Q: What is the Immigration and Nationality Act (INA)?

- The Immigration and Nationality Act (INA) was created in 1952 and relates to the immigration, temporary admission, naturalization, and removal of aliens. Over 50 years have passed since its enactment, and it still serves as the basic body of immigration law.

Q: What sections of the Act should be amended? And why?

- Section 214(b) and related sections of the Immigration and Nationality Act (INA) are a commonly used rationale for denying a student visa.

- Section 214(b) states: "Every alien shall be presumed to be an immigrant until he establishes to the satisfaction of the consular officer, at the time of application for admission, that he is entitled to a nonimmigrant status. . . ."

- Consular officers must decide the applicant’s immigration intentions in a very short time -- after a brief interview and review of whatever evidence of “strong ties back home” an applicant can present to dispel the presumption of immigration as defined in Section 214(b).

- Additional language in the INA specifically relates to student visa applicants:

  - In 1952, the student non-immigrant F visa (i.e., students with proven non-immigrant status) was defined by Immigration and Nationality Act, as: “An alien having a residence in a foreign country which he has no intention of abandoning who is a bona fide student. . . .” (Sec. 101(a)(15)(F) of the INA)

  - Unfortunately, students often cannot convince a consular officer that they have no intention to immigrate – most students do not own a residence, do not have substantial bank accounts outside of the United States, and may not have a spouse or children residing in their home country, or other evidence that can adequately dispel the presumption of “immigration intentions” which is required by statute.
Q: What are the proposed changes to the INA called for in the Joint Recommendations?

- The Joint Recommendations call for eliminating barriers—erected over a half century ago—to those students who wish to visit the United States to study in our universities.

- More specifically, the Immigration and Nationality Act should place greater emphasis on student visa applicants’ academic intent and financial means to complete a course of study in the United States, and **not** solely upon students’ ability to demonstrate “evidence of a residence in a foreign country” (as required in 101(a)(15)(F) of the INA) or other evidence that dispels the presumption of “intent to immigrate.”

Q: Why are these changes important now?

- To maintain and strengthen our global economic competitiveness, the United States must maintain or enhance its current quality and effectiveness in science and engineering (S&E), which fuels technological innovation. **To do this, we must attract the best and brightest S&E talent to our universities, regardless of national origin.**

- **We are in a global competition for the best S&E students and scholars.**

  - Following the terrorist attacks of September 11, 2001, the United States erected barriers in its visa system that made it extremely challenging for legitimate international students, scholars, scientists, and engineers to enter this country.

  - This created a misperception that they were no longer welcome here. Other countries used this opportunity to attract these individuals to their own educational, scientific, and technical institutions.

  - At the same time, key sending countries have enhanced their higher education systems in an effort to keep their best students at home.

- **There is now clear evidence that the U.S. is losing its competitive edge in attracting international students, scholars, and scientists.** The number of international students applying to American graduate schools has decreased in the past two years by 28% and 5% respectively, and the number of international students studying in the U.S. has dropped for the first time in over 30 years.

- Likewise, international students who visit the United States provide cultural exchanges that enhance foreign relations and benefit our national security. When international students return home after studying in the United States and rise to leadership positions in their countries, they become strong foreign-policy and national-security assets.
Q: How does Section 214(b), or other relevant portions of the INA, affect the Science & Engineering talent in the United States?

- In April 2005, State Department representatives provided statistics verbally on student visa denials from key countries to some of the organizations who are signatories on the Joint Recommendations:

  **China**
  - 2001 – 40% denied
  - 2003 – 46% denied
  - 2004 – 23% denied (State Dept. is re-examining this figure, as apparently this lower number even seemed unusual to them)

  **India**
  - 2000 – 33% denied
  - 2003 – 43% denied
  - 2004 – 40% denied

- These denials are NOT due to security reasons...these data have been "normalized" to eliminate security-related denials. Thus, according to State Department, these numbers are a fair reflection of 214(b) denial rates.

Q: Some are concerned that the proposed changes of the INA will affect jobs for U.S. workers. Is this true?

- The Joint Recommendations suggest eliminating barriers—erected over a half century ago—that make it more difficult for students seeking to study at U.S. colleges and universities.

- Any international student wishing to remain in the United States after completing his/her studies would be subject to the same regulations that currently govern living and working in the United States.

- The changes to the INA proposed in the Joint Recommendations do not provide any additional advantage to international students seeking employment in the United States after graduation.

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i Council of Graduate Schools 2003 and 2004 surveys, [http://www.cgsnet.org](http://www.cgsnet.org)