage some business and tourism in the United States.¹⁸ In addition, visa waiver countries could begin requiring visas for U.S. citizens traveling to the 27 participating countries for temporary business or tourism purposes, which would impose a burden of additional cost and time on U.S. travelers to these countries.

Figure 2: Visa Waiver Program Admissions as a Percentage of Total Nonimmigrant Admissions into the United States, Fiscal Years 2002 through 2004

Total nonimmigrant admissions in millions
35



Source: GAO analysis of DHS data.

Note: Data on total nonimmigrant admissions are derived from DHS's *2004 Yearbook of Immigration Statistics*. These data do not include visa-free entries by citizens of Canada or travelers entering the U.S. territory of Guam under its visa waiver program.

¹⁸ [GAO-03-38](#).

Moreover, the program allows State to allocate its resources to visa-issuing posts in countries with higher-risk applicant pools. In 2002, we reported that eliminating the program would increase State's resource requirements.¹⁹ Specifically, if the program were eliminated, we estimated that State's initial costs at that time 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. For example, millions of visa waiver travelers who have benefited from visa-free travel would need to obtain a visa to travel to the United States if the program did not exist. Furthermore, we reported that 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.

Visa Waiver Program Can Pose Risks to U.S. Security, Law Enforcement, and Immigration Interests

The Visa Waiver Program can pose risks to U.S. security, law enforcement, and immigration interests because some foreign citizens may exploit the program to enter the United States. In particular, visa waiver travelers are not subject to the same degree of screening as those travelers who must first obtain a visa before arriving in the United States. Furthermore, lost and stolen passports from visa waiver countries could be used by terrorists, criminals, and immigration law violators to gain entry into the United States.

Visa Waiver Travelers and Visa Applicants Face Different Levels of Screening

Since September 11, 2001, the visa issuance process has taken on greater significance as an antiterrorism tool, as we have previously reported.²⁰ Those travelers who must apply for visas before traveling to the United States receive two levels of screening before entering the country (see fig. 3).²¹ However, visa waiver travelers are first screened in person by a CBP

¹⁹GAO-03-38.

²⁰GAO has issued a series of reports on how the visa issuance process serves as an antiterrorism tool, including: GAO, *Border Security: Strengthened Visa Process Would Benefit from Improvements in Staffing and Information Sharing*, GAO-05-859 (Washington, D.C.: Sept. 13, 2005); *Border Security: Actions Needed to Strengthen Management of Department of Homeland Security's Visa Security Program*, GAO-05-801 (Washington, D.C.: July 29, 2005); and, *Border Security: Visa Process Should be Strengthened as an Antiterrorism Tool*, GAO-03-132NI (Washington, D.C.: Oct. 21, 2002).

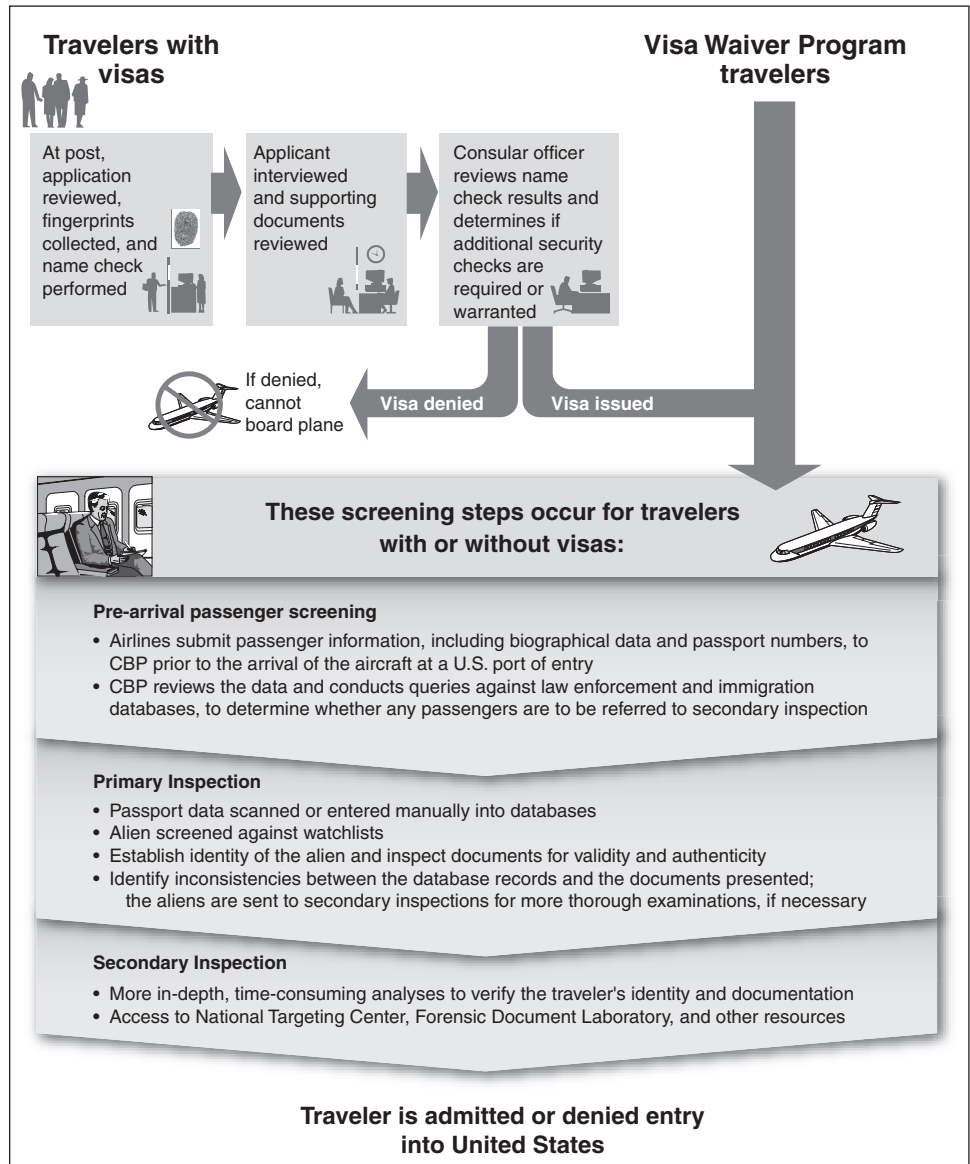
²¹All foreign visitors, whether they have visas or are seeking to enter the United States under the Visa Waiver Program, undergo inspections by CBP inspectors at U.S. air, sea, and land ports of entry to ensure that only admissible persons enter the United States.

inspector once they arrive at the U.S. port of entry, perhaps after having already boarded an international flight bound for the United States with a fraudulent travel document. For visa waiver travelers, CBP primary inspectors observe the applicant, examine his or her passport, collect the applicant's fingerprints as part of the U.S. Visitor and Immigrant Status Indicator Technology program (US-VISIT),²² and check his or her name against automated databases and watch lists, which contain information regarding the admissibility of aliens, including known terrorists, criminals, and immigration law violators. However, according to the DHS OIG, primary border inspectors are disadvantaged when screening Visa Waiver Program travelers because they may not know the alien's language or local fraud trends in the alien's home country, nor have the time to conduct an extensive interview. In contrast, non-visa-waiver travelers, who must obtain a visa from a U.S. embassy or consulate, undergo an interview by consular officials overseas, who conduct a rigorous screening process when deciding to approve or deny a visa. As we have previously reported, State has taken a number of actions since 2002 to strengthen the visa issuance process as a border security tool.²³ Moreover, consular officers have more time to interview applicants and examine the authenticity of their passports, and may also speak the visa applicant's native language, according to consular officials. Inadmissible travelers who need visas to enter the United States may attempt to acquire a passport from a Visa Waiver Program country to avoid the visa screening process.

²²The US-VISIT program is a government-wide program to collect, maintain, and share information on foreign nationals, and better control and monitor the entry, visa status, and exit of visitors. Under the program, foreign visitors are required to submit to fingerprint scans of their right and left index finger and have a digital photograph taken upon arrival at U.S. ports of entry.

²³[GAO-05-859](#) and [GAO-03-132NI](#).

Figure 3: Comparison of Screening for U.S. Visas versus Arrival Inspection Screening at U.S. Air Ports of Entry



Sources: GAO; Nova Development (clip art).

Lost and Stolen Passports from Visa Waiver Program Countries Are Highly Valued

One of the Visa Waiver Program Oversight Unit's primary concerns is the potential exploitation by terrorists, immigration law violators, and other criminals of a visa waiver country's lost or stolen passports. DHS

intelligence analysts, law enforcement officials, and forensic document experts all acknowledge that misuse of lost and stolen passports is the greatest security problem posed by the Visa Waiver Program. Lost and stolen passports from visa waiver countries are highly prized travel documents, according to the Secretary General of Interpol. Moreover, Visa Waiver Program countries that do not consistently report the losses or thefts of their citizens' passports, or of blank passports, put the United States at greater risk of allowing inadmissible travelers to enter the country.

Fraudulent passports from Visa Waiver Program countries have been used illegally by travelers seeking to disguise their true identities or nationalities when attempting to enter the United States. For example, from January through June 2005, DHS reported that it confiscated, at U.S. ports of entry, 298 fraudulent or altered passports issued by Visa Waiver Program countries that travelers were attempting to use for admission into the United States (see table 1).²⁴ Two more recent cases demonstrate continued attempts to enter the United States with fraudulent passports issued by visa waiver countries:

- In December 2005, a Pakistani citizen attempted to enter the United States under the program with a counterfeit United Kingdom passport that she had purchased. During secondary inspection, the CBP officer detected flaws in the passport.
- In March 2006, an Albanian citizen attempted to enter the United States using a Belgian passport that he had purchased. The traveler confessed to this upon questioning by CBP officers during secondary inspection.

²⁴In 2005, CBP established a Fraudulent Document Analysis Unit to conduct trend analyses on travel documents used to enter the United States. The unit's first statistical report covered fraudulent document trends from January through June 2005, primarily focusing on passport statistics.

Table 1: Fraudulent Passport Intercepts, January through June 2005

Visa Waiver Program country of issuance	Number of passports
France	67
Italy	52
United Kingdom	38
Japan	29
Singapore	24
Spain	19
Portugal	19
Slovenia	14
Netherlands	9
Germany	6
Austria	5
Belgium	5
Norway	4
Ireland	3
Sweden	2
Switzerland	2
Total	298

Source: CBP.

In 2004, the DHS OIG reported that aliens applying for admission to the United States using lost or stolen passports have little reason to fear being caught. DHS's OIG reported that a lack of training hampered border inspectors' ability to detect passport fraud among Visa Waiver Program travelers, and recommended that CBP inspectors receive additional training in fraudulent document detection.²⁵ At that time, the 12-week training course for new inspectors at the Federal Law Enforcement Training Center devoted 1 day to passport fraud, according to the OIG. Currently, CBP dedicates 16 hours out of the 16-week basic training program to fraudulent document detection training for new border inspectors, and provides additional courses for inspectors throughout their assignments at ports of entry. Nevertheless, training officials said that fraudulent and counterfeit passports are extremely difficult to detect,

²⁵GAO has also reported on inspections at land ports of entry. GAO, *Land Border Ports of Entry: Vulnerabilities and Inefficiencies in the Inspections Process*, [GAO-03-1084R](#) (Washington, D.C.: Aug. 18, 2003).

even for the most experienced border inspectors—which makes it imperative that lost and stolen passports are reported on a timely basis.

