Observer

March 2004

Greenberg Traurig

GT Business Immigration Newsletter

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Immigration Law Seminar Series Planned

Beginning this month, GT will host a monthly luncheon seminar series to discuss hot topics in immigration. Senior human resource managers, executives, general counsel, and managers across industries, are directly impacted by immigration and tax regulations, the government agencies administering the regulations, and by employment enforcement audits. Join us for these seminars and learn how to strategize and improve your organization's understanding of global transfers and employment of foreign nationals. Our first seminar will feature I-9 Compliance and Audit issues, and will be held on March 31, 2004 at our offices in Washington D.C. Please contact Camilla Velasquez, conference organizer, at velasquezc@gtlaw.com for more information. You can register on-line at http://www.gtlaw.com/pub/events/index.htm.

H-1B Cap Reached - What Now?

The U.S. Citizenship and Immigration Services (USCIS) announced after business hours on February 17, 2004, that it received enough H-1B petitions to meet this year's cap of 65,000 new H-1B workers. USCIS will not accept any petitions received for new employment for the 2004 fiscal year after the close of business on February 17, 2004. The USCIS implemented the following procedures for the remainder of FY 2004:

- USCIS processed all petitions filed for first-time employment received by close of business February 17, 2004.
- USCIS will return all petitions and filing fees for first-time employment subject to the annual cap received after February 17, 2004.
- Petitioners may re-submit their petitions when H-1B visas become available for FY 2005. Cases can be submitted six months in advance of the start date, thus, cases with start dates of October 1, 2004, can be filed beginning April 1, 2004.

The restrictions above apply only to petitions for individuals requesting H-1B status for the first time. The following types of petitions do not count against the cap and USCIS will continue accepting and adjudicating these petitions:

- Petitions for changes in employment, or for concurrent employment, for current H-1B workers, *unless* the worker is changing from an employer who is *exempt* (i.e. educational institutions, nonprofit research institutions, governmental research organizations) to one who is *not exempt*. Petitions for an extension or amendment of H-1B status.
- Petitions for new employment at an "exempt" organization, i.e. institutions of higher education or related or affiliated nonprofit entities, nonprofit research organizations, and governmental research organizations.
- Petitions for H-1B workers under the Singapore and Chile Free Trade Agreements.

To date the USCIS has not released information or guidance on the many other concerns raised by the cap. One of the issues many foreign nationals will be facing is the impact of the cap on the status of individuals who are in the U.S. as students in F-1 status completing their optional practical training (OPT). For many F-1 students whose OPT employment authorization will be ending between now and October 1, 2004, there will be a gap in employment authorization. However, it is not yet clear whether an F-1 individual's status in the U.S. will be protected between the time OPT ends and H-1B status takes effect. USCIS has not indicated whether provisions will be made to bridge this gap in status, which may negatively impact eligibility for changes of status, travel, and obtaining permanent resident status in the future. In previous years, when reaching the cap was an issue, provisions were made to bridge this gap in status.

U.S. - VISIT

Post September 11, a series of changes have occurred at our nations border leading to tightened security, the implementation of new technology, longer lines, and stricter procedures. US-VISIT is the latest innovation in an effort to protect our borders.

New entry-exit procedures for nonimmigrants requiring a visa to enter the U.S.

Effective January 5, 2004, all nonimmigrant visa holders who are not subject to the National Security Entry Exit Registration System ("NSEERS special registration") and who are entering the U.S. are subject to United States Visitor and Immigrant Status Indicator Technology ("US-VISIT"). U.S. citizens and lawful permanent residents are exempted from US-VISIT, as are visitors coming to the U.S. pursuant to the Visa Waiver Program.

US-VISIT is currently implemented in designated ports of entry and ports of exit:

US-VISIT is being implemented in most, but not all, ports of entry and ports of exit. Currently, US-VISIT is not yet implemented at land ports of entry. For a listing of the ports of entry and ports of exit subject to US-VISIT, please visit www.dhs.gov/us-visit.

What is US-VISIT?

US-VISIT is a new U.S. entry-exit system with enhanced security to be used at designated ports of entry to and ports of exit from the U.S. The purpose of US-VISIT is to improve overall border management through the collection of arrival and departure information on foreign visitors to enhance the security of the U.S. and its individuals.

