Discussion Paper on the Impact of Homeland Security Measures on International Business in the State of Florida

Prepared By:

International Trade and Business Development
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Executive Summary

Since September 11th, 2001 various sweeping measures have been enacted by the United States Congress designed to protect our country from terrorism. Concurrently, the Department of Homeland Security (DHS) and the U.S. State Department have instituted policies increasing control and scrutiny over the entry of both goods and visitors into our country. These measures include: The USA Patriot Act, the Maritime Transportation Act, the Bioterrorism Act, the Aviation and Transportation Security Act, the Enhanced Border Security and Visa Entry Reform Act and several others.

While these measures are well intentioned and generally necessary, it is becoming quite clear that they are having unintended negative consequences on a broad spectrum of our international economic sectors. In general, it appears that these measures have altered the traditional careful balance in U.S. policy between security and business facilitation, to the detriment of the international business sector in particular. It is important to point out that every state of the Union is being affected by these measures to some extent. The State of Florida, however, due to its geographic position, large volume of international trade and investment activity, our role as a hemispheric entrepot, and our position as a leading tourism destination, is particularly vulnerable to these negative consequences. Unless remedies are found that allow the Federal government to maintain the integrity of our security apparatus while allowing business to function efficiently, these measures carry the potential of altering Florida's destiny for the worse.

There is growing evidence that some of these measures are already impacting many of Florida’s key international economic sectors including the state’s airports, seaports and logistic companies, merchandise trade, commercial aviation, travel and hospitality, healthcare, education and real estate. The fact that many of Florida's principal trading partners tend to be small third-world nations lacking the resources and expertise to effectively comply with many of the new security requirements, and whose citizens require visas to enter the U.S., immeasurably compounds our challenges. Longer term, there is a real possibility that these measures may curtail Florida's ability to attract foreign direct investment, despite our continued efforts to improve our state's business climate.

Successfully addressing these issues will be a daunting task for many reasons, including:

A. The security threat to U.S. citizens and facilities is very real. In such an environment, lobbying on behalf of business facilitation, if in anyway perceived to be at the expense of public safety, is precarious at best. Elected officials will not be willing to take up this cause without well thought out alternatives that safeguard the public safety.

B. Individually, none of these measures represents an insurmountable problem for Florida's competitiveness. Only when you are able to aggregate the impact of the various measures on a wide variety of industries can one begin to gauge their true impact.

C. There is a temptation to perceive the situation as a South Florida issue or, at best, as a large metropolitan area issue and not one that affects all Floridians.

D. Not only are all these issues under the jurisdiction of the federal government but are frequently within the domain of multiple federal agencies. Therefore, remedies – as we found with our successful effort in partnership with the Governor's office to address the International-to-International (ITI) passenger crisis at Miami International Airport – require the buy-in of multiple federal agencies, making the process of addressing these issues slow and cumbersome.

E. There is no comprehensive way to address all these issues, as their unintended effects derive from a broad range of legislative and agency directives.

Therefore, a strategic approach to benchmarking the impact of these issues on Florida's economy is crucial and finding possible remedies is imperative if we are to make progress in confronting these challenges. Benchmarking should extend beyond Florida, however, to include similar impacts on comparable U.S. (large, border) states such as California, Texas, and New York. Such inclusion will reinforce the fact that Homeland Security measures affect not just South Florida or Florida alone, but all states with a high level of international tourism, trade and investment activity.

Following is a brief description of the industries and sectors most affected by the various Homeland Security measures and directives. A number of key points in this paper were excerpted from a study prepared by the Greater Miami Chamber of Commerce and Florida International University ***(The Impact of Post-9/11 Security Measures on South Florida's International Business Community, October 2003)***. We wish to express our gratitude for their early insight into the need to address these issues and for laying the groundwork for further research and discussion.

