

Siskind's Immigration Bulletin
February 3, 2005

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Siskind Susser serves immigration clients throughout the world from its offices in the US, Canada, Mexico, Argentina and the People's Republic of China. To schedule a telephone or in-person consultation with the firm, go to <http://www.visalaw.com/intake.html>.

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1. Openers

Dear Readers:

There are a couple of key immigration issues to watch this week in Washington. The first will have happened by the time you likely will see this email. President Bush is expected to bring up his immigration proposal in the State of the Union address to the nation tonight. Many pundits believe the plan has little chance of passing since it is controversial in Bush's own party. But the President insists he is willing to use political capital to make it happen and several key allies in the Congress have given him vocal support. So look for particular language in the speech to signal whether the President truly intends to push on this issue.

The other very controversial immigration proposal in the news is the introduction of the REAL ID Act, the driver's license bill, which would make it very difficult for both undocumented as well as non-immigrants to obtain driver's licenses. The bill will also tighten rules in asylum cases, expand terrorism-related deportation grounds and provide for expanding the fence along the US-Mexico borders. Congressman James Sensenbrenner, the chair of the House Judiciary Committee is pushing very hard for his bill and is threatening to hold up all other immigration-related bills if he does not get what he wants. A competing bill has been introduced in the House by Virginia Republican Tom Davis which only covers the driver's license issue and this may stop the momentum toward a quick vote on the Sensenbrenner bill that seemed to be building. Davis is chair of the powerful Government Reform Committee

We have learned from Capitol Hill sources that the bill could come up for a vote as early as next week. The bill voted on is likely to be a combination of the Davis and Sensenbrenner measures.

The Sensenbrenner bill is a classic example of legislative overkill. The recently enacted Intelligence Reform and Terrorism Prevention Act requires the Secretaries of the Transportation and the Homeland Security departments to promulgate regulations that will establish minimum security measures for drivers' licenses and identification cards. The REAL ID Act, goes further and will cause substantial headaches for the millions of people in the US on temporary visas who are in complete compliance with our laws. And the bill does not address how states will deal with the inevitable safety issues that will result when undocumented drivers simply choose to drive without licenses rather than proving they know the rules of the road.

Some political observers believe the Davis bill will move because it will make it tougher for Democrats to explain a "no" vote when the asylum provisions are not included in the bill. The driver's license provisions are seen as being more popular with the public.

Finally, as always, we remind readers that we're lawyers who make our living representing immigration clients and employers seeking to comply with immigration laws. We would love to discuss becoming your law firm. Just go to <http://www.visalaw.com/intake.html> to request an appointment or call us at 800-748-3819 or 901-682-6455.

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Regards,

Greg Siskind

2. The ABC's of Immigration: Q-1 Visas for International Cultural Exchange Visitors

What is a Q-1 Visa?

The Q-1 nonimmigrant visa is designed for foreign nationals who are coming to the US to participate in an international cultural exchange program. The Q-1 visa was created in 1990, mainly because of lobbying efforts by the Walt Disney Company and similar businesses. They feared that the J programs they were using would be revoked because their foreign employees were working in generally unskilled positions, even though they were participating in cultural exchanges. Under the Q-1 visa, the foreign national can engage in practical training and employment so long as they are also sharing the history, culture and traditions of their home country.

What are the requirements of a Q-1 visa?

The first requirement in obtaining a Q-1 visa is for the employer to obtain approval of their international cultural exchange program from the Attorney General. To obtain approval, the program must meet the following requirements:

- It must take place in a school, museum, business, or similar location where the public, or at least the interested public, can be exposed to aspects of a foreign culture as part of a structured program;
- The program must include a cultural component as an essential and integral part of the cultural visitor's employment or training; and
- The program cannot provide for employment or training independent of the cultural component.

Program approval is sought by filing Form I-129 with the Q Supplement. The application must be accompanied by documentation of the program. There must also be evidence that the employer has designated a management level employee to administer the program and act as a liaison to the USCIS. The application can be filed with either the USCIS Service Center with jurisdiction over the petitioner's headquarters, or the Service Center with jurisdiction over where the employee will be located.

The employer must also meet a number of other requirements. It must be engaged in the active conduct of business in the US. It must also attest that it will pay the foreign national the same wages it would pay a US worker in the area, as well as demonstrate that it has the financial ability to pay the offered wage, and that it will provide the same working conditions US workers in the area would have. However, there is no need to file the attestation with the Department of Labor.