US-VISIT is an additional form of inspection and does not supersede any existing operating procedures of inspection currently in place.

What procedure does US-VISIT entail?

As part of the US-VISIT process, the Custom and Border Protection ("CBP") officer will obtain biometrics from applicable nonimmigrant visa holders to verify their identities and to authenticate their travel documents through digital fingerprinting of the visa holders' left and right index fingers, and through digital photographing.

How will the information obtained during US-VISIT be used?

The biometrics and other information will be used to determine if the nonimmigrant visa holder should be admitted to the U.S. Such information is checked against law enforcement and intelligence data to determine whether a nonimmigrant visa holder would pose a threat to national security, public safety, or is otherwise inadmissible. The biometric information will be shared with other governmental agencies.

What happens if a nonimmigrant who is subject to US-VISIT is unable and/or unwilling to comply with its entry-exit procedures?

A nonimmigrant visa holder subject to US-VISIT who fails to comply with the US-VISIT *entry procedure, where required, may be denied admission into the U.S. based solely on this failure.*

A nonimmigrant subject to US-VISIT who exits the U.S. at a port where US-VISIT is being implemented must "check out" at port work stations to provide requested information and biometrics for purposes which include, but are not limited to: verification of information already stored within the systems of US-VISIT; verification of his/her identity; and verification that this individual has not overstayed his/her permitted period of stay in the U.S. *A nonimmigrant who fails to comply with exit procedure, where required, may adversely affect his/her future admission to or visa issuance at a consulate for later entry into the U.S.*

What happens if a nonimmigrant subject to US-VISIT made a timely departure from a port of entry where US-VISIT is not in place?

A nonimmigrant visa holder (except those subject to NSEERS) who has entered the U.S. legally through US-VISIT may depart the U.S. through any port of exit. Such a nonimmigrant who is not subject to NSEERS, is not required to depart from the same port of entry or from a port that has US-VISIT procedures in place.

How does the DHS record a nonimmigrant's timely departure from a port of exit where US-VISIT is not in place?

Such a nonimmigrant should retain proof of evidence of timely departure from the U.S. For instance, the individual could retain airline ticket boarding passes for flights leaving the U.S., and

U.S. VISIT (cont'd.)

entry stamp(s) into a foreign country. An individual who has a valid I-94 Departure Record ("I-94"), when departing the U.S., must surrender this I-94 to the airline, which then sends it to the appropriate division of the U.S. Department of Homeland Security ("DHS") to ensure that such an individual's departure can be accurately recorded into the DHS system.

What happens if a nonimmigrant subject to US-VISIT is disabled to the degree where biometric information cannot be obtained?

Where the identity of such an individual with disability is not an issue, the CBP officer may exercise his/her discretion to waive the fingerprint and other biometric requirements. In such instances, the CBP officer may accept another biometric identifier or information that will reasonably identify the person.

What happens if a nonimmigrant who is subject to US-VISIT has privacy concerns for the biometric procedures?

Nonimmigrant visa holders subject to US-VISIT who have privacy concerns with its procedures are to be referred to secondary processing. At this moment, there are no guidelines to the general public with regard to such secondary processing and what this procedure will entail.

Such an individual may be denied admission to the U.S., especially if his or her identity is questionable.

The following classifications of individuals are exempted from the US-VISIT:

1. U.S. citizens;
2. U.S. lawful permanent residents;
3. Nonimmigrants who do not require a visa to enter the U.S. (e.g. Canadians, Visa Waiver Program visitors);
4. Children under 14 years of age;
5. Persons over the age of 79;
6. Aliens who hold a valid visa under:
   a) A-1, A-2, C-3 (except for attendants, servants or personal employees of accredited officials);
   b) G-1. G-2, G-3 and G-4;
   c) NATO-5 or NATO-6;
7. Classes of aliens designated by the Secretary of Homeland Security and the Secretary of State, in the future, to be exempted; and
8. In addition, the Secretary of Homeland Security, the Secretary of State, and the Director of the Central Intelligence Agency (CIA) may determine that an individual is exempt from US-VISIT.