Foreign Direct Investment

The potential of Department of Homeland Security measures to undermine Florida's advantages for international investors in the long run should not be underestimated. Security measures and a negative perception among foreign companies regarding the challenges of operating in the United States in a post 9/11 environment could have very serious implications on Florida's ability to attract foreign investment

Recent surveys indicate that tightened security concerns are making it harder for global firms to operate in the United States. According to a survey by the National Foreign Trade Council (NFTC) the U.S. now ranks among the three most difficult locations in the world to send workers to. They cite delays in obtaining visas, work permits and other red tape that make U.S. relocations considerably more cumbersome than in the past. In the latest survey, the U.S. ranked behind only China and Japan among the most challenging countries to relocate to, after many years of boasting of being among the world's best relocation climates. Companies were found to be shortening their deployment in order to avoid visa renewal hassles and often feel forced to fill positions with local employees when they would typically send expatriates. During a recent staff visit to Germany, senior officials of the Munich Chamber of Commerce and American Chamber of Commerce of Germany complained that while interest in Florida is high, some of the hassles associated with obtaining work visas may be causing foreign companies to reconsider investing in the U.S., thus limiting opportunities for Florida. According to these

Chambers, it is taking up to 90 days just to get an appointment at the U.S. Consulate for a German executive seeking to transfer to the U.S. This problem is compounded by the fact that only two consulates, in Berlin and Munich, issue work visas for German nationals.

The number of outright denials of visa applications has also increased dramatically, particularly for citizens from developing nations. Historically, the State Department gave favorable consideration to appeals from State and local economic development agencies, where trade and investment prospects were concerned. This is no longer the case. Recently, a Chinese national with suitable credentials was denied a visa despite a letter of invitation from Enterprise Florida, possibly forever derailing a real estate transaction that could have resulted in the establishment of a permanent Chinese Products Exhibition Center in Florida. Several articles, including a November 11th Reuters News Service article, confirm that Chinese executives, including senior executives, have been denied entry visas.

In addition, many foreign companies choose to locate in Florida to tap international opportunities. They most frequently cite Florida's logistics advantages and role as a Western Hemisphere entrepot, among the principal reasons for establishing in Florida. With evidence mounting that shippers are increasingly avoiding U.S. seaports and airports for merchandise trans-shipment, and the increased "hassle factor" for visitors entering the country, Florida's advantages as an entrepot may be eroded to the point that it will no longer be considered an ideal destination for Latin American headquarters and logistics operations. This type of operation, which represents a significant portion of Florida's foreign investment portfolio, could easily be lost to more "user friendly" locations such as Panama, Santiago, or Sao Paulo.

Finally, most professional economic developers would agree that quality of life is often an important consideration for investment decisions. Essentially, decision makers tend to invest in places they would like to live or visit – places where they feel welcome. There is a growing sense among foreign investors than foreigners are not welcome in the United States, that we are making it increasingly difficult to visit, let alone work and live here. This perception may be the most dangerous to our future in terms of Florida's ability to attract Foreign Direct Investment (FDI).

An ominous sign is the result of an annual survey by America Economia, which reflected that for the first time ever, the multinational executives surveyed did not choose Miami as the top choice for Latin American operations. Almost unanimously they cited security measures as the principal reason for Miami's slide. A significant erosion of these multinational operations could seriously affect Florida's ability to market itself worldwide as an attractive location for international operations. In fact, a recent article by Business Week reports that in the four quarters ending in April, 2004, there was a record FDI outflow of $165 billion. The fact that this is happening despite the precipitous fall in the value of the dollar, which allows investors to pick up U.S. assets at a bargain price, is particularly troubling and may be evidence that the tide of FDI entering the U.S. in recent years may be reversing its course. In the meantime, other countries have been busy putting out the welcome mat.

Ocean and Air Cargo

There is mounting evidence that a growing number of European and Asian exporters that have traditionally used Florida ports and airports to trans-ship cargo to the Americas are re-routing their shipments through other ports and airports to avoid added costs, regulatory hurdles, and delays associated with the various security mandates. Such a shift, if it continues, could have tremendous implications. For example, over 40% of the cargo volume at Miami International Airport and 33% of the cargo at Port Everglades and the Port of Miami consists of in-transit merchandise to other countries. While volumes of in-transit shipments are lesser in other Florida ports, they still represent significant costs.

