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## UNH Professor Testifies Before the Senate Subcommittee on International Operations and Terrorism

October 23, 2003 - 9:30 a.m.

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### Testimony of Dr. John Aber

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**Before the Senate Subcommittee on International Operations and Terrorism**

**Regarding**

**The Post 9-11 Visa Reforms and New Technology: Achieving the Necessary Security Improvements in a Global Environment**

**October 23, 2003 - 9:30am 419 Dirksen Senate Office Building**

### Greeting and Introduction

Good Morning Chairman Sununu and members of the Committee. Thank you for holding this hearing on a topic of central importance to the vitality of America's enterprise in science and technology. Events since September 11, 2001 have reaffirmed the need to maintain an American edge in science and technology. A good case can be made that the vigor of our science and technology community derives in large measure from what one of my German-born colleagues calls a "traditionally open and welcoming atmosphere for free discussions and large-scale international efforts" here in the US. Creating the political and administrative membrane that protects the nation's borders but continues to encourage the free exchange of ideas and people in support of a vigorous scientific community is a daunting challenge. This testimony will reinforce the importance of the international exchange of students and scholars to our research enterprise, and present information on the impact of changes in the student visa system since 9/11, using examples from both the University of New Hampshire and other major research institutions around the nation. I'll close with a statement on perceptions of the US as result of changes in immigration processes, and a small set of case histories that put a human face on this important issue.

### Importance of the Free Movement of Students and Scholars

There is general agreement that the optimum management of our research enterprise requires free and open access by US Universities and laboratories to the pool of aspiring students and scholars who hold citizenship in other countries. This pool provides a significant part of the

energy and talent that drives our technological advancement. The importance of this source of talent has been emphasized by recent statements by the Secretaries of State and Homeland Security in support of visa policies that both protect our citizens and provide legitimate access, stating that “such travel is important to our international, economic and national values and interest.”

In presentations to a house subcommittee on a related topic, Dr. Shirley Tilghman, President of Princeton University, and Dr. David Ward, President of the American Council on Education, summarized a number of important facts regarding the impact of foreign-born scholars on the American research effort that are generally known, but bear repeating here. These include, in approximate numbers:

- 1/3 of all Ph.D.s in science and engineering, and 2/5 of those in Computer Science and Engineering, are awarded to foreign-born students
- 2/3 of foreign students who receive Ph.D.s here in science and engineering remain in the country and work here
- 2/5 of faculty in engineering departments across the country are foreign-born

In addition to quantity, the quality of work derived by our research enterprise through the efforts of non-native students and scholars is also evident. Foreign-born researchers make up:

- Nearly 1/5 of the members of the National Academy of Sciences
- More than 1/3 of US Nobel laureates

Dr. Ward also supplied important statistics on the positive impact of foreign students on the American economy, both directly while students, and eventually through their contributions to technological advancement in US industries. He also makes the point that visiting students and scholars can be our best proponents of the American way of life abroad, and play an important role in increasing international understanding.

The testimonies of Dr. Ward and Dr. Tilghman, both eminent scholars and educators, are especially relevant in that they are both foreign-born.

National studies and our experience at the University of New Hampshire both show that this large representation of international students in technical degree programs does not result from preferential recruitment or retention. At the national level, the long-standing lack of interest in science curricula by US students is a lamentable but undeniable fact of life, and is the subject of a number of initiatives by both governmental agencies and private foundations and institutes. At the University of New Hampshire we combine an enduring commitment to the kind of high-quality undergraduate educational experience generally associated with small liberal arts colleges, with focused support and achievement in selected areas of research excellence. One of our strongest areas is in Space Physics, particularly Sun-Earth interactions. Recruiting graduate students from the US into this field is a tremendous challenge, even though the potential for a successful and stimulating professional career is very high. Without foreign-born students, many from Europe as well as other parts of the world, this important program would lack the energy and stimulation provided by young and developing scholars, and would be severely hampered.