How do I apply for a Q-1 Visa?

The application for Q-1 visa classification is made at the same time as the request for program designation. After the program is approved, however, subsequent applications can be made with only the copy of the original program approval. More than one person can be included on the same petition. Also, substitutions can be made during the program, but the new person's period of stay is limited to the terms of the originally approved petition. A substitution does not need to be filed with the USCIS, but can be done by a letter to the consular office where the replacement will apply for a visa. The letter must provide all of the information on the foreign national listed below, and must include a copy of the original approval notice.

The person who will receive Q-1 status must meet the following requirements:

- Be at least 18 years old;
- Be qualified to perform the service of receive the type of training listed in the application; and

- Be able to communicate with the US public about the cultural aspects of their home country.

Also, applicants who have previously been granted Q-1 status must remain outside the US for one year before again being granted Q-1 status.

The petition must include the following information about each person to be given Q-1 status:

- Date of birth;
- Country of nationality;
- Educational level;
- The position, title and job description they will occupy; and
- The wages offered.

If the cultural program involves multiple locations, a complete itinerary must be provided. The Q-1 program designation is approved either for the length of the program, or 15 months, whichever is shorter. The person is also given 30 days after the expiration of the visa in which to make travel plans for their departure from the US.

People in Q-1 status are allowed to apply for a change of status within the US. They can also, while remaining in Q-1 status, switch employers. However, the total stay in the US is still limited to 15 months.

Finally, while there is no derivative status for dependents of people in Q-1 status, the State Department Foreign Affairs Manual states that dependents should be granted B-2 visas for the duration of the Q-1 visa holder's stay in the US, up to 12 months at one time.

3. Ask Visalaw.com

If you have a question on immigration matters, write Ask-visalaw@visalaw.com. We can't answer every question, but if you ask a short question that can be answered concisely, we'll consider it for publication. Remember, these questions are only intended to provide general information. You should consult with your own attorney before acting on information you see here.

4. Border and Enforcement News

According to the *Washington Times*, sixty-four Border Patrol agents have been assaulted in the past three months along a 260-mile stretch of the Arizona-Mexico border — the country's busiest illegal entry point — as the U.S. government continues to strive for operational control of the region. As law-enforcement efforts have increased, so have the incidents of violence and the intensity of the attacks on the agents in the stretch known as the Tucson sector — which are averaging one assault every two days and are on pace to increase this year by 80 percent.

A Chevrolet Suburban carrying 28 occupants rolled in Yuma, Arizona last week, injuring everyone in the truck. A U.S. Border Patrol agent said every injured person that had been identified thus far was an illegal alien. He said the accident remained under investigation, but there was a clear suspicion that this was a case of alien smuggling. This was far from the first time the Border Patrol had stopped vehicles carrying loads of this size or even more. However, the agent said none of those vehicles had ever crashed.

5. News From The Courts

Li v. Ashcroft, 2005 U.S. App. LEXIS 818.

The Ninth Circuit Court of Appeals reviewed a Board of Immigration Appeals' decision affirming an Immigration Judge's denial of a petitioner's application for asylum. The Petitioner is a native and citizen of China, and a practitioner of the Falun Gong religion. She sought asylum in the United States from alleged religious persecution by the Chinese's government. The Board of Immigration Appeals affirmed the ruling against the Petitioner, claiming that inconsistencies in the record led them to doubt the Petitioner's credibility.

The Ninth Circuit Court found that the Board of Immigration Appeal's adverse credibility claim was not supported by any substantial evidence. The Court stated that there was no inconsistency in the fact that State Department materials note that "some" Falun Gong practitioners have difficulty obtaining passports, and that the Petitioner was able to obtain a passport in her own name. They further held that the Board of Immigration Appeals engaged in impermissible speculation concerning the Petitioner's name not appearing on a list of known Falun Gong practitioners in China, and that the Board of Immigration Appeals improperly found an inconsistency between the Petitioner's testimony and an off-the-record request made by her attorney regarding documents concerning the Petitioner's termination from her job. The Court stated that the Petitioner should have been able to explain the perceived discrepancies, and that the Board of Immigration Appeals' decision that the Petitioner lacked credibility because she did not provide any corroborating evidence was unsupported and incorrect.

Because the Board of Immigration Appeals and the Immigration Judge failed to answer the question of whether the Petitioner's testimony, if found credible, would be sufficient to establish eligibility for asylum, the Ninth Circuit remanded the proceedings back to be determined consistent with their findings.