In addition, the new Marine Transportation Security Act is requiring Florida ports to invest millions of dollars in precious revenues in order to comply with new security requirements. The ports are finding it difficult to pass any of these costs along to their already beleaguered ocean carriers and service providers in fear that this will lead to further diversion of cargo from Florida ports. The end result is that the profit margins of most Florida ports have been reduced dramatically or gone into the red. In early 2004, the Florida Port's Council reported that Law Enforcement/Security Operational Costs at Florida seaports had nearly quadrupled since 9/11. The Director of the Port of Miami – the largest cruise port in the world and largest container port in Florida – recently stated that their security costs were six times higher than pre-9/11.

The new certification requirements of foreign ports are another cause for concern, since it is deemed that most third-world seaports are not currently in compliance with the new certification requirements. Since Florida does a tremendous amount of business with small Latin American and Caribbean countries, this could have a significant impact on Florida's ports since ships that are not in compliance can be denied entry into U.S. – and Florida – ports.

Another serious concern is that no Caribbean or Latin American port has yet been designated for the Container Security Initiative, which puts U.S. Customs personnel in foreign ports to screen inbound cargo for weapons of mass destruction. Concern is high that if this situation is not rectified it will put the region's exporters at a comparative disadvantage against those countries where personnel is stationed, thus possibly diverting trade and investment.

Port officials also find that complying with overlapping and often conflicting regulations, coming from the different government agencies that have jurisdiction over our seaports, is problematic. For example, at the state level, compliance is regulated by the Florida Department of Law Enforcement (FDLE), while the U.S. Coast Guard is the Federal overseer, under the Maritime Transportation Security Act. While most of the standards set forth are equivalent, regulation is often subject to interpretation and divergent interpretation makes compliance arduous.

Officials from the Port of Tampa, the Port of Jacksonville, Miami International Airport, the Port of Miami, and the Florida Ports Council all share the opinion that the competitiveness and profitability of Florida's seaports and airports is being seriously compromised.

Commercial Aviation

The added operational costs associated with post 9/11 security measures and policies governing handling of International-to-International (ITI) passengers have had a staggering impact on commercial aviation in Florida. While the impact has been felt the most at Miami International Airport (MIA) which has the largest volume of ITI passengers in the nation, this issue affects all Florida international airports. MIA, the nation's number one airport in international cargo and number two in international passengers, saw the closing of Iberia Airlines' international hub – formerly the only international hub operation in the U.S. – partly due to U.S. policy on the handling of International-to-International and Transit-Without-Visa passengers.

Determined lobbying by the Governor's office, Enterprise Florida, and MIA authorities has helped minimize the ITI issue – which was playing havoc on connecting times for our hub operations – by convincing the Department of Homeland Security (DHS) to implement new procedures to facilitate the movement of ITI passengers without compromising security. Yet passengers traveling under the Transit Without Visa (TWOV) program still may not transfer through U.S. airports which complicates logistics for foreign airlines.

In addition, there is mounting evidence – cited by senior Iberia Airlines officials and confirmed by other international airline executives – that European passengers, and to a lesser extent their Latin American counterparts, are avoiding traveling through the U.S. when possible to avoid the inconveniences created by these measures. For several months now, U.S. Immigration authorities have been fingerprinting and photographing passengers entering the U.S. which has increased clearance times. All these measures have been implemented without significant expansion of the DHS labor force. While approximately 400 Transportation Security Administration (TSA) positions were added to MIA earlier this year, the airport remains significantly understaffed. Complaints about the attitude and demeanor of U.S. Customs and Immigration officials from international passengers have become epidemic. Many people simply do not feel welcome in our country any longer.

All these issues have placed considerable additional pressure on international carriers who, at the same time, have seen their operating costs skyrocket due to the additional costs of security. For example, Iberia Airlines' Miami Hub was one of most profitable operations of that company. Since 9/11, however, the hub operation has seen deficits in the neighborhood of $30 million annually.

