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AN ACT

To improve maritime and cargo security through enhanced layered defenses, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Security and Accountability For Every Port Act” or
6 “SAFE Port Act”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.

TITLE I—SECURITY OF UNITED STATES SEAPORTS

Subtitle A—General Provisions

- Sec. 101. Definition of transportation security incident.
- Sec. 102. Protocols for resumption of trade.
- Sec. 103. Requirements relating to maritime facility security plans.
- Sec. 104. Unannounced inspections of maritime facilities.
- Sec. 105. Verification of individuals with access to secure areas of seaports.
- Sec. 106. Clarification on eligibility for transportation security cards.
- Sec. 107. Enhanced crewmember identification.
- Sec. 108. Long-range vessel tracking.
- Sec. 109. Maritime security command centers.

Subtitle B—Grant and Training Programs

- Sec. 111. Port security grant program.
- Sec. 112. Port security training program.
- Sec. 113. Port security exercise program.

Subtitle C—Miscellaneous Provisions

- Sec. 121. Increase in port of entry inspection officers.
- Sec. 123. Border Patrol unit for United States Virgin Islands.
- Sec. 124. Report on ownership and operation of United States seaports.
- Sec. 125. Report on security operations at certain United States seaports.
- Sec. 126. Report on arrival and departure manifests for certain commercial vessels in the United States Virgin Islands.
- Sec. 127. Center of Excellence for Maritime Domain Awareness.
- Sec. 128. Report on security and trade at United States land ports.

TITLE II—SECURITY OF THE INTERNATIONAL SUPPLY CHAIN

- Sec. 201. Security of the international supply chain.
- Sec. 202. Next generation supply chain security technologies.
- Sec. 203. International trade data system.
- Sec. 204. Foreign port assessments.
- Sec. 205. Pilot program to improve the security of empty containers.
- Sec. 206. Study and report on advanced imagery pilot programs.
- Sec. 207. Report on National Targeting Center.
- Sec. 208. Integrated Container Inspection System Pilot Project.

TITLE III—DIRECTORATE FOR POLICY, PLANNING, AND INTERNATIONAL AFFAIRS

- Sec. 301. Establishment of Directorate.
- Sec. 302. Study and report on customs revenue functions.

TITLE IV—OFFICE OF DOMESTIC NUCLEAR DETECTION

- Sec. 401. Establishment of Office.
- Sec. 402. Nuclear and radiological detection systems.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) Maritime vessels are the primary mode of
4 transportation for international trade and they carry
5 over 80 percent of international trade by volume.

6 (2) In 2004, maritime vessels carried approxi-
7 mately 9,700,000 shipping containers into United
8 States seaports at an average of 27,000 containers
9 per day.

10 (3) The security of the international container
11 supply chain and the maritime transportation sys-
12 tem is critical for the prosperity and liberty of all
13 countries.

14 (4) In its final report, the National Commission
15 on Terrorist Attacks Upon the United States noted,
16 “While commercial aviation remains a possible tar-
17 get, terrorists may turn their attention to other
18 modes of transportation. Opportunities to do harm
19 are as great, or greater in maritime or surface
20 transportation.”.

21 (5) In May 2002, the Brookings Institution es-
22 timated that costs associated with United States
23 port closures from a detonated terrorist weapon
24 could add up to \$1 trillion from the resulting eco-
25 nomic slump and changes in our Nation’s inability
26 to trade. Anticipated port closures on the west coast

1 of the United States could cost the United States
2 economy \$1 billion per day for the first five days
3 after a terrorist attack.

4 (6) Significant steps have been taken since the
5 terrorist attacks against the United States that oc-
6 curred on September 11, 2001:

7 (A) Congress passed the Maritime Trans-
8 portation Security Act of 2002 on November
9 14, 2002.

10 (B) The Coast Guard issued a comprehen-
11 sive set of port security regulations on October
12 22, 2003.

13 (C) The International Maritime Organiza-
14 tion adopted the International Ship and Port
15 Facility (ISPS) Code in December 2002.

16 (D) The White House issued Homeland
17 Security Presidential Directive-13 in September
18 2005 which lays out requirements for a com-
19 prehensive maritime security policy.

20 (7) Through both public and private projects,
21 the private sector in the United States and overseas
22 has worked with the Department of Homeland Secu-
23 rity to improve the security of the movement of
24 cargo through the international supply chain.

1 (8) Despite these steps, security gaps in the
2 maritime transportation system remain, resulting in
3 high-risk container systems not being checked over-
4 seas or domestically and ports that are vulnerable to
5 terrorist attacks similar to the attack on the U.S.S.
6 Cole.

7 (9) Significant enhancements can be achieved
8 by applying a multi-layered approach to supply chain
9 security, in a coordinated fashion. Current supply
10 chain programs within the Federal Government have
11 been independently operated, often falling short of
12 gains which could have been made if such programs
13 were operated in a coordinated manner with clear
14 system standards and a framework that creates in-
15 centives for security investments.

16 (10) While it is impossible to completely remove
17 the risk of a terrorist attack, security measures in
18 the supply chain can add certainty and stability to
19 the global economy, raise investor confidence, and
20 facilitate trade. Some counterterrorism costs are in-
21 tegral to the price that must be paid to protect soci-
22 ety. However, counterterrorism measures also
23 present an opportunity to increase the efficiency of
24 the global trade system through international har-
25 monization of such measures. These efficiency gains

1 are maximized when all countries adopt such
2 counterterrorism measures.

3 (11) Increasing transparency in the supply
4 chain will assist in mitigating the impact of a ter-
5 rorist attack by allowing for a targeted shutdown of
6 the international supply chain and expedited restora-
7 tion of commercial traffic.

8 (12) International trade is vital to the Nation's
9 economy and the well-being and livelihood of United
10 States citizens.

11 (13) The Department of Homeland Security's
12 missions, including those related to United States
13 and international borders, involve both building se-
14 curity for United States citizens and facilitating le-
15 gitimate trade that is critical to the Nation.

16 (14) In creating the Department of Homeland
17 Security, Congress clearly mandated in section
18 412(b) of the Homeland Security Act of 2002 (6
19 U.S.C. 212(b)) that the customs revenue functions
20 described in paragraph (2) of such section shall not
21 be diminished.

22 **SEC. 3. DEFINITIONS.**

23 In this Act:

24 (1) APPROPRIATE CONGRESSIONAL COMMIT-
25 TEES.—The term “appropriate congressional com-

1 mittees” has the meaning given the term in section
2 2(2) of the Homeland Security Act of 2002 (6
3 U.S.C. 101(2)).

4 (2) DEPARTMENT.—The term “Department”
5 means the Department of Homeland Security.

6 (3) INTERNATIONAL SUPPLY CHAIN.—The term
7 “international supply chain” means the end-to-end
8 process for shipping goods from a point of origin
9 overseas to and from the United States.

10 (4) SECRETARY.—The term “Secretary” means
11 the Secretary of Homeland Security.

12 **TITLE I—SECURITY OF UNITED** 13 **STATES SEAPORTS**

14 **Subtitle A—General Provisions**

15 **SEC. 101. DEFINITION OF TRANSPORTATION SECURITY IN-** 16 **CIDENT.**

17 Section 70101(6) of title 46, United States Code, is
18 amended by inserting after “economic disruption” the fol-
19 lowing “(other than economic disruption caused by acts
20 that are unrelated to terrorism and are committed during
21 a labor strike, demonstration, or other type of labor un-
22 rest)”.