Although DHS has intercepted some travelers with fraudulent passports at U.S. ports of entry, DHS officials acknowledged that an undetermined number of inadmissible aliens may have entered the United States using a lost or stolen passport from a visa waiver country. According to State, these aliens may have been inadmissible because they were immigration law violators, criminals, or terrorists. Following are several examples:

- In July 2005, two aliens successfully entered the United States using lost or stolen Austrian passports. DHS was not notified that these passports had been lost or stolen prior to this date; the aliens were admitted, and there is no record of their departure, according to CBP. In October 2005, CBP referred this case to DHS Immigration and Customs Enforcement for further action.
- In June 2005, CBP inspectors admitted into the United States two aliens using Italian passports that were from a batch of stolen passports. CBP was notified that this batch was stolen; however, the aliens altered the passport numbers to avoid detection by CBP officers. DHS has no record that these individuals departed the United States.
- Also in June 2005, three aliens traveling together—all using fraudulent Italian passports—were interviewed at primary inspection. CBP referred one alien, an Albanian citizen, to secondary inspection because she was reluctant to answer the inspector's questions. In secondary inspection, CBP determined that her passport had been altered. CBP admitted the other two aliens, but subsequently determined that their passports were part of the batch of stolen Italian passports cited in the previous example.

Process for Assessing Program Risks Has Weaknesses

In July 2004, DHS created the Visa Waiver Program Oversight Unit within OIE to monitor the Visa Waiver Program. Its mission is to oversee Visa Waiver Program activities and monitor countries' adherence to the program's statutory requirements, ensuring that the United States is protected from those who wish to do it harm or violate its laws, including immigration laws. In 2004, DHS reviewed the law enforcement and security risks posed by the continued participation of 25 of the 27 countries in the program. However, we identified problems with the country review process by which DHS assesses these risks. For example, DHS did not involve key interagency stakeholders in certain portions of the review process, and did not establish transparent protocols for the

country assessments—including internal milestones or deadlines for completing the final country assessments, the goals of the site visits, and an explanation of the clearance process. Furthermore, OIE is unable to effectively monitor the immigration, law enforcement, and security risks posed by visa waiver countries on a continuing basis because of insufficient resources.

Initial Steps Taken to Assess Risk of Visa Waiver Program

In April 2004, the DHS OIG identified significant areas where DHS needed to strengthen and improve its management of the Visa Waiver Program.²⁶ For example, the OIG found that it was unclear who was managing the program following the dissolution of the Immigration and Naturalization Service. In addition, the OIG found that a lack of funding, trained personnel, and other issues left DHS unable to comply with the mandated biennial country assessments. In response to these findings, DHS established OIE's Visa Waiver Program Oversight Unit in July 2004, and named a director to manage the office. Since its establishment, DHS, and particularly OIE, has made strides to address concerns raised by the 2004 OIG review. Specifically, DHS has:

- conducted site visits in all 27 participating countries;
- completed comprehensive assessments of 25 participating countries, examining the effect of continued participation in the Visa Waiver Program on U.S. security and law enforcement interests, including the enforcement of immigration laws;
- identified risks in some of the countries and brought the concerns to the attention of host-country governments in five visa waiver countries;²⁷
- submitted a six-page report to Congress in November 2005 that summarized the findings from the 2004 assessments; and

²⁶Prior to the establishment of DHS in 2003, Justice's Office of the Inspector General examined visa waiver operations in 1999 and 2001, when the then-Immigration and Naturalization Service managed the program. Justice's Inspector General identified several chronic and recurring problems and made a series of recommendations to strengthen implementation of the program.

²⁷In this report, we do not name the specific Visa Waiver Program countries where DHS identified security concerns because the department determined that this is sensitive information.

-
- initiated assessments for the remaining two countries in August and September 2005.

In addition, in September 2005, DHS and State organized a technical conference in Washington, D.C., with representatives from Visa Waiver Program countries, to discuss the passport requirements for visa waiver travelers, and the October 2005 and 2006 deadlines for digital photographs and e-passports, respectively. Together, these actions demonstrate significant improvements since the April 2004 OIG report.

DHS Lacks a Clearly-Defined, Consistent, and Timely Process to Assess Risks of Visa Waiver Program

Despite these steps to strengthen and improve the management of the program, we identified several problems with the process DHS uses to assess the risks posed by each of the visa waiver countries' continued participation in the program—namely the mandated biennial country assessment process. For the 2004 assessments, we found the following:

- some key stakeholders were excluded from the decision-making process;
- the reviews lacked clear criteria to make key judgments;
- there was inconsistent preparation for the in-country site visits for the reviews; and
- DHS and its interagency partners neither completed the 25 country assessments nor issued the summary report to Congress in a timely manner.

OIE has acknowledged such weaknesses and has begun to make adjustments; however, concerns remain.

Review Process Did Not Involve Key Stakeholders

We found that the review process lacked clear protocols, as key stakeholders were left out of the report development process. Specifically, after conducting the site visits and contributing to the reports on the site visits, DHS and the interagency working group did not seek input from all site visit team members while drafting and clearing the final country assessments and subsequent report to Congress. For example, DHS's forensic document analysts, who participated in the site visits in 2004, told us that they did not see, clear, or comment on the draft country assessments, despite repeated attempts to obtain copies of them. Thus, these analysts questioned the integrity of the process because they had not seen how their analyses were incorporated into the final assessments. Additionally, State's headquarters officers who cover diplomatic relations

Review Process Lacked Clear
Criteria to Make Key
Judgments

in Visa Waiver Program countries, as well as embassy officials in all of the posts we visited, stated that they were not asked to review or provide comments on the draft assessments, nor had they seen the final assessments. CBP officials also stated that they repeatedly requested copies of the country assessments and subsequent report to Congress, but did not receive them. According to State's Bureau of Consular Affairs, DHS did not seek feedback from U.S. embassies and State's regional bureaus on the draft site visit or individual country assessments. Because these assessments contained classified information, OIE officials told us that they were not broadly distributed in draft or final form. Nevertheless, without this information, key stakeholders could not be effective advocates for U.S. concerns.

We found that DHS did not have clear criteria when assessing each country's participation in the program to determine at what point security concerns would trigger discussions with foreign governments about these concerns and an attempt to resolve them. As previously mentioned, the DHS-led interagency working group identified five countries from its 2004 assessment with significant security concerns, and DHS, in coordination with State, discussed these concerns with government officials. Furthermore, U.S. embassies issued a formal diplomatic demarche to the five governments regarding the concerns in March 2005.²⁸ However, while the working group also had concerns with a sixth country, it decided not to issue a demarche to this government. According to State, the working group determined that the concerns identified in this country were not directly related to the Visa Waiver Program and the country's participation in the program. However, OIE officials and other working group members stated that they did not use any standard criteria in making this determination. State officials agreed that qualitative and/or quantitative criteria would be useful when making these determinations, although DHS stated that the criteria should be flexible. During our visit to the U.S. embassy in the sixth country, which was not issued a demarche, U.S. officials told us they were unaware that the working group had discussed security concerns in the context of the country assessment. While embassy officials had already been addressing these issues as part of their mission, they said that they would have likely seen greater progress made

²⁸In coordination with DHS, U.S. embassy officials communicated these concerns through an official demarche to each government. A demarche presents a formal U.S. government position or request to a foreign government. Demarches are generally presented in writing, but can also be transmitted orally. According to diplomatic protocol, a demarche requires an official, formal response from the other government.

in discussions with foreign government officials if all parties had known that there was a potential link between these security concerns and visa waiver requirements.

Inconsistent Preparation for Site Visits

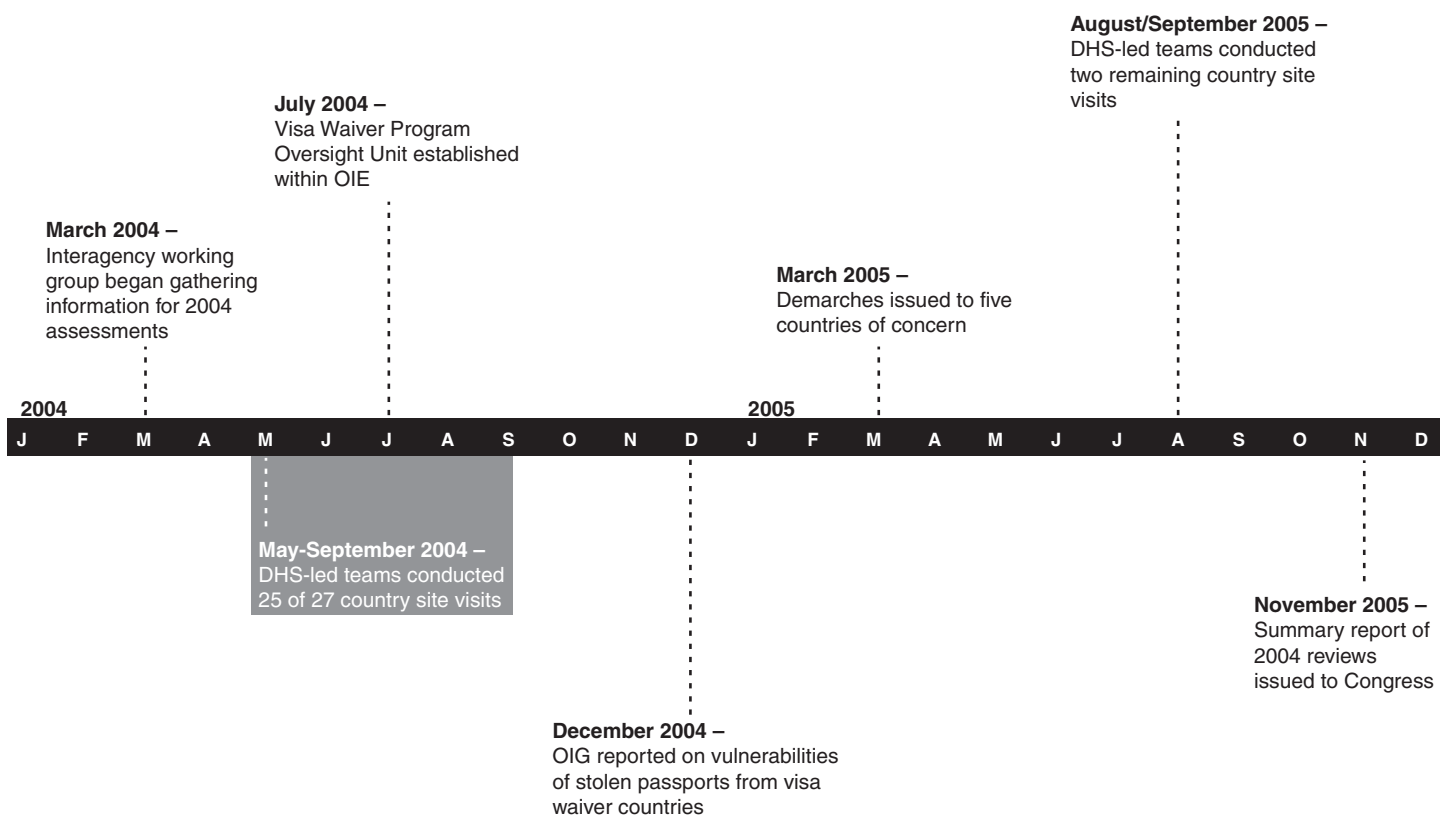
The site visits associated with each country review were not always well-prepared and lacked a consistent approach, according to the site visit team members. Several team members representing different agencies stated that they did not receive adequate information and guidance prior to conducting the site visits and, thus, were not well-prepared to conduct the visits. DHS did not brief or train the site visit team members prior to conducting the 2004 reviews, and many said that the goals of the in-country visits were not clear. One team member stated that the site visits were largely “fact-finding trips,” as opposed to a targeted analysis of law enforcement and security concerns. Moreover, prior to conducting the site visits, DHS sent each country a background questionnaire; however, OIE and team members stated that some countries did not provide responses to the questionnaire prior to the site visit, which would have been useful for preparation. Furthermore, senior U.S. officials in each of the embassies we visited stated that the goals and priorities of the 2004 DHS-led site visit teams were not clear to them. Consular officials at half of the posts we visited also said that the site visit teams arrived on short notice and did not give them adequate time to prepare. As a result, the teams may not have made the most efficient use of their time in-country, and may not have gathered their information on a consistent basis.