Regardless of US-VISIT: DHS reserves the right to require fingerprints or other identifying information from any individual traveling to and from the U.S. whenever it has reason to doubt his/her identity.

Nonimmigrants whose biometric information has been collected during the US-VISIT may examine or make corrections to an inaccurate record of information:

Nonimmigrant visa holders whose information has been collected by US-VISIT, and who have concerns about their personal information may, to the extent permitted by law, examine their information and/or request correction of inaccuracies by contacting:

The Privacy Coordinator
US-VISIT Program
Border and Transportation Security
U.S. Department of Homeland Security
Washington, D.C. 20528

This newsletter article is prepared based on currently available information and is intended to assist our clients and the general public to make informed decisions regarding their travel plans.

For further information or updates on the US-VISIT program, and a list of ports of entry and ports of exit currently subject to US-VISIT, please visit www.dhs.gov/us-visit. You are welcome to contact imminfo@gtlaw.com for further information.

Global Visas

Spotlight on changes in the U.K. (by contributing writer Gavin Jones)

Over the past 12 months there have been a number of developments in the way the U.K. government has addressed foreign workers. The trend appears to be towards the government addressing the fact that it does not know how many overseas workers are in the UK and then installing a controlled immigration program. On top of this, as with most other areas of government, these programs and policies are to be funded by the users. The changes introduced last year can be summarized as follows:

All Home Office applications now require a fee. The only exception is where as a matter of EU law, fees cannot be charged (in which case the Home Office will not deal with an application quickly) or where as a matter of policy, the government has decided that it would be unfair for certain organizations to pay e.g. charities, schools etc.

All foreign nationals coming to the UK with a work permit for more than six months now must have entry clearance (a visa). Certain nationalities – visa nationals – will require a visa irrespective of the length of work permit granted; the government is introducing new machine readable codes for passport endorsements; there is now a specified form to advise the government when a work permit holder leaves their employment; the criteria under the Highly Skilled Migrant program were lowered and a lower threshold was introduced for those under 28; the restrictions on type of work and hours of work for commonwealth citizens in the UK under the working holidaymaker concession were also removed.

In 2004 it is expected that the following changes will be introduced:

1. Increased fees for applications. The government is proposing that in-country work permit application attract two fees. One for processing the work permit application (current estimate is £155 - £180), the second for passport endorsement (£95 - £125). It has been suggested that this second fee can be passed on to the employee

2. A revision of section 8 of the Asylum and Immigration Act. The documents providing the statutory defense to a charge of illegal employment is to be updated increasing the burden on employers.

Spotlight on the Netherlands

On March, 8th, the United States and The Netherlands will sign a protocol to the 1992 US-NL tax treaty for the avoidance of double taxation. The protocol provides, under certain conditions, for a complete exemption of withholding tax on dividend distributions from a U.S. resident company to a Dutch resident company and vice versa. Until that date such dividend distributions were subject to a 5% withholding tax. Furthermore, distributions by a U.S. branch from Dutch multinationals will under certain conditions no longer be subject to the current 5% branch profit tax.

The protocol will in principle enter into force on January 1, 2005. However, the withholding tax on dividend distributions will no longer be due after a period of two months has lapsed since the formal approval procedure has been finalized in both countries.

The Netherlands will strongly improve its position as "the gateway to Europe" for U.S. outbound investments. Furthermore, U.S. inbound investments from Europe through the Netherlands will benefit from this amendment.

H-2B Nonimmigrant Visas Reach Cap

The American Immigration Lawyers Association has reported that officials within USCIS have indicated that the 66,000 H-2B cap has been exhausted

The H-2B nonimmigrant program permits employers to hire foreign workers to come to the United States and perform temporary nonagricultural work, which may be one-time, seasonal, peak load or intermittent. There is a 66,000 per year limit on the number of foreign workers who may receive H-2B status during each USCIS fiscal year (October through September). Qualifying criteria for this visa category includes: the job and the employer's need must be one time, seasonal, peak load or intermittent; the job must be for less than one year; and there must be no qualified and willing U.S. workers available for the job.