23 **SEC. 102. PROTOCOLS FOR RESUMPTION OF TRADE.**

24 (a) IN GENERAL.—Section 70103(a)(2)(J) of title
25 46, United States Code, is amended—

1 (1) by striking “(J)” and inserting “(J)(i)”;
2 and

3 (2) by adding at the end the following new
4 clause:

5 “(ii) The plan required by clause (i) shall in-
6 clude protocols for the resumption of trade in the
7 event of a transportation security incident that ne-
8 cessitates the suspension of trade through contin-
9 gency and continuity planning that ensures trade
10 lanes are restored as quickly as possible. The proto-
11 cols shall be developed by the Secretary, in consulta-
12 tion with appropriate Federal, State, and local offi-
13 cials, including the Coast Guard Captain of the Port
14 involved in the transportation security incident, and
15 representatives of the maritime industry. The proto-
16 cols shall provide for—

17 “(I) coordination with appropriate Federal,
18 State, and local agencies, the private sector,
19 and appropriate overseas entities in developing
20 such contingency and continuity planning;

21 “(II) coordination with appropriate Fed-
22 eral, State, and local agencies and the private
23 sector on law enforcement actions, inter-modal
24 rerouting plans, and identification and

1 prioritization of goods that may enter the
2 United States; and

3 “(III) designation of appropriate Federal
4 officials to work with port authorities to rees-
5 tablish the flow of cargo by prioritizing ship-
6 ments based on appropriate factors, including
7 factors relating to public health, national secu-
8 rity, and economic need.”.

9 (b) EFFECTIVE DATE.—The Secretary of Homeland
10 Security shall develop the protocols described in section
11 70103(a)(2)(J)(ii) of title 46, United States Code, as
12 added by subsection (a), not later than 180 days after the
13 date of the enactment of this Act.

14 **SEC. 103. REQUIREMENTS RELATING TO MARITIME FACIL-**
15 **ITY SECURITY PLANS.**

16 (a) FACILITY SECURITY PLANS.—Section
17 70103(c)(3) of title 46, United States Code, is amended—

18 (1) in subparagraph (F), by striking “and” at
19 the end;

20 (2) in subparagraph (G), by striking the period
21 at the end and inserting “; and”; and

22 (3) by adding at the end the following new sub-
23 paragraph:

24 “(H) in the case of a security plan for a facil-
25 ity, be resubmitted for approval of each change in

1 the ownership or operator of the facility that may
2 substantially affect the security of the facility.”.

3 (b) FACILITY SECURITY OFFICERS.—Section
4 70103(c) of title 46, United States Code, is amended by
5 adding at the end the following:

6 “(8)(A) The Secretary shall require that the qualified
7 individual having full authority to implement security ac-
8 tions for a facility described in paragraph (2) shall be a
9 citizen of the United States.

10 “(B) The Secretary may waive the requirement of
11 subparagraph (A) with respect to an individual if the Sec-
12 retary determines that it is appropriate to do so based on
13 a complete background check of the individual and a re-
14 view of all terrorist watchlists to ensure that the individual
15 is not identified on any such terrorist watchlist.”.

16 (c) FACILITY SECURITY ACCESS.—Section
17 70103(c)(3)(C)(ii) of title 46, United States Code, is
18 amended by adding at the end before the semicolon the
19 following: “, including access by individuals engaged in the
20 surface transportation of intermodal containers in or out
21 of a port facility”.

22 **SEC. 104. UNANNOUNCED INSPECTIONS OF MARITIME FA-**
23 **CILITIES.**

24 Subparagraph (D) of section 70103(c)(4) of title 46,
25 United States Code, is amended to read as follows:

1 “(D) verify the effectiveness of each such facil-
2 ity security plan periodically, but not less than twice
3 annually, at least one of which shall be an inspection
4 of the facility that is conducted without notice to the
5 facility.”.

6 **SEC. 105. VERIFICATION OF INDIVIDUALS WITH ACCESS TO**
7 **SECURE AREAS OF SEAPORTS.**

8 (a) IMPLEMENTATION OF REQUIREMENTS.—Not-
9 withstanding any other provision of law, the Secretary of
10 Homeland Security shall—

11 (1) not later than July 15, 2006, issue a notice
12 of proposed rulemaking for regulations required to
13 implement section 70105 of title 46, United States
14 Code;

15 (2) not later than November 15, 2006, issue
16 final regulations required to implement that section;
17 and

18 (3) begin issuing transportation security cards
19 to individuals at seaports facilities under subsection
20 (b) of that section in accordance with the schedule
21 contained in subsection (b)(2) of this section.

22 (b) TRANSPORTATION SECURITY CARDS.—

23 (1) MANAGEMENT.—Final regulations issued
24 under subsection (a)(2) shall provide for Federal

1 management of the system for issuing transportation
2 security cards.

3 (2) SCHEDULE FOR ISSUING TRANSPORTATION
4 SECURITY CARDS AT SEAPORTS.—

5 (A) Not later than May 15, 2007, the Sec-
6 retary shall begin issuing transportation secu-
7 rity cards to individuals at the first 25 seaport
8 facilities listed on the facility vulnerability as-
9 sessment issued by the Secretary under section
10 70102 of title 46, United States Code.

11 (B) Not later than November 15, 2007,
12 the Secretary shall begin issuing transportation
13 security cards to individuals at the next 30 sea-
14 port facilities listed on that assessment.

15 (C) Not later than November 15, 2008,
16 the Secretary shall issue transportation security
17 cards to individuals at all other seaport facili-
18 ties.

19 (c) INTERIM VERIFICATION OF INDIVIDUALS.—

20 (1) TERRORIST WATCH LIST COMPARISON AND
21 IMMIGRATION RECORDS CHECK.—Not later than 90
22 days after the date of enactment of this Act, the
23 Secretary shall—

24 (A) complete a comparison of each indi-
25 vidual who has unescorted access to a secure

1 area of a seaport facility (as designated in an
2 approved facility security plan in accordance
3 with section 70103(e) of title 46, United States
4 Code) against terrorist watch lists to determine
5 if the individual poses a threat; and

6 (B) determine whether each such indi-
7 vidual may be denied admission to the United
8 States, or removed from the United States,
9 under the Immigration and Nationality Act (8
10 U.S.C. 1101 et seq.).

11 (2) CONTINUING REQUIREMENT.—In the case
12 of an individual who is given unescorted access to a
13 secure area of a seaport facility after the date on
14 which the Secretary completes the requirements of
15 paragraph (1) and before the date on which the Sec-
16 retary begins issuing transportation security cards
17 at the seaport facility, the Secretary shall conduct a
18 comparison of the individual against terrorist watch
19 lists and determine whether the individual is lawfully
20 present in the United States.

21 (3) INTERIM FINAL REGULATIONS.—In order to
22 carry out this subsection, the Secretary shall issue
23 interim final regulations to require submission to the
24 Secretary of information necessary to carry out the
25 requirements of paragraph (1).

1 (4) PRIVACY REQUIREMENTS.—Terrorist watch
2 list comparisons and immigration records checks
3 under this subsection shall be carried out in accord-
4 ance with the requirements of section 552a of title
5 5, United States Code.

6 (5) RESTRICTIONS ON USE AND MAINTENANCE
7 OF INFORMATION.—

8 (A) RESTRICTION ON DISCLOSURE.—Infor-
9 mation obtained by the Secretary in the course
10 of comparing the individual against terrorist
11 watch lists under this subsection may not be
12 made available to the public, including the indi-
13 vidual’s employer.

14 (B) CONFIDENTIALITY; USE.—Any infor-
15 mation constituting grounds for prohibiting the
16 employment of an individual in a position de-
17 scribed in paragraph (1)(A) shall be maintained
18 confidentially by the Secretary and may be used
19 only for making determinations under this sec-
20 tion. The Secretary may share any such infor-
21 mation with appropriate Federal, State, local,
22 and tribal law enforcement agencies.

23 (6) TERRORIST WATCH LISTS DEFINED.—In
24 this subsection, the term “terrorist watch lists”

1 means all available information on known or sus-
2 pected terrorists or terrorist threats.