6. Government Processing Times

Processing times are available this week for the following Service Centers:

Nebraska (02/01/2005): <http://www.visalaw.com/nebraska.com>

7. News Bytes

Texas Attorney General has stopped a fraudulent immigration consultant who charged several families hundreds of dollars for unauthorized legal advice and representation in immigration matters. Consumers claim the defendant, Carlos Carvajal, also falsely represented himself as a former immigration judge, and maintained he had connections with the Bureau of Citizenship and Immigration Services. Attorney General Greg Abbott will seek a permanent injunction, restitution and fines against Carvajal at a May 18 trial.

Republican Senator John McCain recently supported President Bush's guest worker immigration proposal, which would temporarily fill jobs that go unfilled in a controlled manner. McCain posed a rhetorical question for Republican lawmakers who have criticized Bush's plan, asking whether those individuals would like to see the homebuilding industry, resort industry and restaurants to shut down. McCain and Democrat Senator Edward M. Kennedy are working on a reform bill that has many of the president's immigration ideas.

8. International Roundup

Three Iraqis and one Tunisian were detaining 20 illegal immigrants in a deserted house in Athens to extort from their captives more cash than what was initially agreed to smuggle them into the country, Greek police said Friday. The gang kept the immigrants locked up in the house for four days, deprived them of sufficient food and water and threatened to sell them on to other criminals to force money from their relatives here, police said in a statement.

Police raided the house and arrested the extortionists on Wednesday. Twenty-eight passports of other immigrants from Iraq, Pakistan and Bangladesh and a wooden stick were found on them. They were led before a public prosecutor to hear people smuggling and illegal immigration charges. The captive immigrants had agreed to pay between 2,500 and 3,000 euros (3,250-3,900 dollars) each to be smuggled into Greece from Turkey.

The German embassy in Ankara, Turkey announced last week it had overhauled its much-criticized visa application system that saw hundreds of Turks line up outside the mission, often camping in the street for days. The embassy will introduce an appointment system on February 10, under which visa applicants will be invited to the embassy at a previously determined date and time and will be able to hand in their applications in just one hour, German Ambassador Wolf Ruthart Born said in a news conference.

9. Legislative Update

For a review of all the immigration bills that have been recently introduced, visit our legislative chart at www.visalaw.com/advocacy.html.

H.CON.RES.31: Expressing the sense of Congress with respect to human rights in Central Asia.

Sponsor: Rep. Ros-Lehtinen, Ileana [FL-18] (introduced 1/26/2005)

Committees: House International Relations

Latest Major Action: 1/26/2005 Referred to House committee.

Status: Referred to the House Committee on International Relations.

[H.R.295](#): -- Private Bill; For the relief of Konstantinos Ritos.
Sponsor: Rep. Ramstad, Jim [MN-3] (introduced 1/20/2005)
Committees: House Judiciary
Latest Major Action: 1/20/2005 Referred to House committee.
Status: Referred to the House Committee on the Judiciary.

[H.R.323](#): To redesignate the Ellis Island Library on the third floor of the Ellis Island Immigration Museum, located on Ellis Island in New York Harbor, as the "Bob Hope Memorial Library".
Sponsor: Rep. Engel, Eliot L. [NY-17] (introduced 1/25/2005)
Committees: House Resources
Latest Major Action: 1/25/2005 Referred to House committee.
Status: Referred to the House Committee on Resources.

[H.R.334](#): To designate Angola under section 244 of the Immigration and Nationality Act in order to make nationals of Angola eligible for temporary protected status under such section.
Sponsor: Rep. Lynch, Stephen F. [MA-9] (introduced 1/25/2005)
Committees: House Judiciary
Latest Major Action: 1/25/2005 Referred to House committee.
Status: Referred to the House Committee on the Judiciary.

[H.R.342](#): To provide for adjustment of immigration status for certain aliens granted temporary protected status in the United States because of conditions in Montserrat.
Sponsor: Rep. Owens, Major R. [NY-11] (introduced 1/25/2005)
Committees: House Judiciary
Latest Major Action: 1/25/2005 Referred to House committee.
Status: Referred to the House Committee on the Judiciary.