Reporting Untimely

DHS did not issue, in a timely manner, the summary report to Congress that generally described the overall findings from the 25 country assessments. Although DHS is mandated to conduct the country assessments every 2 years, Congress did not establish a deadline by which the assessments must be completed or the summary report issued. OIE, State, and Justice officials acknowledged that the assessments took too long to complete. The interagency teams conducted site visits as part of the country assessments from May through September 2004, and transmitted the final summary report to Congress more than 1 year later, in November 2005. The report to Congress was a six-page summary that did not include detailed descriptions of the law enforcement and security risks identified during the review process, which were discussed at length in the individual country assessments. According to interagency working group members, DHS did not establish internal milestones or deadlines for completing the final country assessments. OIE officials attributed the lengthiness of the assessment process to the multiple rounds of clearances for each of the 25 assessments and the summary report.

While the country assessments were awaiting clearance, there were missed opportunities to capture more recent developments, and the final assessments contained dated information or were incomplete. For example, in May 2005, a post in one visa waiver country was notified there had been a large-scale, high-profile theft of blank passports. While the U.S. government was aware of this theft, this information was not captured in that country's assessment as it was being cleared. Moreover, the teams collecting information about the visa waiver countries' risks in 2004 used, in some cases, information from 2 years prior; by the time the summary report was issued in November 2005, some of the data was over 3 years old. As a result of this lengthy process, the final report presented to Congress did not necessarily reflect the current law enforcement and security risks posed by each country, or the positive steps that countries had made to address these risks (see fig. 4).

Figure 4: Timeline of 2004-2005 Country Assessment Process and Other Key Milestones



Source: GAO.

Despite Adjustments to Process, Weaknesses Remain

OIE officials acknowledged weaknesses in the 2004 reviews, and made some adjustments for the 2005 country assessments for Italy and Portugal, the two remaining countries. For the 2005 reviews, DHS conducted a 1-day training seminar to explain the objectives of the visit and share information about the countries to the site visit teams, including findings from prior country assessments. Additionally, the team members met prior to conducting the site visits, and reconvened upon returning to Washington, D.C., to ensure consensus on their report on the site visit. However, the 2005 country review process still lacked consistency and transparency. In particular, DHS has not finalized its operating procedures for site visits. The site visit teams traveled to the remaining two countries in August and September 2005; however, as of June 2006, DHS had neither updated the interagency working group team members on the status of the reviews of Italy and Portugal, nor provided them with a timeline for

proceeding with the review. Furthermore, stakeholders continued to express concern about DHS's lack of communication about the process and the findings, and no changes have been made to the review process that would make the final report to Congress timely. Therefore, there are no assurances that the next biennial assessment round will proceed more quickly than the previous round.

DHS Cannot Effectively Monitor Ongoing Concerns in Visa Waiver Countries

DHS cannot effectively monitor the law enforcement and security risks posed by visa waiver countries on a consistent, ongoing basis because it has not provided OIE with adequate staffing and resources. Furthermore, we found weaknesses in communication between DHS and overseas posts and other agencies.

Lack of Staffing and Funding Impedes Ability to Assess Risks

OIE is limited in its ability to achieve its mission because of insufficient staffing and funding. The office has numerous responsibilities, including

- conducting the mandated biennial country reviews;
- monitoring law enforcement, security, and immigration concerns in visa waiver countries on an ongoing basis;
- working with countries seeking to become members of the Visa Waiver Program;²⁹ and
- briefing foreign government representatives from participating visa waiver countries, as well as those countries that are seeking admission into the program, on issues related to program membership.

In 2004, the DHS OIG found that OIE's lack of resources directly undercut its ability to assess a security problem inherent in the program—lost and stolen passports. The office received funding to conduct the country reviews in 2004 and 2005; however, OIE officials indicated that a lack of funding and full-time staff has made it extremely difficult to conduct additional overseas fieldwork, as well as track ongoing issues of concern in the 27 visa waiver countries—a key limitation in DHS's ability to assess and mitigate the program's risks. According to OIE officials, the unit developed a strategic plan to monitor the program, but has been unable to

²⁹See GAO, *Process for Admitting Additional Countries into the Visa Waiver Program*, [GAO-06-835R](#) (Washington, D.C.: July 28, 2006).

Gaps in DHS's Communications
with its Overseas Posts and
Other Agencies

implement its plan with its current staffing. As of June 2006, the office was staffed with two full-time employees, as well as one temporary employee from another DHS component. Moreover, OIE does not have a separate budget, but must request funds (for example, to conduct travel related to the Visa Waiver Program) from the Office of Policy Development. In addition, program officials stated that they have paid for their own office supplies using their personal savings due to funding constraints. Without adequate resources, OIE is unable to monitor and assess participating countries' compliance with the Visa Waiver Program's statutory requirements.

DHS has not clearly communicated its mission to stakeholders at overseas posts, nor identified points of contact within U.S. embassies, so it can communicate directly with field officials positioned to monitor countries' compliance with Visa Waiver Program requirements and report on current events and issues of potential concern. In particular, within DHS's various components, we found that OIE is largely an unknown entity and, therefore, is unable to leverage the expertise of DHS officials overseas. Specifically, only 3 of the 15 DHS field officials with whom we spoke in the six visa waiver countries we visited were aware of the Visa Waiver Program Oversight Unit and its mission. A senior DHS representative at one post showed us that her organizational directory did not contain contact information for OIE. In addition, an official from the Immigration and Customs Enforcement's Office of International Affairs acknowledged that DHS needs a better communication plan for the Visa Waiver Program. He stated that DHS had not prioritized the workload for all its officials overseas, including their role in overseeing the Visa Waiver Program; he also told us that OIE had not yet articulated what information it needed, designated a mechanism to share that information, or gained agency-wide acceptance of procedures for monitoring the compliance of visa waiver countries. In fact, a senior DHS official in Washington, D.C., told us that he may find out about developments—either routine or emergent—in visa waiver countries by “happenstance.” Without an outreach strategy, DHS is not able to leverage its existing resources at U.S. embassies in all visa waiver countries.

Furthermore, key stakeholders, who are in a position to influence and monitor visa waiver countries' compliance with the program's requirements, were not informed of the major findings of the country assessments. In fact, at the time of our visits, ambassadors or deputy chiefs of mission in each of the six posts told us that they were not fully aware of the extent to which the country assessments discussed law enforcement and security concerns posed by the continued participation

of the country in the program. The Deputy Chief of Mission at one post stated that without the appropriate information, such as was contained in the assessments, embassy officials could not be effective agents for the U.S. government with regard to these issues. Bureau of Consular Affairs officials in Washington, D.C., agreed that any concerns identified in the assessments should be brought to the attention of the embassy, so that the posts can address the concerns accordingly. Due to the lack of outreach and clear communication about its mission, OIE is limited in its ability to monitor the day-to-day law enforcement and security concerns posed by the Visa Waiver Program, and the U.S. government is limited in its ability to influence visa waiver countries' progress in meeting requirements.

We also found gaps in interagency communication. According to OIE, State plays a significant role in conveying information relevant to the Visa Waiver Program to U.S. embassy officials and their host government counterparts. Therefore, it is important that State and DHS have clear lines of communication. For example, in October 2005, one government expressed willingness to share data on lost and stolen issued passports with the United States, and asked for technical specifications on how to do so. However, at the time of our February 2006 visit, the post in that country had not received direction from headquarters on how this passport information should be shared. Moreover, OIE officials told us that they were unaware that this country was willing to share this data until we brought it to their attention in early March 2006. As a result, the United States missed opportunities to potentially deter the fraudulent use of passports from this country, which in fact has the highest rate of misuse among all visa waiver countries, according to DHS. Additionally, a senior consular official in another participating country expressed frustration that DHS had not fully explained to embassy officials why visa waiver countries needed to report lost and stolen passport information directly to the United States and Interpol, which maintains a global database of lost and stolen travel documents. Several other senior consular officials also expressed the need for more information about OIE's mission and goals, as well as the desired role for overseas posts.

DHS Faces Difficulties in Mitigating Program Risks

DHS has taken some actions to mitigate the risks of the Visa Waiver Program, such as terminating the use of the German temporary passport for travel under the program. Since 2002, the law has required the timely reporting of passport thefts for continued participating in the Visa Waiver Program, but DHS has not established and communicated time frames and operating procedures to participating countries. In addition, DHS has sought to expand this requirement to include the reporting of data, to the

United States and Interpol, on lost and stolen issued passports; however, participating countries are resisting these requirements, and DHS has not yet issued guidance on what information must be shared, with whom, and within what time frame. Furthermore, U.S. border inspectors are unable to automatically access Interpol's data on reported lost and stolen passports, which makes it more difficult to detect reported lost or stolen passports at U.S. ports of entry.

DHS Has Taken Some Actions to Mitigate Risks of the Visa Waiver Program

As previously mentioned, during the 2004 assessment process, the working group identified security concerns in several participating countries, and DHS took actions to mitigate some of these risks. For example, DHS determined that several thousand blank German temporary passports³⁰ had been lost or stolen, and that Germany had not reported some of this information to the United States. In March 2005, at the working group's request, the U.S. embassy in Berlin conveyed these concerns to the German government to seek a solution. In March 2006, DHS determined that sufficient progress had not been made to address the concern over German temporary passports, and, as of May 1, 2006, German temporary passport holders are not allowed to travel to the United States under the Visa Waiver Program without a visa.

DHS has also made some progress in enforcing new passport security measures. For example, DHS has enforced an October 26, 2005, deadline requiring travelers under the Visa Waiver Program to have digital photographs in their passports. Specifically, Italian and French citizens with noncompliant passports issued after October 26, 2005, must first obtain a visa before traveling to the United States because these countries did not meet the deadline. Furthermore, as previously mentioned, by October 26, 2006, visa waiver travelers must have e-passports for travel under the program. E-passports aim to enhance the security of travel documents, making it more difficult for imposters or inadmissible aliens to misuse the passport to gain entry into the United States. DHS and State officials told us that nearly all 27 participating countries report that they are on schedule to meet this deadline.³¹ According to US-VISIT, DHS will

³⁰ German temporary passports are valid for one year, and are less expensive than standard German passports. In addition, they are issued at more than 6,000 locations across Germany, whereas the Ministry of Interior issues the standard passports centrally.

³¹ According to a US-VISIT official, as of June 2006, it had verified e-passports from 12 of 27 visa waiver countries.

deploy machines to read the e-passports at 33 airports by the October 2006 deadline, covering about 98 percent of all visa waiver travelers. While US-VISIT intends to deploy e-passport readers to all ports of entry in the future, it has not articulated clear timeframes to do so.³² Therefore, until this is achieved, it will not be possible for DHS to read the information on the chips embedded in the passports for the remaining ports of entry.

DHS Lacks Standard Procedures for Obtaining Stolen Blank Passport Data

A key risk in the Visa Waiver Program is stolen blank passports from visa waiver countries, because detecting these passports at U.S. ports of entry is extremely difficult, according to DHS. Some thefts of blank passports have not been reported to the United States until years after the fact, according to DHS intelligence reports. For example, in 2004, a visa waiver country reported the theft of nearly 300 stolen blank passports to the United States—more than 9 years after the theft occurred. In addition, in 2004, a visa waiver country reported the theft of 270 blank passports more than 8 months after the theft occurred. The 2002 Enhanced Security and Visa Entry Reform Act provides that the Secretary of Homeland Security must terminate a country from the Visa Waiver Program if he and the Secretary of State jointly determine that the country is not reporting the theft of its blank passports to the United States on a timely basis. DHS and State have chosen not to terminate from the program countries that have failed to report these incidents.