Exporters, Importers and Logistics Companies

Across the board, the cost of doing business for Florida exporters and importers has risen dramatically since these measures were put into effect. Traders and logistics support companies estimate that it is taking an average of 1- 2 days longer for cargo clearance since the new port security measures were implemented. In addition to disrupting the supply chain, increased inspections and notification requirements have meant additional documentation, stevedoring and storage expenses, higher trucking costs, and missed delivery deadlines. A majority of these additional costs of doing business are passed on to the exporters and importers. For example, the "24 hour rule" requiring advance notification for shipments arriving in U.S. ports is causing freight forwarders to charge importers $40-60 additional dollars for every manifest processed.

Visa restrictions are also hampering the ability of international companies to access opportunities, provide product training, appoint agents/distributors and host potential clients. There is evidence that Florida companies have lost deals when buyers or potential distributors could not secure the appropriate visas to travel to the U.S. For example, a Broward-based manufacturer recently decided to appoint a distributor in order to expand his activities in India. However, when it came time to bring the distributor to Florida for training, his visa was denied. Another example is that of a Central Florida aviation company that was poised to conclude a multimillion dollar aviation deal in China, but was unable to secure visas for the Chinese partner’s pilots to come to Florida to train on the light aircraft they produce.

The U.S. Congress has also sharply curtailed the number of Special Work Visas, called H-1B, that U.S.-based companies have relied on to hire foreign nationals. Between 2001 and 2003, 195,000 of these visas were available annually, but the allocation was reduced to only 65,000 for 2004-05. U.S. companies often find it advantageous to rely on the expertise of foreign nationals to tap international markets. Relationships and cultural affinity are often vital to a company's ability to penetrate foreign markets and while Florida is blessed with a readily available supply of legal foreign residents, there are certain highly technical industries such as semiconductors where the majority of eligible candidates reside overseas. This reduction in the availability of Special Work Visas will eventually dampen Florida's ability to expand its base of workers, and therefore companies, in highly technical and innovative industries.

International Healthcare Services

New, more restrictive visa policies implemented after September 11th, 2001, have impacted the international health services sector in Florida. Problems include lengthy delays in processing visas and outright denials, which were fairly uncommon before September 11th. Although it is not an across the board U.S. visa policy, in some countries, patients are being asked to affirm that they cannot get equivalent medical treatment in their native countries before having a visa approved.

The care of foreign patients is a highly lucrative business for many Florida hospitals. Nationally, it is a six billion dollar industry. These patients come for expensive surgeries and procedures and more often than not, pay cash for their treatment, as opposed to domestic patients who often pay sharply discounted rates due to HMO memberships or Medicare. Since most of our foreign patients originate in Latin America, and citizens of all countries require visas to enter the U.S., Florida institutions are being unduly affected.

Florida hospitals in the large metropolitan areas, particularly in South Florida, rely heavily on the influx of these patients and frequently maintain international divisions to cater to them. Moreover, it has been established that these patients also create a multiplier effect, since they tend to be accompanied by relatives when they visit and provide business for our hotels, restaurants, car rental agencies and more.

In addition, hospitals also report that the new visa policies have complicated their efforts to recruit foreign doctors and nurses, who often supplement the U.S. trained medical workforce in many areas of Florida. In the long term this may have serious consequences on the state's healthcare network.

Education of Foreign Students

A number of Florida educational institutions report that post 9/11 visa policies have had a negative impact on international student enrollment. The recruitment of foreign students is important to the finances of many Florida universities. Foreign students pay higher tuition fees than Florida students and by law they are also required to carry a full load of classes. Their expenditures help defray education costs for our residents. It is estimated that nationwide these foreign students contribute $12 billion to the national economy and historically Florida has been one of the principal beneficiaries.

For example, Florida International University, who ranks second in the U.S. in terms of foreign students, has seen a significant drop in foreign student enrollment since September 11th, 2001.

The principal culprit is new visa policies under which the ratio of rejections for foreign students applying for F-1 visas has skyrocketed. These policies have also created a perception abroad that the U.S. does not welcome foreign students and therefore induces prospective candidates to look for alternatives in Europe and Canada instead of the U.S. As these students look elsewhere for their higher-education opportunities, they will also be less likely to look to the U.S. for employment opportunities, possibly limiting the availability of new sources of university researchers, lecturers, post-doctoral fellows and the like.