3 (d) REPORTING.—Not later than 120 days after the
4 date of enactment of this Act, the Secretary shall submit
5 to the appropriate congressional committees a report con-
6 taining information on—

7 (1) the number of matches made in conducting
8 terrorist watch list comparisons, and the number of
9 individuals found to be unlawfully present in the
10 United States, under subsection (c);

11 (2) the corresponding seaport facilities at which
12 the matches and unlawfully present individuals were
13 identified; and

14 (3) the actions taken as a result of the terrorist
15 watchlist comparisons and immigration records
16 checks under subsection (c).

17 (e) TREATMENT OF INDIVIDUALS RECEIVING HAZ-
18 ARDOUS MATERIALS ENDORSEMENTS.—

19 (1) IN GENERAL.—To the extent the Secretary
20 determines that the background records check con-
21 ducted under section 5103a of title 49, United
22 States Code, and the background records check con-
23 ducted under section 70105 of title 46, United
24 States Code, are equivalent, the Secretary shall de-
25 termine that an individual does not pose a risk war-

1 ranting denial of a transportation security card
2 issued under section 70105 of title 46, United States
3 Code, if such individual—

4 (A) has successfully completed a back-
5 ground records check under section 5103a of
6 title 49, United States Code; and

7 (B) possesses a current and valid haz-
8 ardous materials endorsement in accordance
9 with section 1572 of title 49, Code of Federal
10 Regulations.

11 (2) LIMITATIONS.—Notwithstanding paragraph
12 (1), the Secretary may deny an individual a trans-
13 portation security card under section 70105 of title
14 46, United States Code, if the Secretary has sub-
15 stantial evidence that the individual poses a risk to
16 national security.

17 (3) REDUCTION IN FEES.—The Secretary shall
18 reduce, to the extent practicable, any fees associated
19 with obtaining a transportation security card under
20 section 70105 of title 46, United States Code, for
21 any individual referred to in paragraph (1).

22 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
23 authorized to be appropriated \$20,000,000 for fiscal year
24 2007 to carry out this section.

1 **SEC. 106. CLARIFICATION ON ELIGIBILITY FOR TRANSPOR-**
2 **TATION SECURITY CARDS.**

3 Section 70105(c)(2) of title 46, United States Code,
4 is amended by inserting “subparagraph (A), (B), or (D)
5 of” before “paragraph (1)”.

6 **SEC. 107. ENHANCED CREWMEMBER IDENTIFICATION.**

7 Section 70111 of title 46, United States Code, is
8 amended—

9 (1) in subsection (a) by striking “The” and in-
10 serting “Not later than May 15, 2007, the”; and

11 (2) in subsection (b) by striking “The” and in-
12 serting “Not later than May 15, 2007, the”.

13 **SEC. 108. LONG-RANGE VESSEL TRACKING.**

14 (a) REGULATIONS.—Section 70115 of title 46,
15 United States Code is amended in the first sentence by
16 striking “The Secretary” and inserting “Not later than
17 April 1, 2007, the Secretary”.

18 (b) VOLUNTARY PROGRAM.—The Secretary of Home-
19 land Security may issue regulations to establish a vol-
20 untary long-range automated vessel tracking system for
21 vessels described in section 70115 of title 46, United
22 States Code, during the period before regulations are
23 issued under subsection (a) of such section.

1 **SEC. 109. MARITIME SECURITY COMMAND CENTERS.**

2 (a) IN GENERAL.—Chapter 701 of title 46, United
3 States Code, is amended by adding at the end the fol-
4 lowing new section:

5 **“§ 70122. Maritime security command centers**

6 “(a) ESTABLISHMENT.—The Secretary, in consulta-
7 tion with appropriate Federal, State, and local officials,
8 shall establish an integrated network of virtual and phys-
9 ical maritime security command centers at appropriate
10 United States seaports and maritime regions, as deter-
11 mined by the Secretary, to—

12 “(1) enhance information sharing;

13 “(2) facilitate day-to-day operational coordina-
14 tion; and

15 “(3) in the case of a transportation security in-
16 cident, facilitate incident management and response.

17 “(b) CHARACTERISTICS.—Each maritime security
18 command center described in subsection (a) shall—

19 “(1) be regionally based and utilize where avail-
20 able the compositional and operational characteris-
21 tics, facilities and information technology systems of
22 current operational centers for port and maritime
23 security and other similar existing facilities and sys-
24 tems;

1 “(2) be adapted to meet the security needs, re-
2 quirements, and resources of the seaport and mari-
3 time region the center will cover; and

4 “(3) to the maximum extent practicable, not in-
5 volve the construction of new facilities, but shall uti-
6 lize information technology, virtual connectivity, and
7 existing facilities to create an integrated, real-time
8 communication and information sharing network.

9 “(c) PARTICIPATION.—

10 “(1) FEDERAL PARTICIPATION.—The following
11 entities shall participate in the integrated network of
12 maritime security command centers described in
13 subsection (a):

14 “(A) The Coast Guard.

15 “(B) U.S. Customs and Border Protection.

16 “(C) U.S. Immigration and Customs En-
17 forcement.

18 “(D) Other appropriate Federal agencies.

19 “(2) STATE AND LOCAL PARTICIPATION.—Ap-
20 propriate State and local law enforcement agencies
21 may participate in the integrated network of mari-
22 time security command centers described in sub-
23 section (a).

24 “(d) RESPONSIBILITIES.—Each maritime security
25 command center described in subsection (a) shall—

1 “(1) assist, as appropriate, in the implementa-
2 tion of maritime transportation security plans devel-
3 oped under section 70103;

4 “(2) implement the transportation security inci-
5 dent response plans required under section 70104;

6 “(3) carry out information sharing activities
7 consistent with those activities required under sec-
8 tion 1016 of the National Security Intelligence Re-
9 form Act of 2004 (6 U.S.C. 485) and the Homeland
10 Security Information Sharing Act (6 U.S.C. 481 et
11 seq.);

12 “(4) conduct short- and long-range vessel track-
13 ing under sections 70114 and 70115; and

14 “(5) carry out such other responsibilities as de-
15 termined by the Secretary.

16 “(e) SECURITY CLEARANCES.—The Secretary shall
17 sponsor and expedite individuals participating in a mari-
18 time security command center described in subsection (a)
19 in gaining or maintaining their security clearances.
20 Through the Captain of the Port, the Secretary may iden-
21 tify key individuals who should participate. In addition,
22 the port or other entities may appeal to the Captain of
23 the Port for sponsorship.

24 “(f) SECURITY INCIDENTS.—During a transportation
25 security incident involving the port, the Coast Guard Cap-

1 tain of the Port designated by the Commandant of the
2 Coast Guard in a maritime security command center de-
3 scribed in subsection (a) shall act as the incident com-
4 mander, unless otherwise directed by the President.

5 “(g) RULE OF CONSTRUCTION.—Nothing in this sec-
6 tion shall be construed to affect the normal command and
7 control procedures for operational entities in the Depart-
8 ment, unless so directed by the Secretary.

9 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
10 are authorized to be appropriated \$60,000,000 for each
11 of the fiscal years 2007 through 2012 to carry out this
12 section and section 108(c) of the Security and Account-
13 ability For Every Port Act.”.

14 (b) CLERICAL AMENDMENT.—The table of sections
15 at the beginning of chapter 701 of title 46, United States
16 Code, is amended by adding at the end the following:

“70122. Maritime security command centers.”.

17 (c) IMPLEMENTATION PLAN AND BUDGET ANAL-
18 YSIS.—The Secretary of Homeland Security shall submit
19 to the appropriate congressional committees a plan for the
20 implementation of section 70122 of title 46, United States
21 Code, as added by subsection (a), and a budget analysis
22 for the implementation of such section, including addi-
23 tional cost-sharing arrangements with other Federal de-
24 partments and agencies and other participants involved in
25 the maritime security command centers described in such

1 section, not later than 180 days after the date of the en-
2 actment of this Act.