[H.R.368](#): To establish and rapidly implement regulations for State driver's license and identification document security standards.
Sponsor: Rep. Davis, Tom [VA-11] (introduced 1/26/2005)
Committees: House Government Reform; House Judiciary
Latest Major Action: 1/26/2005 Referred to House committee.
Status: Referred to the Committee on Government Reform, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

[H.R.431](#): -- Private Bill; For the relief of Flavia Maboloc Cahoon.
Sponsor: Rep. Filner, Bob [CA-51] (introduced 1/26/2005)
Committees: House Judiciary
Latest Major Action: 1/26/2005 Referred to House committee.
Status: Referred to the House Committee on the Judiciary.

[S.3](#): A bill to strengthen and protect America in the war on terror.
Sponsor: Sen. Gregg, Judd [NH] (introduced 1/24/2005)
Committees: Senate Finance
Latest Major Action: 1/24/2005 Referred to Senate committee.
Status: Read twice and referred to the Committee on Finance.

[S.6](#): A bill to amend the Internal Revenue Code of 1986 to provide permanent family tax relief, to reauthorize and improve the program of block grants to States for temporary assistance for needy families and to improve access to quality child care, and to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low-income Americans to gain financial security by building assets, and for other purposes.

Sponsor: Sen. Santorum, Rick [PA] (introduced 1/24/2005)

Committees: Senate Finance

Latest Major Action: 1/24/2005 Referred to Senate committee.

Status: Read twice and referred to the Committee on Finance.

10. State Department Visa Bulletin

IMMIGRANT NUMBERS FOR FEBRUARY 2005

A. STATUTORY NUMBERS

1. This bulletin summarizes the availability of immigrant numbers during February. Consular officers are required to report to the Department of State documentarily qualified applicants for numerically limited visas; the Bureau of Citizenship and Immigration Services in the Department of Homeland Security reports applicants for adjustment of status. Allocations were made, to the extent possible under the numerical limitations, for the demand received by January 10th in the chronological order of the reported priority dates. If the demand could not be satisfied within the statutory or regulatory limits, the category or foreign state in which demand was excessive was deemed oversubscribed. The cut-off date for an oversubscribed category is the priority date of the first applicant who could not be reached within the numerical limits. Only applicants who have a priority date earlier than the cut-off date may be allotted a number. Immediately that it becomes necessary during the monthly allocation process to retrogress a cut-off date, supplemental requests for numbers will be honored only if the priority date falls within the new cut-off date.

2. Section 201 of the Immigration and Nationality Act (INA) sets an annual minimum family-sponsored preference limit of 226,000. The worldwide level for annual employment-based preference immigrants is at least 140,000. Section 202 prescribes that the per-country limit for preference immigrants is set at 7% of the total annual family-sponsored and employment-based preference limits, i.e., 25,620. The dependent area limit is set at 2%, or 7,320

3. Section 203 of the INA prescribes preference classes for allotment of immigrant visas as follows:

FAMILY-SPONSORED PREFERENCES

First : Unmarried Sons and Daughters of Citizens: 23,400 plus any numbers not required for fourth preference.

Second: Spouses and Children, and Unmarried Sons and Daughters of Permanent Residents: 114,200, plus the number (if any) by which the worldwide family preference level exceeds 226,000, and any unused first preference numbers:

A. Spouses and Children: 77% of the overall second preference limitation, of which 75% are exempt from the per-country limit;

B. Unmarried Sons and Daughters (21 years of age or older): 23% of the overall second preference limitation.

Third: Married Sons and Daughters of Citizens: 23,400, plus any numbers not required by first and second preferences.

Fourth: Brothers and Sisters of Adult Citizens: 65,000, plus any numbers not required by first three preferences.

EMPLOYMENT-BASED PREFERENCES

First : Priority Workers: 28.6% of the worldwide employment-based preference level, plus any numbers not required for fourth and fifth preferences.

Second : Members of the Professions Holding Advanced Degrees or Persons of Exceptional Ability: 28.6% of the worldwide employment-based preference level, plus any numbers not required by first preference.

Third : Skilled Workers, Professionals, and Other Workers: 28.6% of the worldwide level, plus any numbers not required by first and second preferences, not more than 10,000 of which to "Other Workers".

Fourth : Certain Special Immigrants: 7.1% of the worldwide level.

Fifth : Employment Creation: 7.1% of the worldwide level, not less than 3,000 of which reserved for investors in a targeted rural or high-unemployment area, and 3,000 set aside for investors in regional centers by Sec. 610 of P.L. 102-395.