Universities are not the only ones affected by these measures. Private language and professional schools have also seen their enrollment drop significantly since visa measures were tightened.

International Banking

Florida's international banking sector, a three billion dollar industry, is losing business to Switzerland, the Cayman Islands and other jurisdictions with less stringent regulations. While no Florida banker will argue with the need for appropriate controls to thwart money laundering and other illegal practices, many in the industry feel that compliance with the Patriot Act – which mandates stringent "know your client" and due diligence rules – has not only dramatically increased the compliance cost for the banks but also made Florida a less desirable place for foreign deposits.

These "know your client" rules require banks to obtain from their customers and correspondent banks highly sensitive financial information, that many law abiding investors do not feel is necessary.

Banks report that these regulations have had a very negative effect on their customer relationships. Their clients often object to requests for tax returns and financial statements for new accounts, even for clients who have long term relationships with their banking institutions. The issue of confidentiality is particularly sensitive to many of Florida's foreign depositors who are from Latin America. Many of them are concerned that the information they are providing could be shared with their governments who typically view foreign investment from a negative perspective or, even worse, have this information fall in the hands of criminal elements, putting their families at risk.

Further, anecdotal evidence suggests that many money managers, particularly from Europe, who traditionally invest billions of dollars into hedge funds managed by U.S.-based investment groups, are seeking other alternatives for these funds. This same trend has been reported by various business and financial publications

The Florida International Bankers Association (FIBA) is extremely concerned about the impact of these measures on the state's international banking sector and considers these requirements a clear and present danger to the long term viability of this vital economic sector. European private banks for example, are making an unprecedented effort to attract foreign capital and are succeeding to our detriment.

Tourism and Hospitality

While the tourism sector has generally recovered to pre-September 11th volumes, U.S. visa policies, longer waits at security checkpoints, unfriendly treatment by immigration officials and the continued suspension of the Transit Without Visa (TWOV) program have had an effect on the international visitor sector. Florida is particularly vulnerable to these policies because a very large proportion of our international visitors come from nations whose citizens are required to have U.S. visas to enter the U.S.

Foreign tourists who come both for business and leisure, while far fewer than domestic visitors to Florida, tend to stay longer and spend considerably more than their domestic counterparts. A foreign visitor typically has the economic impact of two domestic tourists.

The visa policy problem is not just a matter of more frequent denials. There is also a significant additional cost burden that makes a Florida vacation markedly less desirable than before. New policies require a mandatory face to face interview for all visa applicants. Since U.S. consular offices are relatively scarce, visitors from most locations have to spend a significant amount of time and money just to secure travel documents. For example, large countries like Argentina, Peru, Colombia and Chile have only one U.S. Consular office. What this essentially means is that a potential tourist would have to take the time and the expense to travel to their country's capital and then pay over $100 for each visa, without any assurance that he will be approved. Imagine the economic impact of these policies on a family of four, before they ever set foot in the United States. If this were not enough of a disincentive, word has reached us that the price for applications of several categories of visas is scheduled to increase to over $300 each.

These policies, plus the aforementioned growing perception that the U.S. is a less than friendly destination for foreign visitors, appear to be making the U.S. a significantly less desirable option for many. It is almost impossible to interact with a group of foreign visitors without being treated to horror stories about long delays at Florida's airports, aggressive and rude behavior by federal inspectors and screeners and missed or delayed connections. Brazilian tourism has been off by more than 20% and word is that travel agents from the Brazilian interior are advising their clients to avoid the U.S. altogether, if possible. Since many Florida tourists are really business travelers who mix business with pleasure, the impact of these problems extends well beyond the visitor industry.