3 **Subtitle B—Grant and Training**
4 **Programs**

5 **SEC. 111. PORT SECURITY GRANT PROGRAM.**

6 (a) IN GENERAL.—Title V of the Homeland Security
7 Act of 2002 (6 U.S.C. 311 et seq.) is amended—

8 (1) by redesignating the second section 510 (as
9 added by section 7303(d) of Public Law 108–458
10 (118 Stat. 3844)) as section 511; and

11 (2) by adding at the end the following new sec-
12 tion:

13 **“SEC. 512. PORT SECURITY GRANT PROGRAM.**

14 “(a) GRANTS AUTHORIZED.—The Secretary shall es-
15 tablish a grant program to allocate Federal financial as-
16 sistance to United States seaports on the basis of risk and
17 need.

18 “(b) PRIORITIZATION PROCESS.—In awarding grants
19 under this section, the Secretary shall conduct an assess-
20 ment of United States seaports to develop a prioritization
21 for awarding grants authorized under subsection (a) based
22 upon—

23 “(1) the most current risk assessment available
24 from the Department;

1 “(2) the national economic and strategic de-
2 fense considerations of individual ports; and

3 “(3) any other factors that the Secretary deter-
4 mines to be appropriate.

5 “(c) APPLICATION.—

6 “(1) IN GENERAL.—Any entity or facility sub-
7 ject to an Area Maritime Transportation Security
8 Plan required under subsection (b) or (c) of section
9 70103 of title 46, United States Code, may submit
10 an application for a grant under this section, at such
11 time, in such form, and containing such information
12 and assurances as the Secretary may require.

13 “(2) MINIMUM STANDARDS FOR PAYMENT OR
14 REIMBURSEMENT.—Each application submitted
15 under paragraph (1) shall include—

16 “(A) a comprehensive description of—

17 “(i) the purpose of the project for
18 which the applicant seeks a grant under
19 this section and why the applicant needs
20 the grant;

21 “(ii) the applicability of the project to
22 the Area Maritime Transportation Security
23 Plan and other homeland security plans;

24 “(iii) the methodology for coordi-
25 nating the project into the security of the

1 greater port area, as identified in the Area
2 Maritime Transportation Security Plan;

3 “(iv) any existing cooperation or mu-
4 tual aid agreements with other port facili-
5 ties, vessels, organizations, or State, terri-
6 torial, and local governments as such
7 agreements relate to port security; and

8 “(v) a capital budget showing how the
9 applicant intends to allocate and expend
10 the grant funds;

11 “(B) a determination by the Captain of the
12 Port that the project—

13 “(i) addresses or corrects port secu-
14 rity vulnerabilities; and

15 “(ii) helps to ensure compliance with
16 the Area Maritime Transportation Security
17 Plan.

18 “(3) PROCEDURAL SAFEGUARDS.—The Sec-
19 retary, in consultation with the Office of the Inspec-
20 tor General and the Office of Grants and Training,
21 shall issue guidelines to establish appropriate ac-
22 counting, reporting, and review procedures to ensure
23 that—

24 “(A) grant funds are used for the purposes
25 for which they were made available;

1 “(B) grantees have properly accounted for
2 all expenditures of grant funds; and

3 “(C) grant funds not used for such pur-
4 poses and amounts not obligated or expended
5 are returned.

6 “(d) USE OF FUNDS.—Grants awarded under this
7 section may be used—

8 “(1) to help implement Area Maritime Trans-
9 portation Security Plans required under section
10 70103(b) of title 46, United States Code, or the ves-
11 sel or facility security plans required under section
12 70103(c) of title 46, United States Code;

13 “(2) to remedy port security vulnerabilities
14 identified through vulnerability assessments ap-
15 proved by the Secretary;

16 “(3) for non-Federal projects contributing to
17 the overall security of a seaport or a system of
18 United States seaports, as determined by the Sec-
19 retary;

20 “(4) for the salaries, benefits, overtime com-
21 pensation, and other costs of additional security per-
22 sonnel for State and local agencies for activities re-
23 quired by the Area Maritime Transportation Secu-
24 rity Plan for a seaport area if the Secretary—

1 “(A) increases the threat level under the
2 Homeland Security Advisory System to Code
3 Orange or Code Red; or

4 “(B) raises the Maritime Security level to
5 MARSEC Level 2 or 3;

6 “(5) for the cost of acquisition, operation, and
7 maintenance of equipment that contributes to the
8 overall security of the port area, as identified in the
9 Area Maritime Transportation Security Plan, if the
10 need is based upon vulnerability assessments ap-
11 proved by the Secretary or identified in the Area
12 Maritime Security Plan;

13 “(6) to conduct vulnerability assessments ap-
14 proved by the Secretary;

15 “(7) to purchase or upgrade equipment, includ-
16 ing communications equipment that is interoperable
17 with Federal, State, and local agencies and com-
18 puter software, to enhance terrorism preparedness;

19 “(8) to conduct exercises or training for preven-
20 tion and detection of, preparedness for, response to,
21 or recovery from terrorist attacks;

22 “(9) to establish or enhance mechanisms for
23 sharing terrorism threat information and to ensure
24 that the mechanisms are interoperable with Federal,
25 State, and local agencies;

1 “(10) for the cost of equipment (including soft-
2 ware) required to receive, transmit, handle, and
3 store classified information;

4 “(11) for the protection of critical infrastruc-
5 ture against potential attack by the addition of bar-
6 riers, fences, gates, and other such devices, except
7 that the cost of such measures may not exceed the
8 greater of—

9 “(A) \$1,000,000 per project; or

10 “(B) such greater amount as may be ap-
11 proved by the Secretary, which may not exceed
12 10 percent of the total amount of the grant;

13 “(12) to conduct port-wide exercises to
14 strengthen emergency preparedness of Federal,
15 State, territorial, and local officials responsible for
16 port security, including law enforcement personnel
17 and firefighters and other first responders, in sup-
18 port of the Area Maritime Security Plan; and

19 “(13) for the purpose of enhancing supply-chain
20 security at truck inspection stations in or near high
21 volume seaports in coordination with States and
22 local government.

23 “(e) REIMBURSEMENT OF COSTS.—An applicant for
24 a grant under this section may petition the Secretary for
25 the reimbursement of the cost of any activity relating to

1 prevention (including detection) of, preparedness for, re-
2 sponse to, or recovery from acts of terrorism that is a Fed-
3 eral duty and usually performed by a Federal agency, and
4 that is being performed by a State or local government
5 (or both) under agreement with a Federal agency.

6 “(f) PROHIBITED USES.—Grants awarded under this
7 section may not be used to—

8 “(1) supplant State or local funds for activities
9 of the type described in subsection (d);

10 “(2) construct buildings or other physical facili-
11 ties;

12 “(3) acquire land; or

13 “(4) make any State or local government cost-
14 sharing contribution.

15 “(g) MATCHING REQUIREMENT.—

16 “(1) IN GENERAL.—Except as provided in sub-
17 paragraph (A) or (B) of paragraph (2), Federal
18 funds for any eligible project under this section shall
19 not exceed 75 percent of the total cost of such
20 project.

21 “(2) EXCEPTIONS.—

22 “(A) SMALL PROJECTS.—The requirement
23 of paragraph (1) shall not apply with respect to
24 a project with a total cost of not more than
25 \$25,000.

1 “(B) HIGHER LEVEL OF FEDERAL SUP-
2 PORT REQUIRED.—The requirement of para-
3 graph (1) shall not apply with respect to a
4 project if the Secretary determines that the
5 project merits support and cannot be under-
6 taken without a higher rate of Federal support
7 than the rate described in paragraph (1).