## **Impacts of Changes in Visa Processing Since 9/11**

### **Operational and Fiscal**

In her testimony to the House Science Committee, Dr. Tilghman noted changes that, from her perspective, had the greatest impact on visa processing. These included: 1) expansion of the

Technology Alert List (TAL) to include the biological sciences and urban planning as Critical Fields of Study; 2) guidance to consular officers that restrictions on the export of controlled goods and technologies (the TAL) apply to nationals of all countries and not just to those who are from state sponsors of terrorism; 3) guidance that consular officers are not expected to be versed in all fields on the TAL, but should "listen for key words or phrases from the Critical Fields list" while interviewing applicants; and 4) elimination of time limitations on decisions by the State Department to suspend the processing of a student visa request. Each of these changes has increased the number of cases that are referred to the State Department and other federal agencies for additional screening and security approval, and the increased case load has resulted in prolonged processing time for nearly all student visa applications.

The impact of this change on visa processing time has been reinforced in a statement submitted to the Committee on Government Reform by the Alliance for International Educational and Cultural Exchange and NAFSA: Association of International Educators. That statement stressed the importance of the waiver of personal interviews as an important mechanism for increasing the efficiency of visa application processing. These groups questioned the ability of the departments involved to handle a change from a 20% interview rate to a 90% interview rate without substantial increases in funding.

At UNH, although we continue to see occasional outright visa refusals (generally due to presumed immigrant intent on the part of F-1 students and exchange students in J-1 status), we have seen no real increase over the level of recent years -- about two to four cases each year, generally from China, Africa, and developing countries. More important adverse impacts derive from the increased time required to complete a successful application. Consular officers at US embassies and consulates overseas now more than ever err on the side of caution in deciding whether to refer a case to Washington for a "security advisory opinion" based on a combination of the applicant's country of citizenship (or, occasionally, country of birth) and the degree of sensitivity of their field of endeavor here in the USA. Russian and Chinese applicants working in fields where technology transfer is a major concern are especially likely to face delays because their cases are being referred to Washington. Although the Department of State tells us that eighty per cent of cases referred to Washington are cleared in thirty days or less, our anecdotal experience, and that of our colleagues at other institutions, does not appear to confirm this statistic.

It would be valuable to have data to underlie the perception that visa processing times have increased. The perception is surely there. Visits to the websites of major research universities across the country reveal a consistent set of statements regarding increased processing time and the requirement to begin the visa process early. MIT has instituted official policies that provide guidance on how to deal with foreign students who are delayed to the point that they cannot start a semester on time. The letter announcing those policies (released in February of this year) does suggest, however, that the number of cases involving substantial delays in student arrival time have been few.

There is an effort currently underway to determine whether processing times are increasing or decreasing. Three organizations representing the university community (NASULGC, NAFSA and AAU) have posted a questionnaire on the web ([www.nafsa.org/survey](http://www.nafsa.org/survey)) to obtain information both about processing times and about numbers of current and past applications and enrollments by foreign students.

Two of these organizations (AAU and NAFSA) conducted a preliminary survey with results released in October 2002. Summary conclusions included that there had been a "substantial increase in the numbers of student visa delays and denial for fall 2002 when compared with fall 2001." Particular delays occurred with students from China, India and Muslim countries, with "hundreds" of students missing program start dates. The most common consequences of these

delays were unrecoverable costs to students, loss of tuition revenue to colleges, and decisions by students to go elsewhere. One campus in particular, the University of Minnesota, reported a decline of 24% in international student applications for the fall of 2003.

The agencies involved have been bringing technology to bear in an effort to reduce processing time. SEVIS is a web-based system developed and operated by ICS to allow electronic submission and review of applications for student visas. Early difficulties with the technology reported by Dr. Tilghman last spring appear to have been solved, and SEVIS appears to be reducing processing times. Open questions remain about whether or not to charge a fee for this application method, and how this fee, if charged, should be collected. Otherwise, the system appears to be functional and helpful - a good use of technology to assure our own technological growth.

The system has impacted university international student offices by increasing upfront and operational costs associated with the local management of this system. Dr. Tilghman says that Princeton spent \$38,000 for hardware and committed a full time person to implement SEVIS locally.