4. INA Section 203(e) provides that family-sponsored and employment-based preference visas be issued to eligible immigrants in the order in which a petition in behalf of each has been filed. Section 203(d) provides that spouses and children of preference immigrants are entitled to the same status, and the same order of consideration, if accompanying or following to join the principal. The visa prorating provisions of Section 202(e) apply to allocations for a foreign state or dependent area when visa demand exceeds the per-country limit. These provisions apply at present to the following oversubscribed chargeability areas: CHINA-mainland born, INDIA, MEXICO, and PHILIPPINES.

5. On the chart below, the listing of a date for any class indicates that the class is oversubscribed (see paragraph 1); "C" means current, i.e., numbers are available for all qualified applicants; and "U" means unavailable, i.e., no numbers are available. (NOTE: Numbers are available only for applicants whose priority date is earlier than the cut-off date listed below.)

	All Chargeability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PHILIPPINES
Family					
1 st	22JAN01	22JAN01	22JAN01	22OCT94	15OCT90
2A*	01OCT00	01OCT00	01OCT00	15NOV97	01OCT00
2B	22AUG95	22AUG95	22AUG95	22FEB92	22AUG95
3 rd	08JAN98	08JAN98	08JAN98	22MAR95	01JUN90
4 th	08JAN93	08JAN93	15MAY92	08JAN93	22SEP82

*NOTE: For February, 2A numbers EXEMPT from per-country limit are available to applicants from all countries with priority dates earlier than 15NOV97. 2A numbers SUBJECT to per-country limit are available to applicants chargeable to all countries EXCEPT MEXICO with priority dates beginning 15NOV97 and earlier than 01OCT00. (All 2A

numbers provided for MEXICO are exempt from the per-country limit; there are no 2A numbers for MEXICO subject to per-country limit.)

	All Chargeability Areas Except Those Listed	CH	IN	ME	PH
Employment-Based					
1 st	C	C	C	C	C
2 nd	C	C	C	C	C
3 rd	C	01JAN02	01JAN02	C	01JAN02
Other Workers	C	C	C	C	C
4 th	C	C	C	C	C
Certain Religious Workers	C	C	C	C	C
5 th	C	C	C	C	C
Targeted Employment Areas/Regional Centers	C	C	C	C	C

CH = China (mainland born), IN = India, ME = Mexico, PH = Philippines

The Department of State has available a recorded message with visa availability information which can be heard at: (area code 202) 663-1541. This recording will be updated in the middle of each month with information on cut-off dates for the following month.

B. DIVERSITY IMMIGRANT (DV) CATEGORY

Section 203(c) of the Immigration and Nationality Act provides a maximum of up to 55,000 immigrant visas each fiscal year to permit immigration opportunities for persons from countries other than the principal sources of current immigration to the United States. The Nicaraguan and Central American Relief Act (NACARA) passed by Congress in November 1997 stipulates that beginning with DV-99, and for as long as necessary, up to 5,000 of the 55,000 annually-allocated diversity visas will be made available for use under the NACARA program. **This reduction has resulted in the DV-2005 annual limit being reduced to 50,000.** DV visas are divided among six geographic regions. No one country can receive more than seven percent of the available diversity visas in any one year.

For February , immigrant numbers in the DV category are available to qualified DV-2005 applicants chargeable to all regions/eligible countries as follows. When an allocation cut-off number is shown, visas are available only for applicants with DV regional lottery rank numbers BELOW the specified allocation cut-off number:

Region	All DV Chargeability Areas Except Those Region Listed Separately		
AFRICA	AF	20,225	Except: Nigeria

			17,600
ASIA	AS	5,700	Except: Bangladesh 4,700
EUROPE	EU	16,600	
NORTH AMERICA (BAHAMAS)	NA	13	
OCEANIA	OC	535	
SOUTH AMERICA, and the CARIBBEAN	SA	1,125	

Entitlement to immigrant status in the DV category lasts only through the end of the fiscal (visa) year for which the applicant is selected in the lottery. The year of entitlement for all applicants registered for the DV-2005 program ends as of September 30, 2005. DV visas may not be issued to DV-2005 applicants after that date. Similarly, spouses and children accompanying or following to join DV-2005 principals are only entitled to derivative DV status until September 30, 2005. DV visa availability through the very end of FY-2005 cannot be taken for granted. Numbers could be exhausted prior to September 30. **Once all numbers provided by law for the DV-2005 program have been used, no further issuances will be possible.**