8 “(3) IN-KIND CONTRIBUTIONS.—Each recipient
9 of a grant under this section may meet the require-
10 ment of paragraph (1) by making in-kind contribu-
11 tions of goods or services that are directly linked
12 with the purpose for which the grant is made, as de-
13 termined by the Secretary, including any necessary
14 personnel expenses, contractor services, administra-
15 tive costs, equipment, fuel, or maintenance, and
16 rental space.

17 “(h) MULTIPLE PHASE PROJECTS.—

18 “(1) IN GENERAL.—The Secretary may award
19 grants under this section for projects that span mul-
20 tiple years.

21 “(2) FUNDING LIMITATION.—Not more than 20
22 percent of the total grant funds awarded under this
23 section in any fiscal year may be awarded for
24 projects that span multiple years.

1 “(i) CONSISTENCY WITH PLANS.—The Secretary
2 shall ensure that each grant awarded under this section—

3 “(1) is used to supplement and support, in a
4 consistent and coordinated manner, the applicable
5 Area Maritime Transportation Security Plan; and

6 “(2) is coordinated with any applicable State or
7 Urban Area Homeland Security Plan.

8 “(j) COORDINATION AND COOPERATION.—The Sec-
9 retary—

10 “(1) shall ensure that all projects that receive
11 grant funding under this section within any area de-
12 fined in an Area Maritime Transportation Security
13 Plan are coordinated with other projects in such
14 area; and

15 “(2) may require cooperative agreements among
16 users of the seaport and seaport facilities with re-
17 spect to projects funded under this section.

18 “(k) REVIEW AND AUDITS.—The Secretary shall re-
19 quire all grantees under this section to maintain such
20 records as the Secretary may require and make such
21 records available for review and audit by the Secretary,
22 the Comptroller General of the United States, or the In-
23 spector General of the Department.

24 “(l) QUARTERLY REPORTS REQUIRED AS A CONDI-
25 TION OF HOMELAND SECURITY GRANTS.—

1 “(1) EXPENDITURE REPORTS REQUIRED.—As a
2 condition of receiving a grant under this section, the
3 Secretary shall require the grant recipient to submit
4 quarterly reports to the Secretary that describe each
5 expenditure made by the recipient using grant funds.

6 “(2) DEADLINE FOR REPORTS.—Each report
7 required under paragraph (1) shall be submitted not
8 later than 30 days after the last day of a fiscal quar-
9 ter and shall describe expenditures made during that
10 fiscal quarter.

11 “(3) PUBLICATION OF EXPENDITURES.—

12 “(A) IN GENERAL.—Not later than one
13 week after receiving a report under this sub-
14 section, the Secretary shall publish and make
15 publicly available on the Internet website of the
16 Department a description of each expenditure
17 described in the report.

18 “(B) WAIVER.—The Secretary may waive
19 the requirement of subparagraph (A) if the Sec-
20 retary determines that it is in the national secu-
21 rity interests of the United States to do so.

22 “(m) AUTHORIZATION OF APPROPRIATIONS.—

23 “(1) IN GENERAL.—There are authorized to be
24 appropriated \$400,000,000 for each of fiscal years
25 2007 through 2012 to carry out this section.

1 “(2) SOURCE OF FUNDS.—Amounts authorized
 2 to be appropriated under paragraph (1) shall origi-
 3 nate from duties collected by U.S. Customs and Bor-
 4 der Protection.”.

5 (b) CLERICAL AMENDMENT.—The table of contents
 6 in section 1(b) of the Homeland Security Act of 2002 (116
 7 Stat. 2135) is amended by inserting after the item relating
 8 to section 509 the following:

“Sec. 510. Procurement of security countermeasures for strategic national
 stockpile.

“Sec. 511. Urban and other high risk area communications capabilities.

“Sec. 512. Port security grant program.”.

9 (c) REPEAL.—

10 (1) IN GENERAL.—Section 70107 of title 46,
 11 United States Code, is hereby repealed.

12 (2) CLERICAL AMENDMENT.—The table of sec-
 13 tions at the beginning of chapter 701 of title 46,
 14 United States Code, is amended by striking the item
 15 relating to section 70107.

16 **SEC. 112. PORT SECURITY TRAINING PROGRAM.**

17 (a) IN GENERAL.—Subtitle A of title VIII of the
 18 Homeland Security Act of 2002 (6 U.S.C. 361) is amend-
 19 ed by adding at the end the following new section:

20 **“SEC. 802. PORT SECURITY TRAINING PROGRAM.**

21 “(a) IN GENERAL.—The Secretary, acting through
 22 the Assistant Secretary for Grants and Training and in
 23 coordination with components of the Department with

1 maritime security expertise, including the Coast Guard,
2 the Transportation Security Administration, and U.S.
3 Customs and Border Protection, shall establish a Port Se-
4 curity Training Program (hereinafter in this section re-
5 ferred to as the ‘Program’) for the purpose of enhancing
6 the capabilities of each of the Nation’s commercial sea-
7 ports to prevent, prepare for, respond to, mitigate against,
8 and recover from threatened or actual acts of terrorism,
9 natural disasters, and other emergencies.

10 “(b) REQUIREMENTS.—The Program shall provide
11 validated training that—

12 “(1) reaches multiple disciplines, including Fed-
13 eral, State, and local government officials, commer-
14 cial seaport personnel and management, and govern-
15 mental and nongovernmental emergency response
16 providers;

17 “(2) provides training at the awareness, per-
18 formance, and management and planning levels;

19 “(3) utilizes multiple training mediums and
20 methods, including—

21 “(A) direct delivery;

22 “(B) train-the-trainer;

23 “(C) computer-based training;

24 “(D) web-based training; and

25 “(E) video teleconferencing;

1 “(4) addresses port security topics, including—

2 “(A) seaport security plans and proce-
3 dures, including how security plans and proce-
4 dures are adjusted when threat levels increase;

5 “(B) seaport security force operations and
6 management;

7 “(C) physical security and access control
8 at seaports;

9 “(D) methods of security for preventing
10 and countering cargo theft;

11 “(E) container security;

12 “(F) recognition and detection of weapons,
13 dangerous substances, and devices;

14 “(G) operation and maintenance of secu-
15 rity equipment and systems;

16 “(H) security threats and patterns;

17 “(I) security incident procedures, including
18 procedures for communicating with govern-
19 mental and nongovernmental emergency re-
20 sponse providers; and

21 “(J) evacuation procedures;

22 “(5) is consistent with, and supports implemen-
23 tation of, the National Incident Management Sys-
24 tem, the National Response Plan, the National In-
25 frastructure Protection Plan, the National Prepared-

1 ness Guidance, the National Preparedness Goal, and
2 other such national initiatives;

3 “(6) is evaluated against clear and consistent
4 performance measures;

5 “(7) addresses security requirements under fa-
6 cility security plans; and

7 “(8) educates, trains, and involves populations
8 of at-risk neighborhoods around ports, including
9 training on an annual basis for neighborhoods to
10 learn what to be watchful for in order to be a ‘cit-
11 izen corps’, if necessary.

12 “(c) NATIONAL VOLUNTARY CONSENSUS STAND-
13 ARDS.—The Secretary shall—

14 “(1) support the development, promulgation,
15 and regular updating as necessary of national vol-
16 untary consensus standards for port security train-
17 ing; and

18 “(2) ensure that the training provided under
19 this section is consistent with such standards.

20 “(d) TRAINING PARTNERS.—In developing and deliv-
21 ering training under the Program, the Secretary shall—

22 “(1) work with government training facilities,
23 academic institutions, private organizations, em-
24 ployee organizations, and other entities that provide
25 specialized, state-of-the-art training for govern-

1 mental and nongovernmental emergency responder
2 providers or commercial seaport personnel and man-
3 agement; and

4 “(2) utilize, as appropriate, training courses
5 provided by community colleges, public safety acad-
6 emies, State and private universities, and other fa-
7 cilities.