IRS, SSN & ITIN – Oh My

In an effort to increase security and to properly identify individuals as authorized to reside and work in the U.S., among all of the other changes, enhancements and additions to the issuance of visas and to port of entry procedures, there has also been a change in the way the Social Security Administration processes and issues Social Security Numbers (SSN). What may have once been available to most people legally and physically present in the U.S. with minimal documentation, is now an elusive and much coveted item that may require giving up your soul to the Social Security Administration (SSA) in exchange. A little dramatic perhaps, but talking to the dependents of foreign nationals who are in the U.S. in valid status, not even their souls will get them the much coveted SSN.

Those who are in the U.S. in valid status but with no work authorization are basically out of luck. SSA policy is that they don't qualify for an SSN, so one will not be issued, except for the very limited and elusive exception of "valid nonwork reason." SSA proposals and current application of their standards restrict this to instances where the applicant needs the SSN to:

1. Satisfy federal statute or regulation requiring the foreign national to have an SSN to receive federally funded benefit such as TANF or SSI Benefits to which the foreign national has established entitlement.
2. Satisfy state or local law requiring SSN to receive general public assistance benefits to which the alien has established entitlement.

In the past, SSA operational instructions allowed the issuance of an SSN if a local statute or regulation required the SSN. This often included state statutes requiring an SSN to issue driver's licenses, or for motor vehicle registration. This is no longer the case, making it very difficult for dependents to obtain driver's licenses, among other things.

In addition to limiting the pool of qualified applicants, the SSA has also added verification procedures prior to issuing an SSN. In light of these new verification methods for foreign nationals who have recently obtained employment authorization, it may take up to two months or longer for such individuals to obtain an SSN. This extensive delay in processing is caused by SSA's cross-reference and verification with the U.S. Citizenship and Immigration Services (USCIS), formerly INS. Due to the fact that the issuance of the SSN is dependent on USCIS' confirmation of employment authorization, whether or not USCIS has updated their database and how quickly they respond to the SSA inquiry often leads to these long delays.

It is important to note that the delay should not prevent a company from placing the foreign national on payroll. The USCIS and not the SSA verifies and authorizes employment in the U.S. The foreign national's I-94 card depicting the status and validity dates is the document verifying the individual's status in the U.S. and corresponding employment authorization. Therefore, the foreign national can begin employment upon receipt of a valid I-94 card irrespective of the status of their application for an SSN.

According to Internal Revenue Service (IRS) regulations, if an employee does not have a social security number, to initiate employment, the employee has the option of providing documentation verifying that the SSN has been requested from the SSA. When receipt acknowledgement is provided, the employer can then maintain the employee information in their records with the SSA receipt until the SSN is issued. If the SSN is not available at the time the company is filing its return and reporting wages paid to such employee pursuant to regulations, the receipt information and documentation can be submitted in lieu of the SSN.

As a practical matter, an employer may want to discuss the available options with its payroll administrator. Generally, there are two options available: (1) provide the employee with a "dummy" number and enter the employee in the payroll system while applying the appropriate withholdings; or (2) estimate withholding amounts and pay the employee's net salary. Once the SSN is obtained, the withholding can then be applied to the employee's account and the company will then need to amend its returns.

For those who have tried to obtain an alternative identifier to the SSN, and applied for an Individual Taxpayer Identification Number (ITIN) with the IRS, that option is also disappearing. The IRS issues ITINs only to individuals who are required to have a U.S. taxpayer identification number but who do not have, and are not eligible to obtain an SSN from the SSA. ITINs are issued regardless of immigration status because both resident and nonresident aliens may have U.S. tax return and payment responsibilities under the Internal Revenue Code. Individuals must have a filing requirement and file a valid federal income tax return to receive an ITIN, unless they meet an exception (just as limited and elusive as the SSA exceptions).

IRS, SSN & ITIN (cont'd.)

Concerns over restrictions to obtain an SSN are fundamental. Many of our record keeping systems have been developed with the assumption that an SSN will be available as the primary identifier. As the SSA continues to revise its regulations in an effort to reduce fraud and misuse of social security cards and numbers, it is becoming more and more difficult for foreign nationals temporarily residing in the U.S. to function and lead "normal" lives. What was once a simple task of obtaining a driver's license or adding a spouse to life insurance or health insurance plans is slowly becoming more difficult than obtaining authorization to enter the U.S. with dependents. Hopefully, our record-keeping systems in industries affecting the day-to-day lives of individuals living and working in the U.S. will be able to adjust quickly enough to allow for efficient and smooth transitions to the implementation of a new "identifier" that is not linked to the now infamous SSN.