DHS officials told us that the inherent political, economic, and diplomatic implications associated with removing a country from the Visa Waiver Program make it difficult to enforce the statutory requirement in the broadest terms. Moreover, DHS has not established time frames or operating procedures to enforce this requirement. In April 2004, the DHS OIG recommended that the then-Under Secretary for Border and Transportation Security, in coordination with State, develop standard operating procedures for the routine and proactive collection of stolen

³²In May 2006, a US-VISIT official stated that DHS had not yet decided from which company the department would procure the e-passport readers. DHS still needs to decide how it will use the digital image from the e-passport, including whether the image will be displayed on the US-VISIT screen during inspection, and if so, whether it will be displayed in place of or in addition to the photo already stored in US-VISIT. Furthermore, countries have the option to store other biometric information, such as fingerprints or iris images, on the chip, and DHS will need to make decisions about whether it will use such information, if available, during inspections. According to US-VISIT, it will deploy e-passport readers to the remaining ports of entry at a future date to take advantage of anticipated improved reader technology, while minimizing procurement and training costs.

passport information from host governments for dissemination to U.S. agencies. While the statute requires visa waiver countries to certify that they report information on the theft of their blank passports to the United States on a timely basis, as of June 2006, DHS has not defined what constitutes “timely.” Moreover, the United States lacks a centralized mechanism for foreign governments to report all stolen passports. In particular, DHS has not defined to whom in the U.S. government participating countries should report this information.

Some Participating Visa Waiver Program Countries Are Resisting Additional Reporting to United States and Interpol

In addition to blank passports, lost or stolen issued passports also pose a risk because they can be altered. In June 2005, DHS issued guidance to participating Visa Waiver Program countries requiring that they certify their intent to report lost and stolen passport data on issued passports by August 2005. However, DHS has not yet issued guidance on what information must be shared, with whom, and within what time frame. Some visa waiver countries have not yet agreed to provide this information to the United States, due in part to concerns over the privacy of their citizens’ biographical information. In addition, several consular officials expressed confusion about the current and impending requirements about sharing this data, and felt they were unable to adequately explain the requirements to their foreign counterparts.

In June 2005, the U.S. government also announced its intention to require visa waiver countries to certify their intent to report information on both lost and stolen blank and issued passports to Interpol. In 2002, Interpol developed a database of lost and stolen travel documents to which its member countries may contribute on a voluntary basis. The United States has endorsed Interpol’s database, and, since May 2004, State has been contributing U.S. data from lost and stolen blank passports to it. In 2005, State reported to Congress that it also instructed all U.S. embassies and consulates to take every opportunity to persuade host governments to share this data with Interpol. While most visa waiver countries use and contribute to Interpol’s database, four do not. Moreover, some countries that do contribute do not do so on a regular basis, according to Interpol officials. Interpol stated that it continues to encourage countries to send this information more systematically. In addition, participating countries have expressed concerns about reporting this information, citing privacy issues; however, Interpol’s database on lost and stolen travel documents does not include the passport bearers’ biographical information, such as

name and date of birth.³³ According to the Secretary General of Interpol, in light of the high value associated with passports from visa waiver countries, it is a priority for his agency to encourage these countries to contribute to the database.

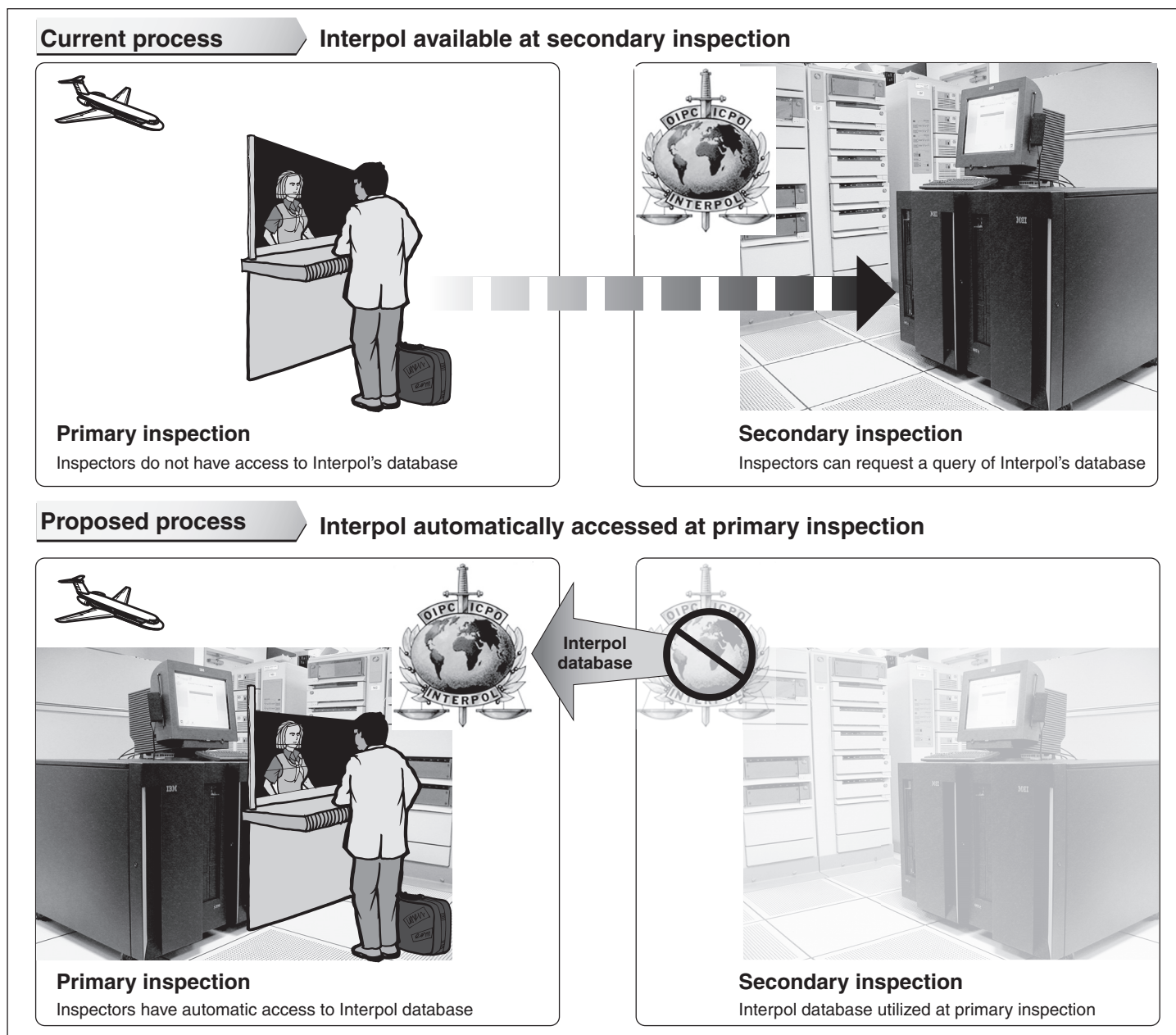
Inefficient Access to Interpol's Database on Lost and Stolen Passports

Though information from Interpol's database could potentially stop inadmissible travelers from entering the United States, CBP's border inspectors do not have automatic access to the database at primary inspection at U.S. ports of entry—the first line of defense against those who might exploit the Visa Waiver Program to enter the United States. The inspection process at U.S. ports of entry can include two stages—a primary and secondary inspection. If, during the primary inspection, the inspector suspects that the traveler is inadmissible either because of a fraudulent passport or other reason, the inspector refers the traveler to secondary inspection. At secondary inspection, border inspectors can contact officials at the National Targeting Center, who can query Interpol's stolen-travel-document database to determine if the traveler is attempting to enter the United States with a passport that had been previously reported lost or stolen, but is not yet on CBP's watch list (see fig. 5).³⁴ However, Interpol's data on lost and stolen travel documents is not automatically accessible to border inspectors at primary inspection—one reason why it is not currently an effective border screening tool, according to DHS, State, and Justice officials. According to the Secretary General of Interpol, until DHS can automatically query Interpol's data, the United States will not have an effective screening tool for checking passports.

³³Interpol's database includes the passport's identity number, the country of issuance, and the country where the loss or theft occurred. According to officials from Justice's Interpol-U.S. National Central Bureau, it is particularly important that countries report this information, as well as the date of the theft and the issuance date.

³⁴Interpol's data on lost and stolen passports are not available when border inspectors screen travelers against US-VISIT or the Treasury Enforcement Communications System (TECS), unless Interpol has shared this information with the United States in separate reports and it has been manually entered into TECS by DHS. TECS maintains watch list data, interfaces with other agencies' databases, and is used by inspectors at ports of entry to verify traveler information and update traveler data. TECS's watch list data sources include DHS' CBP and Immigration and Customs Enforcement; the Federal Bureau of Investigation (FBI); State; and the Drug Enforcement Agency, among others.

Figure 5: CBP's Access to Interpol's Lost and Stolen Travel Document Database



Sources: GAO (data and photos); Nova Development (clip art).

According to Interpol officials, the United States is working actively with Interpol on a potential pilot project that would allow for an automatic query of aliens' passport data against Interpol's database at primary inspection at U.S. ports of entry. However, DHS has not yet finalized a plan to do so. In December 2005, Interpol began a similar program at all border stations in Switzerland. Through this program, Swiss border agents query Interpol's database as soon as travelers appear at a border station. According to the Secretary General of Interpol, in a 2-month period, Switzerland encountered 282 potential instances of travelers attempting to enter the country with a previously reported lost or stolen passport. In addition, during this time frame, Swiss border agents queried Interpol's database more than all other member countries combined because it was the only country accessing the database automatically.

In commenting on a draft of this report, Justice's Interpol-U.S. National Central Bureau stated that from April through June 2006, Justice, CBP's National Targeting Center, and Interpol compared records from certain passengers arriving in the United States against Interpol's lost and stolen travel document database. According to the National Central Bureau, the test's objectives were to simulate an automatic query of passenger records against Interpol's database and analyze discrepancies between that database and U.S. watch lists. The National Central Bureau stated that, by early August 2006, it and the National Targeting Center will finalize a report on this test to help facilitate a pilot program for real-time, systematic queries of passenger records against Interpol's data at U.S. ports of entry.

Conclusions

The Visa Waiver Program aims to facilitate international travel for millions of people each year and promote the effective use of government resources. Effective oversight of the program entails balancing these benefits against the program's potential risks. To find this balance, the U.S. government needs to fully identify the vulnerabilities posed by visa waiver travelers, and be in a position to mitigate them. However, we found weaknesses in the process by which the U.S. government assesses these risks, and DHS's Visa Waiver Program Oversight Unit is not able to manage the program with its current resource levels. Moreover, DHS has not communicated clear reporting requirements for lost and stolen passports—a key risk—nor can it automatically access all stolen passport information when it is most needed—namely, at the primary inspection point at U.S. points of entry. It is imperative that DHS commit to strengthen its ability to promptly identify and mitigate risks to ensure that the Visa Waiver Program does not jeopardize U.S. security interests.