8 “(e) CONSULTATION.—The Secretary shall ensure
9 that, in carrying out the Program, the Office of Grants
10 and Training shall consult with—

11 “(1) a geographic and substantive cross section
12 of governmental and nongovernmental emergency re-
13 sponse providers; and

14 “(2) commercial seaport personnel and manage-
15 ment.

16 “(f) COMMERCIAL SEAPORT PERSONNEL DE-
17 FINED.—For purposes of this section, the term ‘commer-
18 cial seaport personnel’ means any person engaged in an
19 activity relating to the loading or unloading of cargo, the
20 movement or tracking of cargo, the maintenance and re-
21 pair of intermodal equipment, the operation of cargo-re-
22 lated equipment (whether or not integral to the vessel),
23 and the handling of mooring lines on the dock when a ves-
24 sel is made fast or let go, in the United States or the
25 coastal waters thereof.”.

1 (b) CLERICAL AMENDMENT.—The table of contents
2 in section 1(b) of the Homeland Security Act of 2002 (116
3 Stat. 2135) is amended by inserting after the item relating
4 to section 801 the following:

“Sec. 802. Port security training program.”.

5 (c) VESSEL AND FACILITY SECURITY PLANS.—Sec-
6 tion 70103(c)(3) of title 46, United States Code, is
7 amended—

8 (1) in subparagraph (E), by striking “the train-
9 ing, periodic unannounced drills, and”;

10 (2) by redesignating subparagraphs (F) and
11 (G) as subparagraphs (G) and (H), respectively; and

12 (3) by inserting after subparagraph (E) the fol-
13 lowing new subparagraph:

14 “(F) provide a strategy and timeline for con-
15 ducting training and periodic unannounced drills for
16 persons on the vessel or at the facility to be carried
17 out under the plan to deter, to the maximum extent
18 practicable, a transportation security incident or a
19 substantial threat of such a transportation security
20 incident;”.

21 **SEC. 113. PORT SECURITY EXERCISE PROGRAM.**

22 (a) IN GENERAL.—Subtitle A of title VIII of the
23 Homeland Security Act of 2002 (6 U.S.C. 361), as
24 amended by section 112, is further amended by adding
25 at the end the following new section:

1 **“SEC. 803. PORT SECURITY EXERCISE PROGRAM.**

2 “(a) IN GENERAL.—The Secretary, acting through
3 the Assistant Secretary for Grants and Training, shall es-
4 tablish a Port Security Exercise Program (hereinafter in
5 this section referred to as the ‘Program’) for the purpose
6 of testing and evaluating the capabilities of Federal, State,
7 local, and foreign governments, commercial seaport per-
8 sonnel and management, governmental and nongovern-
9 mental emergency response providers, the private sector,
10 or any other organization or entity, as the Secretary deter-
11 mines to be appropriate, to prevent, prepare for, mitigate
12 against, respond to, and recover from acts of terrorism,
13 natural disasters, and other emergencies at commercial
14 seaports.

15 “(b) REQUIREMENTS.—The Secretary, acting
16 through the Assistant Secretary for Grants and Training
17 and in coordination with components of the Department
18 with maritime security expertise, including the Coast
19 Guard, the Transportation Security Administration, and
20 U.S. Customs and Border Protection, shall ensure that the
21 Program—

22 “(1) consolidates all existing port security exer-
23 cise programs administered by the Department;

24 “(2) conducts, on a periodic basis, port security
25 exercises at commercial seaports that are—

1 “(A) scaled and tailored to the needs of
2 each port;

3 “(B) live in the case of the most at-risk
4 ports;

5 “(C) as realistic as practicable and based
6 on current risk assessments, including credible
7 threats, vulnerabilities, and consequences;

8 “(D) consistent with the National Incident
9 Management System, the National Response
10 Plan, the National Infrastructure Protection
11 Plan, the National Preparedness Guidance, the
12 National Preparedness Goal, and other such na-
13 tional initiatives;

14 “(E) evaluated against clear and consistent
15 performance measures;

16 “(F) assessed to learn best practices,
17 which shall be shared with appropriate Federal,
18 State, and local officials, seaport personnel and
19 management; governmental and nongovern-
20 mental emergency response providers, and the
21 private sector; and

22 “(G) followed by remedial action in re-
23 sponse to lessons learned; and

1 “(3) assists State and local governments and
2 commercial seaports in designing, implementing, and
3 evaluating exercises that—

4 “(A) conform to the requirements of para-
5 graph (2); and

6 “(B) are consistent with any applicable
7 Area Maritime Transportation Security Plan
8 and State or Urban Area Homeland Security
9 Plan.

10 “(c) REMEDIAL ACTION MANAGEMENT SYSTEM.—
11 The Secretary, acting through the Assistant Secretary for
12 Grants and Training, shall establish a Remedial Action
13 Management System to—

14 “(1) identify and analyze each port security ex-
15 ercise for lessons learned and best practices;

16 “(2) disseminate lessons learned and best prac-
17 tices to participants in the Program;

18 “(3) monitor the implementation of lessons
19 learned and best practices by participants in the
20 Program; and

21 “(4) conduct remedial action tracking and long-
22 term trend analysis.

23 “(d) GRANT PROGRAM FACTOR.—In evaluating and
24 prioritizing applications for Federal financial assistance
25 under section 512, the Secretary shall give additional con-

1 sideration to those applicants that have conducted port se-
2 curity exercises under this section.

3 “(e) CONSULTATION.—The Secretary shall ensure
4 that, in carrying out the Program, the Office of Grants
5 and Training shall consult with—

6 “(1) a geographic and substantive cross section
7 of governmental and nongovernmental emergency re-
8 sponse providers; and

9 “(2) commercial seaport personnel and manage-
10 ment.

11 “(f) COMMERCIAL SEAPORT PERSONNEL DE-
12 FINED.—For purposes of this section, the term ‘commer-
13 cial seaport personnel’ means any person engaged in an
14 activity relating to the loading or unloading of cargo, the
15 movement or tracking of cargo, the maintenance and re-
16 pair of intermodal equipment, the operation of cargo-re-
17 lated equipment (whether or not integral to the vessel),
18 and the handling of mooring lines on the dock when a ves-
19 sel is made fast or let go, in the United States or the
20 coastal waters thereof.”.

21 (b) CLERICAL AMENDMENT.—The table of contents
22 in section 1(b) of the Homeland Security Act of 2002 (116
23 Stat. 2135), as amended by section 112, is further amend-
24 ed by inserting after the item relating to section 802 the
25 following:

“Sec. 803. Port security exercise program.”.

1 **Subtitle C—Miscellaneous**
2 **Provisions**

3 **SEC. 121. INCREASE IN PORT OF ENTRY INSPECTION OFFI-**
4 **CERS.**

5 (a) IN GENERAL.—The Secretary of Homeland Secu-
6 rity shall increase by not less than 200 the number of posi-
7 tions for full-time active duty port of entry inspection offi-
8 cers of the Department of Homeland Security for each of
9 the fiscal years 2007 through 2012.

10 (b) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to the Secretary to carry
12 out subsection (a) the following amounts for the following
13 fiscal years:

14 (1) \$20,000,000 for fiscal year 2007.

15 (2) \$40,000,000 for fiscal year 2008.

16 (3) \$60,000,000 for fiscal year 2009.

17 (4) \$80,000,000 for fiscal year 2010.

18 (5) \$100,000,000 for fiscal year 2011.

19 (6) \$120,000,000 for fiscal year 2012.