Applying for a Visa? Security Checks Likely

Along with the additional security measures being taken at our borders and with most federal agencies involved in some way or another with the granting of benefits to foreign nationals, U.S. consulates abroad have also increased their security measures when processing nonimmigrant visa applications (H, L, O, P, etc). So if you are planning on traveling abroad and applying for a visa, be ready for the possibility of spending several weeks, sometimes even several months waiting for your visa to be issued. While this may not be the case for a majority of the applications being filed, being "stuck" abroad is still a definite possibility that foreign nationals should think about before leaving the country without a valid visa that will allow them to re-enter the U.S.

These additional measures that some individuals are subjected to and that are leading to unexpected delays involve three kinds of security checks affecting nonimmigrant visa processing. If the application is flagged as a possible security concern when a consulate receives a visa application, a request is sent to the Department of State (DOS) for security clearances.

The first possible check is the CONDOR clearance. It is difficult to anticipate whether or not an individual will be subject to this security clearance since the criteria is classified. However, some of the factors that may result in a name being cross referenced through CONDOR include:

- Information disclosed on the visa application Form DS-157. Responses to questions regarding travel to predominantly Muslim countries in the last 10 years, prior employment, military service for certain nationals, and specialized skills or training.
- Country of Birth, Citizenship, or Residence.
- Individuals born in one of the seven countries currently designated as state sponsors of terrorism, Cuba, Iran, Iraq, Libya, North Korea, Sudan, or Syria.
- Individuals born in one of the "List of 26" countries which the USCIS has not publicized but includes Arab and Muslim countries including: Afghanistan, Algeria, Bahrain, Eritrea, Lebanon, Morocco, North Korea, Oman, Qatar, Somalia, Tunisia, the United Arab Emirates, Yemen Pakistan, Saudi Arabia, Bangladesh, Egypt, Indonesia, Jordan, and Kuwait among others.

DOS reports indicate that approximately 80% of CONDOR clearances are completed within 30 days. If a CONDOR check has been pending for over 90 days, inquiries to the DOS are recommended.

The second possible check is the MANTIS clearance. This is a "sensitive technology" alert based on whether an applicant is involved in any of the 15 categories found on the Critical Fields List (CFL) of DOS' Technology Alert List (TAL). The TAL includes an expanded list of technologies with potential "dual-use" applications. Some of these technologies appear benign but are deemed to have potential military applications.

The list is very comprehensive and includes almost every possible associated technology or skill involving chemistry, biochemistry, immunology, chemical engineering, civil engineering and pharmacology to name a few. Having such a broad all-inclusive list means that most research scientists, physicians, academics and engineers involved in any of these

Applying for a Visa? (cont'd.)

fields could be subject to the MANTIS clearance. So it is very possible to run across a consular officer who will decide to err on the side of caution and obtain a MANTIS clearance prior to issuing a visa. Based on current DOS guidelines, generally, a MANTIS clearance is not warranted if the technology falls within the public domain where it is widely available to the public, or if it involves information that would generally be taught in an academic course. In addition, recently there have been reports of a substantial increase in the number of MANTIS "hits," particularly for nationals from Russia, China and Hong Kong.

DOS reports indicate that approximately 80% of MANTIS clearances are completed within 30 days. If a MANTIS clearance has been pending for over 90 days, inquiries to the DOS are recommended.

The third possible check involves then NCIC Criminal clearance. Unfortunately, for those with common names (Gonzalez, Mohammad, Smith, etc.) false hits are occurring with increased regularity. An NCIC clearance can take four to six weeks to process. Approximately seven million names have been dumped into the system, and about half of them are Latino, resulting in a large number of false hits and delays for persons with common Latino names. If you have a common name, Third Country National processing in Mexico may be advisable at posts that have implemented a pilot fingerprint program. This pilot program allows posts to process clearances on "false" hits the same day, and clearances for positive hits in as little as two days.