Recommendations

To improve the U.S. government's process for assessing risks in the Visa Waiver Program, we recommend that the Secretary of Homeland Security, in coordination with State and other appropriate agencies, take the following five actions:

- Provide additional resources to strengthen OIE's visa waiver monitoring unit.
- Finalize clear, consistent, and transparent protocols for the biennial country assessments and provide these protocols to stakeholders at relevant agencies at headquarters and overseas. These protocols should provide timelines for the entire assessment process, including the role of a site visit, an explanation of the clearance process, and deadlines for completion.
- Create real-time monitoring arrangements, including the identification of visa-waiver points of contact at U.S. embassies, for all 27 participating countries; and establish protocols, in coordination with appropriate headquarters offices, for direct communication between points of contact at overseas posts and OIE's Visa Waiver Program Oversight Unit.
- Require periodic updates from points of contact at posts in countries where there are law enforcement or security concerns relevant to the Visa Waiver Program.
- Provide complete copies of the most recent country assessments to relevant stakeholders in headquarters and overseas posts.

To improve the U.S. government's process for mitigating the risks in the Visa Waiver Program, we recommend that the Secretary of Homeland Security, in coordination with State and other appropriate agencies, take the following three actions:

- Require that all visa waiver countries provide the United States and Interpol with non-biographical data from lost or stolen issued passports, as well as from blank passports.
- Develop and communicate clear standard operating procedures for the reporting of lost and stolen blank and issued passport data, including a definition of timely reporting and to whom in the U.S. government countries should report.

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- Develop and implement a plan to make Interpol's stolen travel document database automatically available during primary inspection at U.S. ports of entry.

Matter for Congressional Consideration

The May 2002 Enhanced Border Security and Visa Entry Reform Act mandated DHS to conduct country assessments of the effect on U.S. law enforcement and security interests of each country's continued participation in the Visa Waiver Program at least every 2 years. Given the lengthy time it took for DHS to issue the November 2005 summary report to Congress, and to ensure future reports contain timely information when issued, Congress should consider establishing a biennial deadline by which DHS must complete the country assessments and report to Congress.

Agency Comments and Our Evaluation

DHS, State, and Interpol provided written comments on a draft of this report (see apps. IV, V, and VI). DHS, State, Interpol, and Justice's Interpol-U.S. National Central Bureau provided technical comments, which we incorporated into the report, as appropriate.

DHS either agreed with, or stated that it is considering, all of our recommendations. Regarding our matter for congressional consideration, DHS did not appear to support the establishment of a deadline for the biennial report to Congress. Instead, DHS suggested that Congress should require continuous and ongoing evaluation. With continuous review, DHS stated that it would be able to constantly evaluate U.S. interests and report to Congress on the current 2-year reporting cycle on targeted issues of concern, rather than providing a historical evaluation. We agree that continuous and ongoing evaluation is necessary, and that is why we recommended that DHS create real-time monitoring arrangements and provide additional resources to the Visa Waiver Program Oversight Unit to achieve this goal. Regarding the mandated biennial country assessments, we believe that they can serve a useful purpose if they are completed in a timely fashion. In addition, DHS provided information on actions that it has taken to improve the management of the biennial country assessment process.

State agreed that efforts by U.S. embassies and consulates to monitor and assess the Visa Waiver Program would benefit from enhanced communication to and from DHS, and endorsed our recommendation that DHS provide more information to these stakeholders on Visa Waiver Program issues. In addition, State acknowledged the risk of misuse of

previously lost or stolen passports, particularly by persons who are not eligible for a visa. With regard to timely reporting on lost and stolen passports, State welcomed our recommendation calling for clear guidelines and reporting mechanisms to achieve this goal.

Interpol provided information about its lost and stolen travel document database and tools that it has developed to allow law enforcement officers to instantly check this database at airports and other border entry points. In addition, Interpol noted that many developing countries lack the resources necessary to implement these tools. Therefore, Interpol urged the United States and other countries to provide funding to facilitate access for all countries to its lost and stolen travel document database. It also provided its views on the risks associated with lost and stolen passports.

As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will provide copies of this report to the Secretaries of State and Homeland Security, as well as the Attorney General and the Secretary General of Interpol. We will also make copies available to others upon request.

In addition, this 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 or fordj@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix VII.

Sincerely yours,

A handwritten signature in black ink, reading "Jess T. Ford". The signature is written in a cursive style with a large, looping "J" and "F".

Jess T. Ford
Director, International Affairs and Trade

Appendix I: Scope and Methodology

To describe the benefits of the Visa Waiver Program, we reviewed relevant documentation, including Office of Inspector General (OIG) reports and our 2002 report on the implications of eliminating the program.¹ We also interviewed political, economic, consular, commercial, and law enforcement officials at U.S. embassies overseas to discuss the advantages of the program for U.S. business and tourism. To describe the risks in the Visa Waiver Program, we examined documentation on the screening process at U.S. ports of entry for travelers from Visa Waiver Program countries. In addition, we analyzed data from Customs and Border Protection (CBP) on interceptions of fraudulent, lost, or stolen passports from participating countries. We also observed fraudulent document detection training of CBP agents at the Federal Law Enforcement Training Center and spoke with training officials regarding the difficulty in detecting fraudulent passports. We also interviewed officials from the Department of Homeland Security's (DHS) National Targeting Center, Intelligence and Analysis Directorate, and Forensic Document Laboratory on the risks posed by Visa Waiver Program travelers.

In particular, we analyzed data on the number of nonimmigrants that entered the United States under the Visa Waiver Program from fiscal years 2002 through 2004. While we did not fully assess the reliability of these statistics because we used them for background purposes, we conducted interviews and obtained other corroborating evidence that confirmed the importance of the Visa Waiver Program in terms of the broad numbers of admissions to the United States in recent years.

Regarding DHS's data on fraudulent passports, DHS reported that these data are limited to those cases in which the fraudulent document from the Visa Waiver Program country was intercepted at a port of entry, and do not include instances when fraudulent passports were used to enter the United States but were not detected. While we could not fully assess the reliability of the data, we found them sufficiently reliable to establish that hundreds of fraudulent documents from a broad range of Visa Waiver Program countries were intercepted in 2005. In addition, the number of documents that DHS reports by country is not necessarily indicative of the extent of the problem in that country, as these data only cover instances when fraudulent documents were intercepted.

¹See GAO, *Border Security: Implications of Eliminating the Visa Waiver Program*, [GAO-03-38](#) (Washington, D.C., Nov. 22, 2002).

To evaluate the U.S. government's efforts to assess and mitigate these risks, we analyzed the laws governing the program, relevant agency operating procedures, and DHS OIG reports. We also examined 15 of the 25 completed reports assessing the participation of Visa Waiver Program countries.² As of June 2006, the remaining 10 assessments were pending classification review by DHS's Office of International Enforcement. These assessments contained, among other things, detailed analyses of an individual country's

- political, social, and economic conditions;
- security over its passport and national identity documents;
- border controls;
- immigration and nationality laws, law enforcement policies and practices, and other matters relevant to law enforcement, immigration, and national security;
- patterns of passport fraud, visa fraud, and visa abuse;
- assessments of terrorism, by the country's nationals, within or outside the country, and;
- evaluations of the impact of the country's participation in the Visa Waiver Program on U.S. national security and law enforcement.

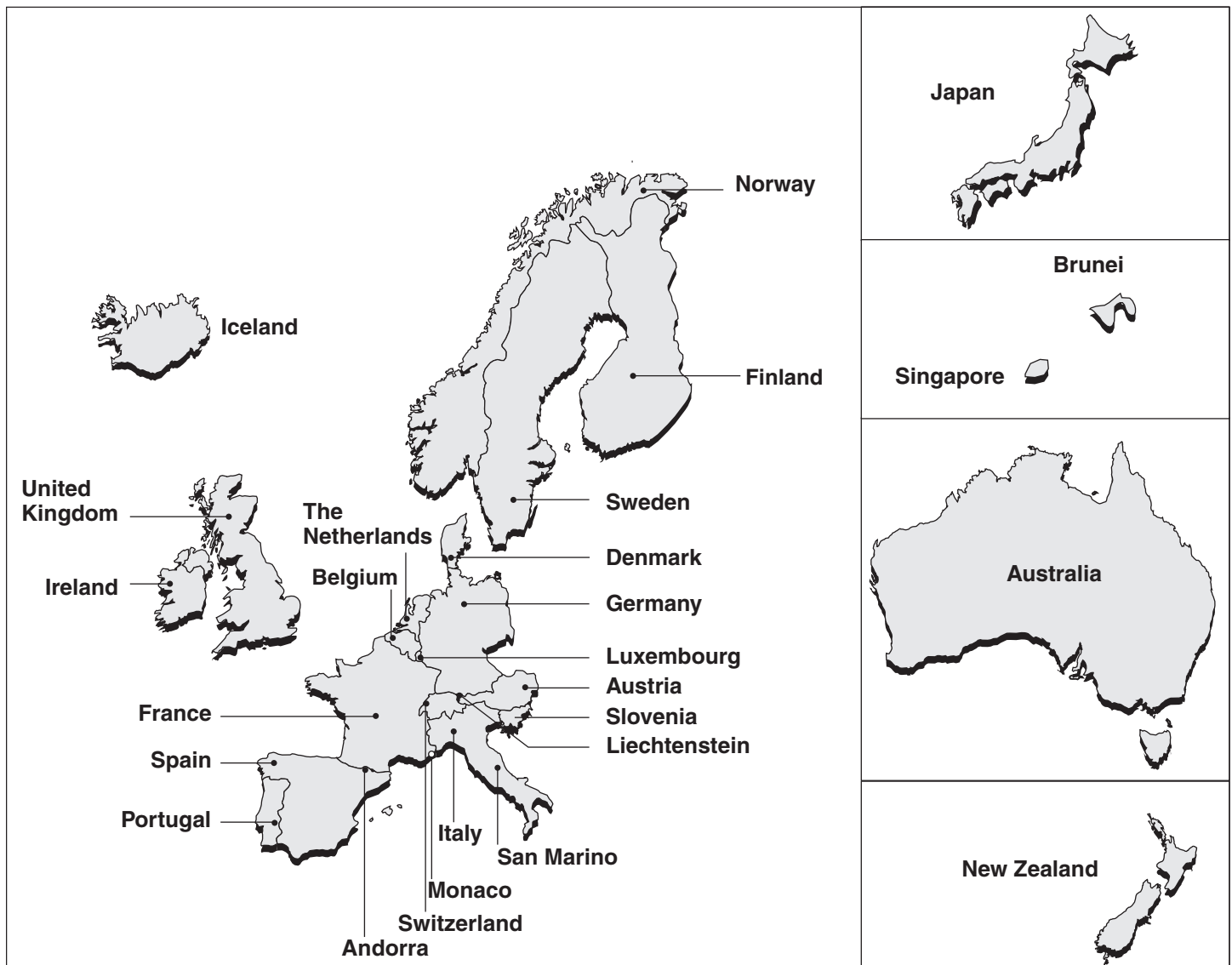
To discuss these assessments and actions taken in response to their findings, we met with officials from several DHS component agencies and offices, the Department of State's Bureau of Consular Affairs and its Europe and Eurasia Bureau, and the International Criminal Police Organization (Interpol) in Lyon, France. In addition, we met with officials from the Department of Justice's U.S. National Central Bureau in Washington, D.C., which facilitates international law enforcement cooperation among the United States and Interpol and its other member countries. We also spoke with U.S. Embassy officials in six Visa Waiver Program countries, as well as foreign government officials in three of these countries. During these visits, we observed visa operations and interviewed embassy management, consular staff, and representatives

²As of June 2006, the reviews of the remaining two participating countries—Italy and Portugal—were in process.

from law enforcement agencies regarding their roles and responsibilities in overseeing the Visa Waiver Program.

We conducted our evaluation from September 2005 through June 2006 in accordance with generally accepted government auditing standards.