20 **SEC. 123. BORDER PATROL UNIT FOR UNITED STATES VIR-**
21 **GIN ISLANDS.**

22 Not later than 180 days after the date of the enact-
23 ment of this Act, the Secretary of Homeland Security shall
24 establish at least one Border Patrol unit for the Virgin
25 Islands of the United States.

1 **SEC. 124. REPORT ON OWNERSHIP AND OPERATION OF**
2 **UNITED STATES SEAPORTS.**

3 Not later than 180 days after the date of the enact-
4 ment of this Act, the Secretary of Homeland Security shall
5 submit to the appropriate congressional committees a re-
6 port that contains—

7 (1) the name of each individual or entity that
8 leases, operates, manages, or owns real property or
9 facilities at each United States seaport; and

10 (2) any other information that the Secretary
11 determines to be appropriate.

12 **SEC. 125. REPORT ON SECURITY OPERATIONS AT CERTAIN**
13 **UNITED STATES SEAPORTS.**

14 (a) STUDY.—The Secretary of Homeland Security
15 shall conduct a study on the adequacy of security oper-
16 ations at the ten United States seaports that load and un-
17 load the largest amount of containers.

18 (b) REPORT.—Not later than 270 days after the date
19 of the enactment of this Act, the Secretary shall submit
20 to the appropriate congressional committees a report on
21 the results of the study required by subsection (a).

22 **SEC. 126. REPORT ON ARRIVAL AND DEPARTURE MANI-**
23 **FESTS FOR CERTAIN COMMERCIAL VESSELS**
24 **IN THE UNITED STATES VIRGIN ISLANDS.**

25 Not later than 90 days after the date of the enact-
26 ment of this Act, the Secretary of Homeland Security shall

1 submit to the appropriate congressional committees a re-
2 port on the impact of implementing the requirements of
3 section 231 of the Immigration and Nationality Act (8
4 U.S.C. 1221) (relating to providing United States border
5 officers with arrival and departure manifests) with respect
6 to commercial vessels that are fewer than 300 gross tons
7 and operate exclusively between the territorial waters of
8 the United States Virgin Islands and the territorial waters
9 of the British Virgin Islands.

10 **SEC. 127. CENTER OF EXCELLENCE FOR MARITIME DOMAIN**
11 **AWARENESS.**

12 (a) ESTABLISHMENT.—The Secretary of the Home-
13 land Security shall establish a university-based Center for
14 Excellence for Maritime Domain Awareness following the
15 merit-review processes and procedures that have been es-
16 tablished by the Secretary for selecting university program
17 centers of excellence.

18 (b) DUTIES.—The Center shall—

19 (1) prioritize its activities based on the “Na-
20 tional Plan to Improve Maritime Domain Aware-
21 ness” published by the Department of Homeland Se-
22 curity in October 2005;

23 (2) recognize the extensive previous and ongo-
24 ing work and existing competence in the field of
25 maritime domain awareness at numerous academic

1 and research institutions, such as the Naval Post-
2 graduate School;

3 (3) leverage existing knowledge and continue
4 development of a broad base of expertise within aca-
5 demia and industry in maritime domain awareness;
6 and

7 (4) provide educational, technical, and analyt-
8 ical assistance to Federal agencies with responsibil-
9 ities for maritime domain awareness, including the
10 Coast Guard, to focus on the need for interoper-
11 ability, information sharing, and common informa-
12 tion technology standards and architecture.

13 **SEC. 128. REPORT ON SECURITY AND TRADE AT UNITED**
14 **STATES LAND PORTS.**

15 (a) STUDY.—The Secretary of Homeland Security
16 shall conduct a study on the challenges to balance the need
17 for greater security while maintaining the efficient flow
18 of trade at United States land ports.

19 (b) REPORT.—Not later than 180 days after the date
20 of the enactment of this Act, the Secretary shall submit
21 to the appropriate congressional committees a report on
22 the results of the study required by subsection (a).

1 **TITLE II—SECURITY OF THE**
2 **INTERNATIONAL SUPPLY CHAIN**

3 **SEC. 201. SECURITY OF THE INTERNATIONAL SUPPLY**
4 **CHAIN.**

5 (a) IN GENERAL.—The Homeland Security Act of
6 2002 (6 U.S.C. 101 et seq.) is amended by adding at the
7 end the following new title:

8 **“TITLE XVIII—SECURITY OF THE**
9 **INTERNATIONAL SUPPLY CHAIN**
10 **“Subtitle A—General Provisions**

11 **“SEC. 1801. STRATEGIC PLAN TO ENHANCE THE SECURITY**
12 **OF THE INTERNATIONAL SUPPLY CHAIN.**

13 “(a) STRATEGIC PLAN.—The Secretary, in consulta-
14 tion with appropriate Federal, State, local, and tribal gov-
15 ernment agencies and private sector stakeholders respon-
16 sible for security matters that affect or relate to the move-
17 ment of containers through the international supply chain,
18 shall develop and implement, and update as appropriate,
19 a strategic plan to enhance the security of the inter-
20 national supply chain.

21 “(b) REQUIREMENTS.—The strategic plan required
22 under subsection (a) shall—

23 “(1) describe the roles, responsibilities, and au-
24 thorities of Federal, State, local, and tribal govern-
25 ment agencies and private sector stakeholders that

1 relate to the security of the movement of containers
2 through the international supply chain;

3 “(2) identify and address gaps and unnecessary
4 overlaps in the roles, responsibilities, or authorities
5 described in paragraph (1);

6 “(3) identify and make recommendations re-
7 garding legislative, regulatory, and organizational
8 changes necessary to improve coordination among
9 the entities or to enhance the security of the inter-
10 national supply chain;

11 “(4) provide measurable goals, including objec-
12 tives, mechanisms, and a schedule, for furthering the
13 security of commercial operations from point of ori-
14 gin to point of destination;

15 “(5) build on available resources and consider
16 costs and benefits;

17 “(6) provide incentives for additional voluntary
18 measures to enhance cargo security, as determined
19 by the Secretary;

20 “(7) consider the impact of supply chain secu-
21 rity requirements on small and medium size compa-
22 nies;

23 “(8) include a process for sharing intelligence
24 and information with private sector stakeholders to
25 assist in their security efforts;

1 “(9) identify a framework for prudent and
2 measured response in the event of a transportation
3 security incident involving the international supply
4 chain;

5 “(10) provide a plan for the expeditious re-
6 sumption of the flow of legitimate trade in accord-
7 ance with section 70103(a)(2)(J)(ii) of title 46,
8 United States Code;

9 “(11) consider the linkages between supply
10 chain security and security programs within other
11 systems of movement, including travel security and
12 terrorism finance programs; and

13 “(12) expand upon and relate to existing strate-
14 gies and plans, including the National Strategy for
15 Maritime Security and the eight supporting plans of
16 the Strategy, as required by Homeland Security
17 Presidential Directive-13 (September 2005).

18 “(c) UTILIZATION OF ADVISORY COMMITTEES.—As
19 part of the consultations described in subsection (a), the
20 Secretary shall, to the extent practicable, utilize the
21 Homeland Security Advisory Committee, the National
22 Maritime Security Advisory Committee, and the Commer-
23 cial Operations Advisory Committee to review, as nec-
24 essary, the draft strategic plan and any subsequent up-
25 dates to the strategic plan.

1 “(d) INTERNATIONAL STANDARDS AND PRAC-
2 TICES.—In furtherance of the strategic plan required
3 under subsection (a), the Secretary is encouraged to con-
4 sider proposed or established standards and practices of
5 foreign governments and international organizations, in-
6 cluding the International Maritime Organization, the
7 World Customs Organization, the International Labor Or-
8 ganization, and the International Organization for Stand-
9 ardization, as appropriate, to establish standards and best
10 practices for the security of containers moving through the
11 international supply chain.