Even if you have maintained a spotless immigration record and have never had more than a traffic violation, false hits are the biggest headache for unsuspecting visa applicants. Individuals with common Muslim or Latino names are almost guaranteed hits in CONDOR or NCIC.

For some an alternative may be available. It appears that some third country national applicants from the "list of 26" may be able to apply for their visas at certain Canadian consulates. However, in some cases the applicant must be prepared to wait for the final decision on their application in Canada or outside of Canada.

If you are planning on applying for your visa in Canada some of the things you should be aware of include:

- A proper Canadian visa to enter and remain in Canada or re-enter Canada is required.
- In some situations, if you are applying for a visa in the same category as previously issued, consider applying 60 days prior to the expiration of your valid multiple-entry visa. When applying for the new visa, specifically request from the Consular Officer NOT to cancel your existing valid visa so that you may use the visa to re-enter the U.S. while the security check is pending.
- Some applicants have been issued NIVs on the same day, while others had to wait approximately one to two weeks.

As for visa revalidation, the DOS now only accepts "clearly approvable" cases. Due to the security checks being conducted by the Department of State (DOS), the Revalidation Unit at the DOS Visa Office has been rejecting applications for visa revalidation. The Revalidation Unit has advised that the DS-157 form responses sometimes trigger a Visa CONDOR check. When the CONDOR is triggered, the Revalidation Unit will not issue the visa and the application is returned. If the application is returned, the foreign national must apply for the visa outside of the U.S. The individual will be subject to the CONDOR check at that time.

Unfortunately, for the time being, for a foreign national residing in the U.S. on a temporary basis, traveling abroad for a business meeting or to see family requires a little more preparation and consideration to ensure that all possible risks are addressed and considered. As various agencies and governments continue to share information and expand their database of names and security concerns to enhance our nation's security, we hope that new and developing technology will be used as well to reduce the long wait and the dread of being "stuck" outside while an identity is verified and reverified before rejoining employers and families left behind in the U.S.

Congressional Update

The Senate Committee on the Judiciary Subcommittee on Immigration, Border Security and Citizenship, held their hearing on "Evaluating a Temporary Guest Worker Proposal," on Thursday, February 12, 2003. Senator Saxby Chambliss (R-GA) presided.

The following testified:

- Sen. John McCain (R-AZ)
- Sen John Cornyn (R-TX)
- Sen. Chuck Hagel (R-NE)
- Sen. Larry Craig (R-ID)
- The Honorable Asa Hutchinson, Under Secretary, Border and Transportation Security
- The Honorable Eduardo Aguirre, Director Citizenship and Immigration Services
- The Honorable Steven J. Law, Deputy Secretary of the DOL
- Charles Cervantes, Director of Legal Affairs & Privacy, U.S.-Mexico Chamber of Commerce
- Richard R. Birkman, President Texas Roofing Company
- Dr. Vernon Briggs, Professor of Industrial and Labor Relations-Cornell University
- Demetrios Papademetriou, Co-Director Migration Policy Institute

Immigration Subcommittee Looks at President's Reforms

Senators, Bush administration officials, migration experts and other stakeholders applauded the administration's proposal for immigration reform at a hearing before the Senate Judiciary's Immigration Subcommittee.

Several Senators took the unusual step of speaking before the panel regarding the need for reform. The Senators, who included Sen. John McCain, Sen. Hagel and Sen. Craig, focused on the need to recognize and correct the problem of an ever-increasing flow of illegal immigration. U.S. Department of Homeland Security (DHS)and U.S. Department of Labor (DOL) officials outlined at least some details of the President's plan to overhaul the nation's immigration laws saying that the proposed guest worker program would grant legal status to illegal immigrants who were living in the United States on January 7, 2004. Director of Citizenship and Immigration Services Eduardo Aguirre stated that under the President's plan legal status would also be granted to the families of immigrants participating in the program. The plan outlined would also include travel and the ability of such workers to recapture funds through individual savings accounts or social security repatriation, both to encourage participation and eventual return to the home country.

Guest workers, who would be matched up with willing employers who have proven in advance the unavailability of U.S. workers for jobs for which the temporary workers are sought, would be granted temporary work permits for an initial period of three years. The President's proposal would permit renewals of that status.