Appendix II: Map of Visa Waiver Program Countries



Sources: GAO; MapArt (image).

Appendix III: Foreign Nationals Admitted under the Visa Waiver Program, Fiscal Years 2002 through 2004

Country of citizenship	Fiscal year		
	2002	2003	2004
Andorra	386	478	654
Australia	445,242	484,086	577,161
Austria	107,636	115,164	136,050
Belgium	166,286	155,693	185,836
Brunei	303	323	404
Denmark	124,819	141,880	165,190
Finland	71,338	73,585	89,190
France	932,847	920,774	1,121,824
Germany	1,208,121	1,254,490	1,446,806
Iceland	17,733	19,810	26,727
Ireland	297,496	328,769	392,938
Italy	515,126	576,346	693,628
Japan	3,347,900	3,303,878	4,044,284
Liechtenstein	996	995	1,182
Luxembourg	6,001	6,447	7,287
Monaco	377	432	614
Netherlands	486,672	498,528	560,403
New Zealand	187,235	180,572	202,904
Norway	110,713	119,846	140,015
Portugal	57,245	64,330	82,089
San Marino	279	300	375
Singapore	49,713	54,539	71,579
Slovenia	6,951	9,703	11,643
Spain	350,044	375,021	487,715
Sweden	198,532	220,577	273,007
Switzerland	228,298	221,757	244,921
United Kingdom	3,938,842	4,189,906	4,639,055
Total	12,857,131	13,318,229	15,603,400

Source: CBP.

Appendix IV: Comments from the Department of Homeland Security

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

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

July 12, 2006

Mr. Jess T. Ford
Director, International Affairs
and Trade
Government Accountability Office
441 G Street NW
Washington, DC 20548

Dear Mr. Ford:

Re: Department of Homeland Security Response to GAO Report (GAO-06-854) Border Security: Stronger Actions Needed to Assess and Mitigate Risks of the Visa Waiver Program. The Office of International Enforcement (OIE) has reviewed the draft report and welcomes this evaluation of our program and the Office. Our comments below concern several areas of confusion in the report, particularly with regard to management of the 2004 country review process, the elements of the review process, and changes made to the process since 2004. In addition we have provided comments on GAO's recommendations and an issue proposed for congressional consideration.

I. Management of 2004 Review Process

The draft report incorrectly characterizes OIE's role in the 2004 review process, in some places implying that OIE conducted the reviews and made determinations that countries should continue in the program (e.g. page 6). The report correctly notes that the 2004 reports were initiated by the former Border and Transportation Security (BTS) Office of Policy in April 2004 and that OIE was created in July 2004, when the 2004 review process was well underway, to institutionalize coordination and oversight of VWP compliance activities. While OIE participated in the interagency working group process and immediately assumed oversight in July, the BTS Office of Policy continued to manage the preparation for and coordination of the site visits and site visit reports, the involvement of key interagency stakeholders, the gathering of information and the compilation of the country reports and related recommendations, and convening the meetings and preparing the agendas for the interagency working group where the information was discussed and evaluated and decisions made. When the reports were finalized, OIE assumed responsibility for coordinating clearance and evaluating the entire process.

The 2004 country review process was an enormous undertaking to develop and finalize 25 comprehensive, baseline reports with limited staff and support in a short period of

www.dhs.gov

See comment 1.

See comment 2.

time. The 2004 reports are largely the outcome of an interagency working group process which included the Departments of Justice and State from the beginning to end and incorporated comments on every document produced during the 2004 review cycle. As the GAO draft report correctly notes, the interagency working group did not use qualitative or quantitative standards in determining which countries were considered countries of concern. The review process had not been institutionalized at the time it was initiated and relied on a draft (and continually redrafted) protocol. While the 2004 process was a significant achievement, involving scores of individuals and organizations in a complex review process, and notable for what it accomplished, OIE agrees there were problems with that process; the Oversight Unit was in fact created to improve the process and recognized the need for improved organization and clarification of roles and responsibilities from the onset.

As noted below, in some cases we do not agree with GAO's description of the problems encountered in the 2004 review. For example, key interagency stakeholders were in fact involved in the review process as appropriate to their area of expertise (GAO suggest that this was not the case). As GAO notes, the protocols for the country assessments, including internal milestones or deadlines for completing the final reports, the goals of a site visit and an explanation of the clearance process, which were unclear at the start of the process were developed by the interagency working group and continued to change during the 2004 review process. However, since the completion of the 2004 review, most of these problems have been corrected.

II. Elements of the VWP Periodic Country Review Process

The GAO draft report does not fully characterize the review process for VWP countries. As a result, some comments and statements contained in the report are not entirely accurate. One of OIE's first tasks was to develop a clear set of standard operating procedures for the periodic review process and the following overview demonstrates how this lengthy and complex process currently works.

- 1) **Review of relevant, previously obtained or collected and baseline country specific information (including any prior reports)** Information pertaining to key VWP issues in all participating countries continually comes to OIE from many sources, where it is collected and evaluated continually. This information and information in previous country reports, if any, is reviewed as an initial step to assess and prioritize issues of interest and concern.
- 2) **Collect and review information obtained from the host country through a pre-site visit questionnaire submitted to posts** Specific questions are often posed to the host government in a questionnaire submitted to posts so that the host government may directly respond and provide information; this process is not always necessary. At this stage, where this process is necessary, OIE seeks to narrow its focus and provide more explicit guidelines and directions for the site-visit team.

3) **Collection and analysis of current background information collected from relevant USG offices** Numerous offices in the USG are asked to provide specific data and information in their areas of expertise to assist in evaluating specific VWP countries. For example, the Human Smuggling and Trafficking Center provides information on country specific issues and the intelligence community provides intelligence information.

4) **Select, train, and deploy the site visit team to collect information from host government and USG officials, and collect the site team's completed draft site-visit report** When the issues to be assessed are clarified, a team is selected to conduct a site visit based on their relevant expertise. The site visit team is able to directly question host government officials on issues of concern. Usually a site visit team will include an expert on immigration and border control issues (representative from Customs and Border Protection), an expert on forensic document and document security issues (representative from the Immigration and Customs Enforcement, ICE, Forensic Document Laboratory), an expert on intelligence issues (representative from DHS Intelligence Analysis) and an expert from State's Office of Consular Affairs.

However, site visit teams are tailored to the issues of concern on the site visit (indeed, if there are no issues that need to be addressed directly with host government officials, a site visit may not be necessary) and may include fewer or additional participants, e.g., if investigative matters are involved, a representative from ICE will be included. Site visit team members are expected and instructed to be curious, to ask questions and deliver complete factual analyses, without personal interpretations (they are not asked nor expected to make an evaluation of VWP compliance). The team's responsibilities are completed once the site visit report is delivered, and are not expected to be involved in any further aspects of the larger and more intensive final country report which involves the evaluation of a great deal of additional information.

GAO's draft report incorrectly suggests that this consultative process is inadequate and that additional review is necessary. Scores of individuals and organizations are involved in the review process and it would be extraordinarily cumbersome and ultimately not helpful for us to consult with each of them beyond their described functions to support the review process.

5) **Analyze all information and attempt to fill in any "gaps"** After the conclusion of the site visit, OIE will take into account all information and data obtained, including the site-visit report, and determine whether or not additional information will be necessary to complete the full country report. In addition to reaching out to components and other to fill any information "gaps," at this juncture OIE begins to draft the congressionally required evaluation of US security, law enforcement and immigration interests. This stage of the review process necessitates the comparison and verification of information and approaches, sifting through concerns to discern what concerns are paramount, and

See comment 6.

See comment 3.

making final draft recommendations. This evaluation cannot be conducted at earlier stages of the review process (e.g., at the site visit as GAO appears to suggest) or before all the best information available is gathered and can be evaluated collectively.

- 6) **Prepare the draft individual country report and recommendations** The individual country report includes a summary and OIE's preliminary recommendations (made in consultation as necessary with appropriate components) concerning the status of the country's participation in the VWP, and will include the site visit report as well as other baseline, background and analytical information. The individual country reports are prepared for the Secretary of DHS to help him make a decision whether to continue or terminate the country at issue in the VWP. The country reports are not intended for widespread distribution which is inappropriate because they contain sensitive foreign government information and are classified. The fact that an individual or agency was involved in collecting information on which a particular report is based does not mean that individual or agency has the requisite "need to know" the classified report.
- 7) **Consultation with DOS (and as necessary with DOJ) on country report and recommendations** A draft of the final report is forwarded to DOS for consultation. If there is agreement, the draft is finalized. If there are substantive differences between DHS and DOS, these will be included in the final report. While an interagency working group process was included as part of the 2004 periodic reviews, this was necessary because of the issues involved. An interagency group will be used only when there is a clear need for further discussion and consultation.
- 8) **Prepare the final individual country report and summary report to Congress** In the draft report, GAO repeatedly states that the 2004 reports were not completed in a "timely fashion and contained dated information that did not necessarily reflect the current risks posed by a country's continued participation in the program." However, the statutory requirement is to review countries every two years and, to do this and take the steps necessary to complete a report, reports cannot continue to incorporate data indefinitely. The information that was used in the 2004 reports was the best information available at the time the reports were finalized.
- 9) **Determination of security classification of report (paragraphing) using the Classification Guide** Countries are open and forthcoming in the review process, providing extremely sensitive foreign government information because of their trust and confidence that the USG will not expose their vulnerabilities and concerns. This information, which is essential to the integrity of the country review process, is classified in accordance with our need to protect and maintain this level of trust and confidence.

See comment 4.

See comment 6.

10) Clear through relevant components and forward summary report to

Congress The draft report notes the length of the clearance process in 2004. In that review process which involved extensive consultations, OIE was encouraged by National Security Council senior leadership to engage with countries with whom we had issues of concern proactively before the submitting the report to Congress. This collaboration boded well and enabled OIE to develop solutions with most countries in which concerns were raised. While such proactive engagement no doubt contributes to the length of the clearance process, it is in the USG's best interest for DHS to engage with countries on global concerns discerned in the course of these reviews and move forward with solutions, rather than to simply target problems. In defining deadlines and placing limitations on the clearance process, GAO may inhibit this kind of proactive consultation and engagement. Finally, it should be stressed that OIE involves stakeholders in the VWP review process as necessary, appropriate and relevant; statements to the contrary are simply incorrect. For example, site visit team members and posts are not expected or required to participate in reviewing, drafting or clearing the full country report; they do not have access to all the information that is provided in the country review process and their participation would only further contribute to delay these processes.

III. Improvements Since 2004

The draft report provides an outdated examination of the country review process, evaluating the 2004 process when that process was assessed, evaluated and significantly overhauled upon its completion. The assessment of the 2004 review process identified many problems, some of which are noted in the draft report, and these have already been corrected by OIE. Among these changes are:

-Training for site visit team participants: Starting in 2005, OIE implemented a one-day training seminar for all site-visit teams before they are deployed. This training session describes the review process, as well as what is expected and not expected of participants before, during and after the site-visit. For example, the team leader is responsible for drafting the site-visit report and each participant contributes to his or her share of that report. This training session includes a DOS desk officer briefing, an intelligence briefing by Intelligence and Analysis, and extensive discussion of site-visit procedures and issues of concern.

-Communication with overseas officials: Communication with posts is critical to the country review process. Communication with DHS overseas components is increasing and OIE consults frequently with headquarters components and has issued a series of cables and memos to provide information on VWP requirements and concerns. However, communication will remain an issue until we are able to implement our plan for continuous information management and communication outlined in our response to Recommendation 3, below.

See comment 5.