FTAA Secretariat

The Miami Free Trade Area of the Americas (FTAA) Secretariat bid could also be affected by these issues. The Miami bid relies heavily on Miami's comparative logistics advantages, however, foreign officials and executives almost unanimously cite entry and clearance problems at Miami International Airport as one of our principal negatives. While not all of MIA's problems can be directly traced to homeland security measures, it is indisputable that they have become a key contributing factor to the negative perception of the airport. In addition, several well publicized incidents at MIA affecting distinguished foreign visitors have become standard fodder for the campaigns of key competitors such as Panama and Atlanta. The recent loss of the Iberia hub is an additional black eye for the campaign.

Comments and Recommendations

In conclusion, the unintended consequences of the various measures enacted to protect our country from the terrorist threat present a difficult challenge for Florida. On one hand, it is inarguable that the homeland security establishment is correct in its assessment that the terrorist threat to the United States is very real and that the security measures enacted have helped safeguard our country against further attack. On the other hand, Florida's international competitiveness is very vulnerable to the unintended consequences of these measures.

Any advocacy effort should aim at finding potential remedies that preserve the integrity of the homeland security apparatus while proposing alternatives that facilitate business. We may have to accept that no suitable alternatives exist to present policies in some cases. In other areas such as visa policies, it behooves states like Florida – with our reliance on international tourism, trade and investment – to advocate alternatives and more flexibility from the Federal establishment

While Enterprise Florida should actively engage and exert leadership in an effort to address these issues, this is not an undertaking that EFI can successfully implement alone. Close cooperation with the Governor's office and other state leadership will be essential. Also vital will be the creation of a broad coalition of influential business organizations, such as the Florida Chamber, The Florida Bankers Association and Florida International Bankers Association, the Florida Ports Council, The Governor's Council of Economic Advisors and EFI's Florida Trade Partners Alliance and Partner Council for the advocacy portion of this effort. National organizations such as the U.S. Chamber of Commerce and other concerned industry groups also constitute natural partners for this endeavor.

A key challenge is that while anecdotal evidence of the impact of these measures on Florida business abounds, no scientific analysis of the real cost and impact of U.S. homeland security measures has ever been made. The study prepared by the Greater Miami Chamber of Commerce and Florida International University *(The Impact of Post-9/11 Security Measures on South Florida's International Business Community, October 2003)* is compelling, but provides no hard data to validate the findings. At this point in time, a statewide economic impact study, conducted by a credible consulting firm and/or a Florida university, is absolutely vital to developing a critical mass of support statewide as well as to obtain the necessary buy-in from the state leadership and our Board. A well crafted impact analysis would also allow us to aggressively pursue the support of the Florida Congressional Delegation. Incorporating the experiences of other similarly affected U.S. states should serve to further strengthen the argument when taken to the federal level. Such an analysis is also imperative in terms of providing needed political coverage to those elected officials who would support seeking alternatives to the current policies.

Preliminary estimates of the cost of conducting the necessary research and preparing an analysis range from $50,000 to $75,000. Fundraising would be essential in order to move forward, however, a project with such wide-ranging implications will certainly generate enough interest statewide to reach the monetary goal.

Once the analysis is completed and presented to EFI's Board and Partners, the next step would be to set up a statewide meeting of affected stakeholders and partners to develop strategy and, more importantly, to suggest possible remedies that we can advocate. A high level task force composed of representatives of these partner organizations could be formed to serve as a working committee. A key mission of this committee would be to develop a Homeland Security

Advocacy Action Plan, which prioritizes those issues most vital to the Florida economy where viable alternatives to existing policies are available. This last component is vital. The key lesson learned from working in partnership with the Governor's office and the local community towards resolving the International-to-International (ITI) passenger issue at Miami International Airport is that change can only be effected by offering well-thought-out and viable alternatives to the existing policy procedures that do not compromise the effectiveness of established security measures.

Input from the business community, particularly from those sectors most affected by these measures, is extremely important. Towards this end, a series of town meetings designed to gather input on issues and potential remedies from Florida's international business community would be in order, possibly in conjunction with Enterprise Florida's annual Statewide Strategic Planning meetings. Finally, assuming that information and input gathered demonstrates a significant impact on the Florida economy as expected, a multi-faceted, well organized advocacy campaign can be undertaken in close cooperation with the Governor's office and our statewide trade and economic development partners.