The President's plan also calls for a "reasonable increase" in immigrant visas, but does not tie the increase to this program. In fact, many of the government's witnesses went out of their way to demonstrate that the Bush plan was not tied to any amnesty for such workers, to make clear that a future program would not allow those who break the law to "get ahead" of those waiting in the long line for immigrant visas and green cards.

Undersecretary for Border and Transportation Security Asa Hutchinson focused on the need for greater worksite enforcement to accompany the grant of legal status as a needed incentive against future flows of illegal immigration and to encourage workers to avail themselves of the legal but temporary status. Several witnesses tied the imminent need for reform to current perceived and documented instances of immigrant smuggling and document fraud. Senator Chambliss, in his opening statement, noted that employers need to share the burden in enforcement through employer sanctions after the current burdensome system is corrected.

The final panel of witnesses included immigration experts as well as representatives from the business community. Mr. Birkman, head of a family-owned roofing company, represented the Essential Worker Immigration Coalition. He relayed the frustration his company feels when trying to recruit workers in the U.S. He also described the worker shortages in the roofing industry both current and long-term.

Enforcement of current law was in fact a strong focus of many witnesses and members of the Subcommittee. Senator Jon Kyl (R—AZ) emphasized that enforcement needed to be brought to the forefront of current policy implementation before any reform of the system could be addressed. Senator Jeff Sessions (R-AL) also noted that respect for the law was an absolute

Congressional Update (cont'd.)

predicate for future reform including any plan along the line of the President's proposal, stating that the subcommittee and Congress needed to "take our time in thinking about it" and not acting in the absence of meaningful enforcement. Senator Craig stated that more enforcement was not the answer and underscored the fact that the employer sanctions system is broken.

We at GT are looking forward to providing continuing coverage on this very important issue.

Immigration Seminars

Greenberg Traurig continues its tradition of providing complimentary presentations to companies on outbound immigration issues as well as discussions on money saving tax strategies for employees as well as employers. GT provides information, guidance and assistance to our clients on visa matters relating to the international relocation of personnel to, and between, countries outside of the United States. Please contact Dawn Lurie at luried@gtlaw.com for further information.

What's New at GT

GT Business Immigration Of Counsel, quoted in Benefitnews.com article addressing issues raised by the President's proposals for immigration reform to include provisions for essential workers. http://www.benefitnews.com/detail.cfm?id=5599&terms=|dawn||lurie|

Greenberg Traurig Grows in California

Greenberg Traurig opens two new offices in Silicon Valley and Orange County to join our previously established LA office. For the press release go to: http://www.gtlaw.com/pub/pr/2004/california04a.htm

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The *GT Business Immigration Newsletter* is published by the business immigration practice group at Greenberg Traurig http://www.gtlaw.com/about/overview.htm. GT Of Counsel, Dawn M. Lurie serves as the Editor. The newsletter contains information concerning trends and recent developments in immigration law. Moreover, the authors analyze and report on relevant immigration related issues as well as legislative issues.

Finally, the *GT Business Immigration Newsletter* serves as an invaluable resource to individuals, human resource managers, recruiters, and company executives who must keep current on these matters.

SPREAD THE WORD

If you have enjoyed reading this newsletter and have found useful information in it, we'd greatly appreciate your help in spreading the word about it. You can do this by forwarding a copy to your friends and professional peers and telling them about it.

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MARCH 2004 RESOURCES

March 2004 State Department Visa Bulletin Link: http://travel.state.gov/visa_bulletin.html
Service Center Processing Times
Vermont: http://www.gtlaw.com/practices/immigration/processing/cis/vermont.pdf
Texas: http://www.gtlaw.com/practices/immigration/processing/cis/texas.pdf
Nebraska: http://www.gtlaw.com/practices/immigration/processing/cis/nebraska.pdf
California: http://www.gtlaw.com/practices/immigration/processing/cis/california.pdf
National Benefits Center: http://www.gtlaw.com/practices/immigration/processing/cis/nbcprocessing.pdf
Department of Labor Regional Processing Times: http://www.gtlaw.com/practices/immigration/processing/dol.htm
State Employment Agency Processing Times: http://www.gtlaw.com/practices/immigration/processing/swa.htm