C. ADVANCE NOTIFICATION OF THE DIVERSITY (DV) IMMIGRANT CATEGORY RANK CUT-OFFS WHICH WILL APPLY IN MARCH

For March , immigrant numbers in the DV category are available to qualified DV-2005 applicants chargeable to all regions/eligible countries as follows. When an allocation cut-off number is shown, visas are available only for applicants with DV regional lottery rank numbers BELOW the specified allocation cut-off number:

Region	All DV Chargeability Areas Except Those Region Listed Separately		
AFRICA	AF	22,800	Except: Nigeria 17,600
ASIA	AS	5,900	Except: Bangladesh 4,700
EUROPE	EU	17,150	
NORTH AMERICA (BAHAMAS)	NA	13	
OCEANIA	OC	650	
SOUTH AMERICA, and the CARIBBEAN			

D. POTENTIAL OVERSUBSCRIPTION OF THE EMPLOYMENT-BASED THIRD PREFERENCE "OTHER WORKER" CATEGORY

During fiscal year 2005, 5,000 visa numbers are provided by law for use in the Employment-based Third preference "Other Worker" (EW) category. This annual limit is divided into twelve approximately equal monthly allotments. If there are sufficient numbers to satisfy all demand, the category can be considered "current". Whenever demand exceeds

the supply of numbers available for allotment in a particular month, the category must be considered to be "oversubscribed" and a visa availability cut-off date is established. Continued heavy applicant demand, primarily for CIS adjustment of status cases, is expected to require the oversubscription of the EW category in the near future. This action will be necessary in order to hold EW number use within the FY-2005 annual numerical limit. The establishment of an EW cut-off date beginning as early as March cannot be ruled out, and would apply to all chargeability areas.

11. Canadian Corner

JANUARY 2005

January 21, 2005 – New Passport Office in Brampton, Ontario

The city of Brampton is getting a new passport office. The new office will open its doors to the public on January 24, 2005. Passport offices in the Greater Toronto area issued more than 604,000 passports in the fiscal year 2003-2004. The passport office forecasts another 15 per cent increase for passport services in the Greater Toronto area during the 2004-2005 fiscal year.

January 14, 2005 – New Citizenship and Immigration Minister

The Minister of Citizenship and Immigration announced on January 14, 2005 that she was stepping down as the Minister. The Minister for the last few months has been plagued by various questionable ethical decisions. The Prime Minister announced the appointment of the Honorable Joe Volpe as the new Minister of Citizenship & Immigration.

January 3, 2005 – Citizenship & Immigration Canada responds to the crisis in South East Asia

Citizenship and Immigration Canada is fast-tracking existing applications of Family Class applicants under the Immigration and Refugee Protection Act who have been and continue to be seriously affected by the disaster and who have immediate family members in Canada.

December 29, 2004 – Safe Third Country Agreement Comes into force today

The safe third country agreement with the United States came into force on December 29, 2004. Generally, certain asylum seekers in Canada and the United States will be required to make their claim in the country where they were last present. This means that the asylum seekers arriving in Canada at the land border from the United States will not be eligible to have their refugee claim determined in Canada, unless they fall within an exception as outlined in the amended regulations governing the agreement. Similarly, the agreement allows the United States to return to Canada asylum seekers attempting to enter the United States from Canada. The agreement applies only to refugee claims made at a land border port of entry, and not refugee claims made at airports, marine ports or inland offices.

If you have any questions about Canadian Immigration laws please contact Leonard Pearl at our Canadian office (lpearlvisalaw@sprint.ca or 905-764-8767).

12. GAO Comments on Nonimmigrant Alien Annual Address Reporting Requirement

Because of growing concern over the government's need to locate aliens, the Enhanced Border Security and Visa Entry Reform Act of 2002 directed the General Accounting Office (GAO) to study the feasibility and the utility of a requirement that each nonimmigrant alien in the United States self-report a current address on a yearly basis.

The Department of Homeland Security (DHS) officials told the GAO that while implementing an annual address reporting requirement for nonimmigrant aliens is technically feasible, such a requirement would increase the number of reporting forms DHS would have to process. In turn, this increase would raise form-processing costs from an estimated \$1.6 million to at least an estimated \$4.6 million per year, according to DHS, which does not include the cost of enforcing the annual reporting requirement.