At UNH, implementation of SEVIS has required considerable amounts of time and effort to ensure that UNH is in compliance with new tracking requirements, especially relative to visiting students. Our part-time foreign student advisor and our full-time director devoted approximately 90 per cent of their time to SEVIS-related issues during the first half of this year - in addition to time spent during the many months leading up to initial implementation. This additional time commitment has resulted from the need to gather additional information from students, inform them of the requirements of the new program, and - because the stakes are so high for students who could fall out of legal status in case of error - double and triple checking the accuracy of all information and procedures. Time has also been spent working with national professional associations contributing information with the goal of influencing future regulations and processes.

Financial costs are yet to be determined. While we anticipate little need for additional hardware, we will undoubtedly need to purchase one of several software programs that can interface between SEVIS and our current data base system. This could eventually cost \$10,000 or more. Meanwhile, the need to confirm enrollments by hand rather than by "batching" data reported through SEVIS to the Department of Homeland Security is costing our office considerable staff time. Many smaller schools which are starting off from a less sophisticated level find the necessary investments of hardware, software, and staff training overwhelming.

### **Student Enrollment**

In general, we have not seen a significant change in the numbers of foreign applicants to UNH degree programs. In the absence of the post-9/11 measures undertaken by government agencies, we could have expected a continued modest increase each year, but it is difficult to ascribe the lack of growth to specific factors. The general economic down-turn and other factors might be equally responsible. Likewise, we have not seen a significant increase in visa refusals or delays among our student cases. These trends mirror those reported to the House by Dr. Tilghman for a number of large private universities.

The one exception to this trend at UNH is a decrease of approximately twenty per cent in our English language programs, which tend to be of relatively short duration. Students coming to these programs are more likely to be discouraged by added costs and bureaucratic obstacles than are degree candidates. Many other institutions, especially those which offer English language instruction only, have seen their numbers cut in half. Because students coming initially to learn English tend to remain in the US as degree candidates, decreased enrollments in other programs

will likely follow with a lag time of one year.

### **Student and Scholar Mobility**

Changes in immigration processes are also having an impact on the movement of students and scholars, affecting their intellectual progress and contributions to American research. One example involves Chinese students, who are both a large proportion of the total foreign student pool, and one which has traditionally faced higher visa refusal rates than those from most other countries. As a result of past practice and recent changes, Chinese students who are successful in getting to the US are most often reluctant to risk a trip outside the US during the course of their studies or research, for fear of being refused a reentry visa. They are therefore less likely to maintain the professional, personal, and family contacts which are needed to persuade consular officers that they won't remain in the US indefinitely.

The number of countries for which individual interviews for visas are required is increasing, and now includes India, Russia, predominantly Muslim countries, and even Western European countries and Japan. As significant challenges in the visa process increase, more and more of our visitors are deciding not to go home to visit family, or to attend important international professional conferences, for fear of lengthy disruption of their studies and/or research.

### **International Perceptions**

One of the charges from the committee regarding this testimony was to comment on "perceptions of our nation and our people abroad." Here we must rely on anecdote alone, as there are no valid indices of how our scientific colleagues view the US as an environment for research. UNH has a significant presence in international research both in space physics and in the geosciences, and in other selected areas. A number of our most productive faculty spend a considerable part of their working life abroad. One of them has expressed to me a general concern about scientific collaborations, citing recent changes in practices as creating significant obstacles to international cooperation and creating the perception in the international research community that the US is becoming more of a "closed shop." He suggests that this, combined with enormously constraining regulations about technology transfer has led to a rapid decline in collaboration opportunities. One specific example involved limitations on the selection of lead scientists for a NASA project that suggested to him an environment that "diminishes greatly the reach of US scientific enterprises."

Visa challenges at the national level are now combined with additional complex requirements from other government agencies relating to drivers' licenses from state Departments of Motor Vehicles, social security numbers, and even tax information. Because of this, our international students and scholars are forced to divert increasing amounts time, attention, and emotional energy into issues of daily life and away from their studies and research. All of these factors in the long run seriously affect the efficiency with which they contribute to our collective progress. As they report back to their countrymen on these issues, the United States will may well continue to lose market share in the multi-billion-dollar international education business to Australia, Canada, and the United Kingdom which have become increasingly competitive in attracting the best and brightest young minds worldwide.