-Standard Operation Procedures (SOPs) for the Visa Waiver Program Oversight Unit's operations and ongoing assessments to improve the process: Starting with the 2004 review, each review is assessed for lessons learned. SOPs describing procedures for each portion of the review process were developed by the VWP Oversight Unit after the 2004 review and are continually improved and updated as our operations progress. While procedures must be tailored to individual country issues, needs and requirements, these SOPs guide all the processes that are involved in the country review process and already include suggested timelines as recommended by GAO. Every effort is made to continue to streamline and improve this process.

IV. Matter for Congressional Consideration

GAO suggests that, given the length of time it took for DHS to issue the 2004 country reports and to ensure that they include timely information when issued; Congress may wish to consider establishing a biennial deadline by which DHS must report to Congress. Considerable thought needs to be given to the question of whether such deadlines will in fact serve to safeguard US security, law enforcement and immigration interests or whether they will be better served by requiring continuous engagement and review. OIE and the VWP Oversight Unit believe that rather than focus on imposing deadlines for evaluating US security, law enforcement and immigration interests that exist in a given prior 2-year period, Congress should require continuous and ongoing evaluation of US interests so that concerns, if discerned, are evaluated and resolved immediately and continuously in a time-sensitive manner and so that information is available to DHS component agencies to assist in efforts to make our borders more secure. The many reasons for the length of the country review process have been outlined above (see response to Recommendation 2, below). With continuous review and information management in place, OIE would be able to constantly evaluate US interests and report to Congress on the current 2-year reporting cycle on targeted issues of concern, rather than providing a biennial, or historical, "rearview mirror" evaluation.

V. Responses to Specific Recommendations

OIE has the following comments on the draft report's recommendations. The draft report recommends that the Secretary of DHS, in coordination with the Department of State and other appropriate agencies:

Recommendation:

Provide additional resources to strengthen OIE's visa waiver monitoring unit.

Response:

OIE appreciates the recommendation and is confident that the Administration will seek resources appropriate for the task.

Recommendation:

Finalize clear, consistent, and transparent protocols for biennial country assessments and provide these protocols to stakeholders at relevant agencies at headquarters and overseas. These protocols should provide timelines for the entire assessment process, including the role of a site visit, an explanation of the clearance process, and deadlines for completion.

Response:

As noted above, OIE has established procedures for the Visa Waiver Program Oversight Unit's operations and the Oversight Unit is using them as flexible tools, tailored and revised for each review as necessary. These guidelines provide timelines for the specific portions of the clearance process, explain the role of the site visit and provide an explanation of the clearance process. We will consider providing these procedures to relevant stakeholders and USG agencies. However, the Visa Waiver Program Oversight Unit's procedures are designed with flexibility in mind and this flexibility is necessary to effectively evaluate the law enforcement, security and immigration concerns on a country-by-country basis. The Oversight Unit's SOPs provide internal guidance for this office and are not designed to be shared with overseas entities. Where deadlines are not able to be met by any entity involved in the review process (see the description in II, above), a note is made of this fact. The Oversight Unit's SOPs do not provide a deadline for the completion of a country review for several reasons –

- a. First, the length of each review is extremely variable, depending on such factors as the nature of the country under review, its history, geography and political issues; the issues of concern to USG security, law enforcement and immigration interests and their complexity and sensitivity; the availability of experts detailed to this office from other components to participate in site visits, who often have substantial obligations; the schedules and activities (e.g., holidays) at posts and in host countries and the availability of USG and host government officials; the work involved in preparing each report and the clearance process.
- b. Secondly, annual or biennial VWP reviews provide an ineffective “rearview mirror” (backward looking) examination of issues in lengthy reports that are almost immediately out of date, and OIE needs to move towards continual, ongoing review of issues of concern that come to its attention so that it is immediately responsive and engaged with countries on issues of concern to USG interests. In a “continual review” operation, reports can be generated for the USG at any time on general or more focused issues of concern. To be effective, the VWP Oversight Unit should stay current and engaged on issues of immediate concern, developing reports as needed, rather than be focused on developing lengthy reports on historical issues for specified trends.

See comment 6.

Recommendation:

Create real-time monitoring arrangements, including identifying visa waiver points of contact at U.S. embassies for all 27 participating countries and establishing protocols, in coordination with appropriate headquarters offices, for direct communication between points of contact at overseas posts and the Office of International Enforcement's Visa Waiver Program Oversight Unit.

Response:

OIE and the VWP Oversight Unit agree completely with this recommendation and have developed a strategy for continuous engagement with countries and overseas posts that would assign OIE/VWP Oversight Unit desk officers responsible for all VWP-related issues to countries within specific geographic areas. Under this plan, these OIE/VWP Oversight Unit desk officers are responsible for information management (continuous collection, evaluation and reporting) and for monitoring, coordination, outreach and continuous communication with embassies and posts within their designated areas. When appropriate resources are available, this platform for continuous engagement will be implemented immediately. It should be noted that these desk officers will be a critical part of answering questions, explaining requirements and engaging with countries on such issues as lost and stolen passport reporting.

Recommendation:

Provide complete copies of the most recent country assessments to relevant stakeholders in headquarters and overseas post.

Response:

The country reports are classified as SECRET documents, and therefore subject to the rules surrounding such documents. OIE has already established a classified sharing system which will allow access for appropriate agencies over the SIPRA-NET. As already noted above, country reports contain sensitive information and countries share this information openly during our reviews because they have trust and confidence that this information on their vulnerabilities, which might potentially harm them, is maintained and safeguarded appropriately. We need to continue to do everything we can to protect and safeguard sensitive foreign government information while making it available to those stakeholders with a need to know this information.

Recommendation

Require periodic updates from points of contact at posts in countries where there are law enforcement or security concerns relevant to the Visa Waiver Program.

See comment 7.

Response:

OIE agrees with this recommendation and notes that this will be easily accomplished when desk officers are assigned as stated in the response to Recommendation 3, above.

Recommendation:

Require that all visa waiver countries provide the United States and Interpol with non-biographical data from lost and stolen issued passports, as well as that from blank passports.

Response:

DHS issued such policy in 2005 and the VWP Oversight Unit has developed and established the standards necessary to implement this policy, including the reporting of non-biographical data from lost and stolen issued and blank passports. Procedures for implementing the standards are currently in clearance. We agree that this issue is of paramount importance and, once standards are issued, noncompliance by VWP countries may lead to their termination from the program. However, to achieve compliance on this issue, we will need to work closely with the VWP countries that do not report on a regular basis at this time and monitor their cooperation and progress on this issue.

Recommendation:

Develop and communicate clear standard operating procedures for the reporting of lost and stolen blank and issued passport data, including a definition of timely reporting and to who in the U.S. government countries should report.

Response:

The VWP Oversight Unit has developed and established the standards necessary to implement this policy, including a definition of timely reporting, procedures for reporting, and to whom the information is reported in the USG. Procedures for DHS implementation of the standards are currently in clearance.

Recommendation:

Develop and implement a plan to make Interpol's stolen travel document database automatically available during primary inspection at U.S. ports of entry.

Response:

DHS, in coordination with DOJ and DOS, has been working with Interpol to identify the best methodology for screening travelers using the Interpol system. In January 2006, DHS met with Interpol in Lyon, France to assess the viability and capabilities of the Interpol system. DHS has also spoken with Interpol and US National Central Bureau (USNCB) in Washington, D.C. and we have a process underway to develop connections and determine the rules and procedures that are necessary so that Interpol's stolen travel document database is made automatically available to immigration officers. DHS continues to maintain contact with Lyon and the US USNCB on these efforts and to take steps to develop a process that would allow Interpol information to be available to immigration officers. DHS will continue to work with Interpol and, while we cannot control Interpol functions at this time, we will help them move toward standards that will ensure regular and timely reporting.

We thank you again for the opportunity to review the report and provide comments.

Sincerely,



Steven J. Pecinovsky
Director, Departmental GAO/OIG Liaison Office

GAO Comments

1. We understand that DHS's organizational structure changed during the 2004 review process. To avoid confusion regarding the DHS units that had some involvement in this process, we have replaced references to the Office of International Enforcement (OIE) with DHS, as appropriate.
2. Our review focused on the 2004 biennial review process for 25 of the 27 Visa Waiver Program countries. We agree that DHS has taken some steps to improve the 2005 process for Italy and Portugal, whose reviews are still in process, and we discuss these improvements in our report. However, we disagree that DHS has corrected most of the problems associated with the 2004 review process. As we note in our report, as of June 2006, DHS had neither updated the interagency working group team members on the status of the reviews of Italy and Portugal, nor provided them with a timeline for proceeding with the review. Furthermore, stakeholders continued to express concern about DHS's lack of communication about the process and the findings. Therefore, we recommended that DHS finalize clear, consistent, and transparent protocols for biennial country assessments and provide these protocols to stakeholders at relevant agencies at headquarters and overseas.
3. We did not intend to suggest that the evaluation of U.S. security and law enforcement interests needed to be conducted or finalized during the in-country site visits. Our point is that important events may take place while the country assessments are in the clearance process. We believe that DHS should update the country assessments to reflect these events, such as large scale thefts of blank passports like the May 2005 theft that we noted in our report, to ensure that Congress has a comprehensive analysis of the current law enforcement and security risks posed by each country.
4. We agree that DHS cannot continue to incorporate data indefinitely into the country assessments. However, as we reported, the teams collecting information about the visa waiver countries' risks in 2004 used, in some cases, information from 2 years prior; by the time the summary report was issued in November 2005, some of the data was more than 3 years old. Indeed, as DHS noted elsewhere, the 2004 country assessments provided a "rearview mirror" and "backward-looking" evaluation. Thus, the assessments may not necessarily have contained the best information available at the time the assessments were finalized. Given the lengthy time it took for DHS to issue the November 2005 summary report to Congress, and to ensure future reports contain timely information when issued, we believe that

Congress should consider establishing a biennial deadline by which DHS must complete the country assessments and report to Congress.

5. We agree that continuous and ongoing evaluations of Visa Waiver Program countries are needed and recommended that DHS create real-time monitoring arrangements and provide additional resources to the Visa Waiver Program Oversight Unit to achieve this goal. However, as long as DHS is required to report biennially to Congress, DHS should ensure that future reviews are conducted in a timely fashion. Based on our review of the 2004 country assessment process, the assessments may not necessarily have contained the best information available at the time the assessments were finalized given the lengthy time it took for DHS to finalize its reviews.
6. We agree that it is in the U.S. government's best interest to engage with countries on global concerns identified during the course of the country assessment process. It is not our intention to inhibit this kind of consultation. Furthermore, we acknowledge that a consultative process may involve tradeoffs between timely reporting and complete information gathering and analysis. Our concern is that key stakeholders in headquarters and at overseas posts, as well as members of the in-country site visit teams, expressed concerns about their roles in the 2004 country assessment process, and stated that they had not received enough detail from DHS about the process and the findings. Thus, we recommended that DHS provide transparent protocols to all stakeholders that provide timelines for the entire assessment process, including the role of a site visit, an explanation of the clearance process, and deadlines for completion. We believe it is important that DHS finalize its standard operating procedures, and share these procedures with relevant stakeholders at headquarters and overseas. As we noted in our report, due to the lack of outreach and clear communication about its mission, OIE is limited in its ability to monitor the day-to-day law enforcement and security concerns posed by the Visa Waiver Program, and the U.S. government is limited in its ability to influence visa waiver countries' progress in meeting requirements.
7. We strongly agree that classified and sensitive information should be protected. However, we also believe that cleared U.S. officials at overseas posts in Visa Waiver Program countries, including ambassadors and deputy chiefs of mission, have a need to know the extent to which law enforcement and security concerns were identified during the mandated biennial reviews, and should receive copies of the final country assessments. Without the appropriate

information, such as was contained in the assessments, embassy officials can not be effective agents for the U.S. government with regard to these issues. We believe that the establishment of a classified sharing system that allows U.S. government agencies to access the country assessments is a positive step.