The consensus of U.S. Immigration and Customs Enforcement agents, who investigate activities that may violate immigration law, was that a self-reporting system would be of limited use in locating aliens who are avoiding contact with the government. Nonimmigrant aliens who do not wish to be located are not likely to comply with an annual requirement to self-report address information. Consequently, agents use other databases to locate this class of alien as well as nonimmigrant aliens who may not be aware of address reporting requirements. Public and private databases that record information concerning benefits, an alien's department of motor vehicle information concerning benefits, an alien's department of motor vehicle records, or credit bureau information are examples of information sources that agents have used to locate nonimmigrant aliens. Despite the unreliability of self-reported information, some agents did recognize the possibility of limited enforcement benefits for implementing an annual address reporting requirement, such as verifying that compliant nonimmigrant aliens are still in the country and providing a basis for detaining noncompliant nonimmigrant aliens. However, existing systems are available for compliant nonimmigrant aliens to notify DHS of address changes. Also, DHS already has the authority to detain all aliens not in compliance with current change of address reporting requirements but has seldom used the authority. Consequently, it is questionable whether the usefulness of an annual reporting requirement would outweigh the cost of implementation and enforcement.

13. Real ID Act Introduced

Last week, House Judiciary Committee Chairman F. James Sensenbrenner, Jr. (R-WI) introduced legislation, the Real ID Act, containing terrorist travel provisions that were dropped from legislation enacted last month that addresses the work of the 9/11 Commission.

The measure will require all states to comply with strong security standards when issuing driver's licenses, which include tough identification standards and the expiration of driver's licenses when the alien's visa expires. In addition it will tighten the asylum system, give judges more flexibility in deciding the credibility of witnesses in asylum cases, close the 3 mile gap in the fortified U.S./Mexico border fence in the San Diego area and ensure that terrorism is grounds for deportation from the country.

The news for non-immigrants is especially bad. Many people have statuses that are only valid for a few months at a time so frequent renewals of licenses will be needed. Furthermore, motor vehicle agency officials often are not sophisticated about immigration law and experience in states with similar provisions has demonstrated that many people have not been granted driver's licenses even though they held valid non-immigrant status.

The legislation also includes closing the 3-Mile Hole in the fortified U.S./Mexico Border Fence Near San Diego, and would keep terrorists out of the U.S. by ensuring all terrorism-related grounds of inadmissibility are grounds for deportation.

A fight is expected in Congress over this legislation because the legislation will be opposed by Senate Democrats, open borders groups, and the American Civil Liberties Union.

The American Immigration Lawyers Association released a statement last week proposing that the Real ID Act would be detrimental to the welfare of the country in that it will (1) increase the number of uninsured, unlicensed drivers; (2) limit the critical law enforcement utility of Department of Motor Vehicle databases; (3) make it difficult for people fleeing persecution to obtain refuge in the United States; (4) undermine free speech and association; (5) and waste valuable resources, both economic and environmental, on false border security solutions.

14. *Washington Post* Poll on Immigration Issues Released

The *Washington Post* recently released its latest ABC News-*Washington Post* poll evaluating the President's popularity and the extent to which the public remained divided on Bush and key issues.

Among the issues the poll addressed was the President's handling of immigration. The *Post* reported that 54% of Americans disapprove of the President's handling of immigration, compared with 58% disapproval of the President's handling of the budget deficit, 52% disapproval on the economy, and 51% disapproval on health care. According to the poll, the American people do support the direction the President seems to be going in on immigration reform - by a nearly 2-1 margin.

Respondents were asked "Do you think illegal immigrants who are living and working in the United States now should be offered a chance to keep their jobs and eventually apply for legal status, or do you think they should be deported back to their native country?" Sixty-one percent said undocumented immigrants should be able to keep their jobs and apply for legal status, compared to 36% who thought they should be deported. Men, women, Whites, Blacks, older, younger, educated, and less educated adults all seem to agree that deportation is not the solution to the vexing issue of what to do with undocumented immigrants.

The ABC News-*Washington Post* poll shows a more even split among Republicans, with 55% supporting undocumented immigrants being able to keep their jobs and apply for legal status and 43% supporting deportation. Midwesterners were the most evenly split group, 50% for jobs/legal status, and 43% for deportation.

The poll of 1,007 adult Americans was conducted January 12-16, 2005, and was released by the *Post* on January 18. It has a margin of error \pm 3 percentage points for the overall

sample. The poll and *Washington Post* coverage is available at <http://www.washingtonpost.com/wp-dyn/politics/polls/>.