As an example, a recent article by Janice Spaskey in the Chronicle of Higher Education reports on a Canadian program to speed visa processing for students wishing to study in Alberta, to increase that province's competitive advantage relative to Australia and the US. The provincial Minister of Learning developed this idea after a trip to Asia during which he became convinced that visa-related matters were important when students were deciding where to study. These potential foreign students were clearly seen as a resource worth competing for, and the current visa processing time of 3 to 9 months an important deterrent to success in that competition.

## Case Histories

I'd like to give some of these general statements a human face by providing a few stories that underlie them. Anecdotes are dangerous because in a system as large as this there are bound to be occasional mistakes and individual delays for acceptable reasons. But these stories do exemplify how real people are being seriously impacted, and their important scholarly efforts delayed, by the current operation of the visa system. Identifying information has been removed from these case studies, but all are verifiable through direct communications. Personnel at NASULGC have been very helpful in drawing some of these stories together.

### Case 1:

A Chinese graduate student in Physics from returned to China for family business in December, 2002. When he left for China, he did so with all of the appropriate documentation and maintained all immigration regulations while there. He initially interviewed for his return visa in early January, providing the follow-up information on his research area, which was requested by the visa officer. With no news on the visa after 6 weeks, the student visited to embassy to inquire about the status of his application. The student was informed that his application needed a security advisory opinion (SAO) from Washington and that he must wait. In the middle of February, a Congressional office inquired about the student's application with the State Department and learned that it was still under review. The approval for a return visa was finally granted in June and the student returned to campus almost immediately thereafter. The long delay had a number of negative consequences for the student and the university. The student was expected to graduate in August, 2003. Now, because of the delay, his graduation date has been pushed back by a year to August, 2004. A multi-million dollar federally-backed multi-university research project, of which he was a critical member, and the activities associated with it were delayed, including publications. The student was involved in another multi-million dollar federally-funded equipment simulation project, which was also delayed.

### Case 2:

A third-year Chinese Biochemistry Ph.D. student visited her family during the holiday break in 2002. Upon attempting to renew her visa to return to the U.S. to continue her studies on January 3, 2003, she was told she would have to wait for the security clearance on her visa application. Her application was not cleared for the return visa until early August, 2003. She missed an entire semester.

### Case 3:

A second-year graduate student from China in Naval Architecture & Marine Engineering visited China in September, 2002, with her academic advisor to participate in a conference and present a paper at a major Chinese university. Upon applying for her renewal visa to reenter the U.S to continue her studies, she has been delayed by the security check. She is still waiting for clearance and has to arrange make up courses in order to set the proper time for your Ph.D. qualifying exams.

### Case 4:

A student from Turkey in the last semester of his Master's program in Economics was scheduled to begin his PhD program Fall 2003. Although his student visa is valid until December 2003, he decided to apply for a new visa during the summer while visiting his family. His visa appointment was on July 24th; apparently there was a "hit" on the name check. His fingerprints have already been taken twice and as we understand it, the visa clearance process is still not resolved. He was forced to defer his PhD program to Spring 2004 and the department had to

reassign his assistantship at the last minute.

Case 5:

An undergraduate student from Canada who graduated last May applied for Optional Practical Training (OPT) in March 2003 for employment beginning 07/22/2003 and ending 07/21/2004 (F-1 students are allowed 12 months of employment in their field of study). The OISS entered all the necessary information in SEVIS, as required. She received a job offer with a begin date of 06/01/2003. Unfortunately, "data fixes" in SEVIS can only be done through the SEVIS Help Desk but instead of changing the dates as the OISS requested, her OPT data was inadvertently cancelled (apparently a miscommunication among Help Desk "counselors"). It took multiple phone calls to the Help Desk and the Vermont Service Center, with the help of Sen. Judd Gregg's office to finally resolve her case. Her OPT was finally approved on July 8. She was unable to leave the country while her case was pending for fear that she will not be able to return.

Case 6:

Due to an error in the SEVIS system, a J-visa nursing scholar could not reenter the United States for nearly four weeks after going to a border city in Canada for lunch. She is one of the coordinators of the university's Healthy Asian Americans Project. Due to her delay in returning to the U.S., alternate staffing had to be arranged to coordinate a major outreach program.

*I* NASULGC = National Association of State Universities and Land Grant Colleges, NAFSA = NAFSA: Association of International Educators, and AAU = Association of American Universities.