Appendix V: Comments from the Department of State



United States Department of State

*Assistant Secretary for Resource Management
and Chief Financial Officer*

Washington, D.C. 20520

JUL 19 2006

Ms. Jacquelyn Williams-Bridgers
Managing Director
International Affairs and Trade
Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548-0001

Dear Ms. Williams-Bridgers:

We appreciate the opportunity to review your draft report, "BORDER SECURITY: Stronger Actions Needed to Assess and Mitigate Risks of the Visa Waiver Program," GAO Job Code 320389.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report.

If you have any questions concerning this response, please contact Debbie Lopes da Rosa, Consular Officer, Bureau of Consular Affairs, at (202) 663-1175.

Sincerely,

A handwritten signature in black ink, appearing to read "Bradford R. Higgins".

Bradford R. Higgins

cc: GAO – Jess Ford
CA – Maura Harty
State/OIG – Mark Duda

Department of State Comments on GAO Draft Report:

**BORDER SECURITY: Stronger Actions Needed to Assess
and Mitigate Risks of the Visa Waiver Program
(GAO-06-854, Job Code 320389)**

Thank you for the opportunity to respond to your report *Stronger Actions Needed to Assess and Mitigate Risks of the Visa Waiver Program*. The Department of State concurs with the GAO that a strong and secure Visa Waiver Program (VWP) offers substantial benefits to the United States in the areas of international travel, trade, and commerce. The VWP also allows the Department to deploy limited consular resources to locations where the risk of immigration and other border security violations is higher. A properly administered VWP is a strong component of the U.S. "Secure Borders, Open Doors" commitment.

The Department of State has worked closely with the Department of Homeland Security (DHS) and other agencies in a joint effort to strengthen the VWP. As noted by the GAO, these efforts over the past five years have included the removal of two countries from VWP membership, greatly enhanced requirements for document security and integrity, and the imposition of VWP travel conditions on countries that have failed to meet the new requirements or satisfy other U.S. border security concerns. The Department continues to maintain an active and productive dialogue with its VWP partners on border security, recognizing that international travel, by its very nature, requires mutual cooperation. U.S. Embassies and Consulates in VWP countries, as well as Department offices in Washington, have provided substantial support to DHS' efforts to monitor and assess the VWP, and we will continue to do so. The Department agrees with the GAO that these efforts would benefit from enhanced communication to and from DHS and endorses an expansion of DHS information-sharing on VWP issues.

The Department of State also acknowledges the risk of misuse of previously lost or stolen passports to seek admission to the United States, particularly, in our experience, by persons who are not eligible for a visa. With regard to ensuring timely reporting on lost and stolen passports, we welcome the report's recommendations related to establishing clear guidelines and reporting mechanisms. Good communication with the VWP countries to articulate U.S. objectives and concerns related to lost and stolen passport reporting is absolutely critical for ensuring compliance with program

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requirements and guidelines and to address legitimate outstanding country concerns related to such reporting. Lost and stolen passport reporting is an especially complex matter, involving such issues as different legal restrictions on sharing data among VWP participating countries, varying passport numbering schemes, and the need for clear identification of data elements and personal information not currently collected in some VWP countries. Implementing data-sharing measures relative to lost and stolen passports is further complicated by the potential difficulties of lost and stolen passport hits for legitimate travelers, mechanisms to facilitate government-to-government sharing of appropriate information in such cases to resolve such hits, and the limitations on the ability of Interpol's reporting system to assist border inspectors in the admissions process. Again, the nature of international travel requires dialogue and mutual cooperation to find effective solutions to these challenges, and the Department is working actively with DHS to address all these concerns.

In its report, the GAO took issue with delays in finalizing the DHS report to Congress on the Visa Waiver Program. The Department would emphasize, however, that actions taken to address vulnerabilities in the VWP were not dependent on final publication of the report and were in fact undertaken soon after the Inter-agency Working Group identified them – more than six months before completion of the final report. We will continue to work with DHS to address any identified VWP security concerns as quickly as possible, irrespective of publication schedules. Our mantra is that border security is a 24/7 responsibility, and we act accordingly.

Appendix VI: Comments from the International Criminal Police Organization

International Criminal Police Organization
Organización Internacional de Policía Criminal

Organisation internationale de police criminelle
المنظمة الدولية للشرطة الجنائية

200, quai Charles de Gaulle
69006 LYON - FRANCE
Telephone : +33 4 72 44 70 05
secretary.general@interpol.int

INTERPOL

The Secretary General
Le Secrétaire Général
El Secretario General
الأمين العام

Ronald K. Noble

13 July 2006

Our Ref.:
2006/1432/OS/JG/sf

Subject:
GAO report on the Visa Waiver Program

Dear Director Ford,

I would like to thank the GAO for its interest in the tools that Interpol makes available to help its member countries secure safer borders for their citizens.

Background

By 2001, Interpol had identified the use of falsified stolen passports by terrorists and other criminals as a significant threat to international border security. No global central repository for information on stolen and lost travel documents existed at that time. This resulted in a situation with serious loopholes in national border security systems, which were being exploited by terrorists and other criminals.

As the world's only global law enforcement organization, with 184 Member Countries, Interpol took the view that it was in the best position to address this challenge, and we made it one of our highest priorities to create a global database of stolen and lost travel documents.

The SLTD Database

We launched our Stolen and Lost Travel Documents (SLTD) database in 2002. It contains passport numbers and information about the place and date of the theft or loss of the passports. It does not contain any nominal information that might implicate any privacy concerns. Interpol made this database available to all of the world's police forces through our global secure police communications system, called I-24/7. This meant that it was available at the Interpol National Central Bureau in each country.

At the time we implemented the database, only a handful of countries actively contributed information, but participation has since grown to 107 countries, including 23 out of the 26 Interpol Member Countries that participate in the US Visa Waiver program. Similarly, the number of documents recorded in the SLTD database has increased dramatically. In just four years time, that number has grown from less than 3,000 to over 11.6 million, and continues to grow daily.

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The United Nations Security Council, the G-8, the European Union, and the Asia Pacific Economic Cooperation (APEC), the Organization for Security and Cooperation in Europe (OSCE) and the International Civil Aviation Organization (ICAO) have all endorsed the use of this database as an effective tool against terrorism. The reason is straightforward.

As the 9/11 Commission found – “For terrorists, travel documents are as important as weapons. Terrorists must travel clandestinely to meet, train, plan, case targets, and gain access to attack.” After a terrorist attack, police frequently discover that the perpetrators were known suspects who had been traveling around the world plotting and executing their attack, while concealing their identities through the use of false passports. Stolen passports, particularly those stolen in blank form, present the greatest threat because they can be made into false passports that are among the most difficult to detect. They are highly prized by terrorists, commanding high prices on the black market, and arrested terrorists are often found in possession of them.

It has been reported, for example, that Ramzi Yousef, the mastermind behind the first World Trade Center bombing, entered the US using a falsified stolen Iraqi passport. Had the authorities known this at the time, that bombing may have been prevented.

Even with the heightened security following 9/11, the US government has documented cases in which aliens have entered the country using falsified stolen passports, including some from a foreign city that was home to an al Qaeda cell that played a significant role in supporting the 9/11 terrorists.

An individual named Ante Gotovina was wanted for War Crimes and Crimes Against Humanity. He used a falsified stolen passport to conceal his identity. The passport was listed in Interpol's database, but because border authorities were not checking this database, Gotovina's passport was stamped in 16 countries before he was finally apprehended in 2005.

In 2003, Serbian Prime Minister Zoran Djindic was assassinated by a man who was charged with having used a falsified stolen passport to travel extensively in planning and carrying out the assassination. His passport was stamped 26 times before he was finally captured.

Automated Access to the SLTD Database at Primary Inspection

To address this threat, Interpol developed technology that allows law enforcement officers to instantly check the Interpol Stolen and Lost Travel Document (SLTD) database at airports and other border entry points. There are no extra steps; the same swipe of the passport automatically checks the Interpol database in parallel with the check of the national database. This technology (called MIND/FIND), which is revolutionizing the way countries conduct border security, was launched in December in Switzerland. Using this technology, the Swiss conduct more than 300,000 database searches per month. And these searches get results -- each month the Swiss detect over 100 persons travelling with false passports. These numbers bear witness to the urgent need for all countries to implement Interpol's MIND/FIND technology.

France (Charles de Gaulle), Belgium and Lithuania have recently implemented it, and a small, but growing number of other countries are in the process of doing so as well. The US is among these countries, along with Spain, The Netherlands, Turkey, Croatia, The Bahamas, Saint Lucia, Jamaica and South Africa. As more countries implement this technology, more terrorists and other dangerous criminals will be apprehended at airports and other border entry points.

The best way for a country to protect its citizens from terrorists is to prevent the terrorists from entering the country in the first place. Unfortunately, in conducting border security, most countries check only their own national database, and do not check Interpol's global database. This should no longer be considered acceptable. Now that the global database exists, as well as the technology to access it at airports and other border entry points, doing so should be considered a moral imperative.

Appendix VI: Comments from the
International Criminal Police Organization

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Just imagine if a terrorist were to enter your country using a passport that is listed in Interpol's SLTD database, but your country failed to check this database, and this failure allowed the terrorist to perpetrate a deadly attack. How could that failure ever be justified? To ask this question is to answer it. The time has come for all countries to implement automated access to Interpol's SLTD database at all airports and other border entry points where passports are checked.

The more countries that implement such access, the more effective the global law enforcement community will be in preventing terrorists from travelling throughout the world in order to plan and execute their attacks. For this reason, we will continue to engage with the US and other member countries, working with them to roll out primary border control access to this database whenever possible.

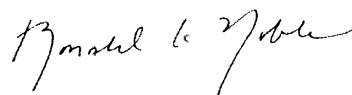
Worldwide Implementation

Unfortunately, many countries lack the resources to implement this technology. This means that there will be dangerous gaps in global security unless other countries devote resources to help plug these gaps. In other words, the wealthier countries must help the poorer countries as a matter of enlightened self interest. The poorer countries are often in possession of information that could be of great interest to law enforcement in other countries. In addition, it is in the interest of all countries to work together to enhance the likelihood of the detection and apprehension of terrorists wherever they may be found. Terrorists arrested in another country are thereby prevented from appearing in your country.

Keeping citizens safe from terrorists and other dangerous international criminals requires a comprehensive global approach. For the world's wealthier countries, it is no problem to implement automated access to Interpol's SLTD database. The problem is that the poorer countries cannot afford to do so. Interpol believes that this technology can be implemented at all of the world's poorer countries for approximately \$65 million. This is an exceedingly small price for wealthy countries, such as the US, to pay in order to gain this heightened security. I would urge the US and other wealthy countries to provide this funding so that Interpol can implement this important law enforcement tool worldwide.

I look forward to continuing to work with law enforcement in the US and elsewhere towards our shared objective of keeping the world's citizens safe from terrorists and other dangerous international criminals.

Yours sincerely,



Ronald K. Noble
Secretary General

cc: Mr Martin Renkiewicz
Head US NCB

Mr Jess T. Ford
Director International Affairs and Trade
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548, United States

Appendix VII: GAO Contact and Staff Acknowledgments

GAO Contact

Jess T. Ford, (202) 512-4128 or fordj@gao.gov.

Staff Acknowledgments

In addition to the contact named above, John Brummet, Assistant Director; Kathryn H. Bernet, Joseph C. Brown, Joseph Carney, Richard Hung, Jane S. Kim, Mary Moutsos, and Jena Sinkfield made key contributions to this report.

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