

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
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Today, we welcome back Senator Cantwell, whose leadership in this Committee on securing our borders and our nation is very much missed. I am pleased that she remains involved in these issues and continues to contribute to our national security, and I look forward to her testimony. We will then hear from Undersecretary Hutchinson, a frequent guest of this Committee, and Assistant Secretary of State Maura Harty. Each of our witnesses will assist us as we consider whether to extend the congressionally mandated October deadline for nations that participate in the visa waiver program to provide passports with biometric identifiers to their citizens. The visa waiver program allows nationals of 27 countries to travel to the United States for up to 90 days with only a passport, rather than a visa.

This is a program that has substantial economic benefits for our nation. Naturally, after the September 11 attacks, Congress took understandable measures to place safeguards within the program to limit its use to law-abiding travelers. One of those safeguards was to require participating nations to adopt high-technology passports - just as we are developing biometric passports ourselves. We placed a deadline of Oct. 26, 2004, for the adoption of such passports, but very few of the 27 visa waiver nations will meet that deadline. These nations are not alone, as our own adoption of biometric passports is not expected to take place until the end of 2005.

Congress must now choose either to maintain or extend the Oct. 26 deadline. If we maintain it, travelers from Britain, Australia, Germany and other U.S. allies will have to go to U.S. consular offices abroad and obtain visas to come here. This will create a substantial burden on the State Department, one the Department tells us it could not meet even if its existing consular officers worked for 24 hours a day, seven days a week. If we do not extend the deadline, we will assuredly see a reduction in foreign travel here. This would greatly harm our economy, particularly affecting those tourism-dependent industries that are already struggling to recover from the financial damage caused by the Republican leadership's failure to pass bipartisan legislation to expand the number of H-2B visas available for the temporary foreign workers on which those industries rely.

If we extend the deadline, we will have to be vigilant about protecting our security. I am pleased that the Department of Homeland Security will be including travelers from visa waiver countries in the US VISIT program, which records the entry and exit of foreign visitors. In addition, the U.S. receives passenger manifests for planes arriving in the country, providing our security personnel with the opportunity to review the backgrounds of visitors traveling without visas before they are ever allowed entry to this country. I think these developments will help alleviate the reasonable security concerns that have been expressed about the continuation of the visa waiver program in its current form.

I do have some technology concerns that I hope our witnesses today, and the Administration as a whole, will consider. One concern is the way biometric information will be stored on the chip. It is my understanding that an encrypted version of the entire images, rather than encrypted data based on features of the biometric, will be included on the chip in order to allow additional flexibility in choosing standards at a later time. However, should this system be compromised or hacked -- particularly by an insider or contractor -- these entire images could become compromised, possibly risking many future uses of this important technology. We should consider whether it would be better to take additional time to finalize the standards issue rather than to include entire images on the chip.

I am also concerned that the process for setting the technology, standards and privacy protections for the biometric passports is occurring largely outside of congressional and public view, in negotiations by U.S. representatives and others in the International Civil Aviation Organization. This process could have significant impact on U.S. domestic policy and we should keep this in mind as these efforts progress. To the extent that this process results in other nations collecting information on U.S. citizens, we should ensure that Americans' personal information receives the same kind of protection abroad that it would receive here.

While discussing privacy issues, I would also like to raise the issue of facial recognition technology. While I understand that the first generation of the biometric passport system will not utilize such technology, the prospect of its future use raises many questions that we as a Congress would need to consider. We would need to understand both the timetable and costs of such a program, and the precautions and safeguards that would be in place to protect privacy and security.

So as we convene this hearing, I am sympathetic to the need to extend this deadline, and I look forward to reviewing the testimony of our witnesses.