12 “(e) REPORT.—

13 “(1) INITIAL REPORT.—The Secretary shall
14 submit to the appropriate congressional committees
15 a report that contains the strategic plan required by
16 subsection (a).

17 “(2) FINAL REPORT.—Not later than three
18 years after the date on which the strategic plan is
19 submitted under paragraph (1), the Secretary shall
20 submit to the appropriate congressional committees
21 a report that contains an update of the strategic
22 plan.

23 “(f) DEFINITION.—In this section, the term ‘trans-
24 portation security incident’ has the meaning given the
25 term in section 70101(6) of title 46, United States Code.

1 **“SEC. 1802. TRANSMISSION OF ADDITIONAL DATA ELE-**
2 **MENTS FOR IMPROVED HIGH RISK TAR-**
3 **GETING.**

4 “(a) REQUIREMENT.—The Secretary shall require
5 transmission to the Department, through an electronic
6 data interchange system, of additional data elements for
7 improved high risk targeting, including appropriate secu-
8 rity elements of entry data, as determined by the Sec-
9 retary, to be provided as advanced information with re-
10 spect to cargo destined for importation into the United
11 States prior to loading of such cargo on vessels at foreign
12 seaports.

13 “(b) REGULATIONS.—The Secretary shall promul-
14 gate regulations to carry out this section. In promulgating
15 such regulations, the Secretary shall adhere to the param-
16 eters applicable to the development of regulations under
17 section 343(a) of the Trade Act of 2002 (19 U.S.C. 2071
18 note), including provisions relating to consultation, tech-
19 nology, analysis, use of information, confidentiality, and
20 timing requirements.

21 **“SEC. 1803. PLAN TO IMPROVE THE AUTOMATED TAR-**
22 **GETING SYSTEM.**

23 “(a) PLAN.—The Secretary shall develop and imple-
24 ment a plan to improve the Automated Targeting System
25 for the identification of high-risk containers moving
26 through the international supply chain.

1 “(b) CONTENTS.—

2 “(1) TREATMENT OF RECOMMENDATIONS.—

3 The Secretary shall include in the plan required
4 under subsection (a) a schedule to address the rec-
5 ommendations of the Comptroller General of the
6 United States, the Inspector General of the Depart-
7 ment of the Treasury, and the Inspector General of
8 the Department of Homeland Security with respect
9 to the operation of the Automated Targeting Sys-
10 tem.

11 “(2) INFORMATION SUBMISSIONS.—In devel-
12 oping the plan required under subsection (a), the
13 Secretary shall consider the cost, benefit, and feasi-
14 bility of—

15 “(A) requiring additional nonmanifest doc-
16 umentation for each container;

17 “(B) adjusting the time period allowed by
18 law for revisions to a container cargo manifest;

19 “(C) adjusting the time period allowed by
20 law for submission of entry data for vessel or
21 cargo; and

22 “(D) such other actions the Secretary con-
23 siders beneficial for improving the information
24 relied upon for the Automated Targeting Sys-
25 tem and any other targeting systems in fur-

1 thering the security and integrity of the inter-
2 national supply chain.

3 “(3) OUTSIDE REVIEW.—The Secretary shall
4 conduct, through an independent panel, a review of
5 the Automated Targeting System. The results of
6 this review shall be included in the plan required
7 under subsection (a).

8 “(4) SMART SYSTEM.—The Secretary shall con-
9 sider future iterations of the Automated Targeting
10 System, which would incorporate smart features,
11 such as more complex algorithms and real-time intel-
12 ligence, instead of relying solely on rule sets that are
13 periodically updated. The Secretary shall also con-
14 sider how the Automated Targeting System could be
15 improved through linkages with targeting systems in
16 existence on the date of the enactment of the Secu-
17 rity and Accountability For Every Port Act for trav-
18 el security and terrorism finance programs.

19 “(c) NEW OR EXPANDED INFORMATION SUBMIS-
20 SIONS.—In considering any new or expanded information
21 submission requirements, the Secretary shall consult with
22 stakeholders and identify the need for such information,
23 provide safeguards that ensure confidentiality with respect
24 to such information, and identify appropriate timing of the

1 submission of such information, in the plan required under
2 subsection (a).

3 “(d) SECURE TRANSMISSION OF CERTAIN INFORMA-
4 TION.—All information required by the Department from
5 supply chain partners shall be transmitted in a secure
6 fashion, as determined by the Secretary, so as to protect
7 the information from unauthorized access.

8 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated \$5,000,000 for each of
10 the fiscal years 2007 through 2012 to carry out this sec-
11 tion.

12 **“SEC. 1804. CONTAINER STANDARDS AND VERIFICATION**
13 **PROCEDURES.**

14 “(a) ESTABLISHMENT.—

15 “(1) IN GENERAL.—The Secretary shall estab-
16 lish minimum standards and verification procedures
17 for securing containers in transit to the United
18 States relating to the sealing of containers.

19 “(2) DEADLINE FOR ENFORCEMENT.—Not
20 later than two years after the date on which the
21 standards and procedures are established pursuant
22 to paragraph (1), all containers bound for ports of
23 entry in the United States shall meet such standards
24 and procedures.

1 “(b) REVIEW AND ENHANCEMENT.—The Secretary
2 shall regularly—

3 “(1) review the standards and procedures estab-
4 lished pursuant to subsection (a); and

5 “(2) enhance the security standards and proce-
6 dures, as appropriate, based on tests of technologies
7 as they become commercially available to detect con-
8 tainer intrusion and the highest consequence threats,
9 particularly weapons of mass destruction.

10 “(c) INTERNATIONAL CARGO SECURITY STAND-
11 ARDS.—The Secretary, in consultation with the Secretary
12 of State, is encouraged to promote and establish inter-
13 national standards for the security of containers moving
14 through the international supply chain with foreign gov-
15 ernments and international organizations, including the
16 International Maritime Organization and the World Cus-
17 toms Organization.

18 “(d) INTERNATIONAL TRADE AND OTHER OBLIGA-
19 TIONS.—In carrying out this section, the Secretary shall
20 consult with appropriate Federal departments and agen-
21 cies and private sector stakeholders and ensure that ac-
22 tions under this section do not violate international trade
23 obligations or other international obligations of the United
24 States.

1 **“SEC. 1805. CONTAINER SECURITY INITIATIVE (CSI).**

2 “(a) AUTHORIZATION.—The Secretary is authorized
3 to establish and implement a program (to be known as
4 the ‘Container Security Initiative’ or ‘CSI’) to identify and
5 examine maritime containers that pose a risk for terrorism
6 at foreign ports before the containers are shipped to the
7 United States.

8 “(b) ASSESSMENT.—Before the Secretary designates
9 any foreign port under CSI, the Secretary, in consultation
10 with other Federal officials, as appropriate, shall conduct
11 an assessment of the port, including—

12 “(1) the level of risk for the potential com-
13 promise of containers by terrorists or terrorist weap-
14 ons;

15 “(2) the volume of regular container traffic to
16 United States ports;

17 “(3) the results of the Coast Guard assessments
18 conducted pursuant to section 70108 of title 46,
19 United States Code;

20 “(4) the commitment of the host nation to co-
21 operating with the Department in sharing critical
22 data and risk management information and to main-
23 tain programs to ensure employee integrity; and

24 “(5) the potential for validation of security
25 practices by the Department.

1 “(c) NOTIFICATION.—The Secretary shall notify the
2 appropriate congressional committees prior to notifying
3 the public of the designation of a foreign port under CSI.

4 “(d) INSPECTIONS.—

5 “(1) REQUIREMENTS AND PROCEDURES.—The
6 Secretary shall—

7 “(A) establish technical capability criteria
8 and standard operating procedures for the use
9 of nonintrusive inspection and nuclear and radi-
10 ological detection systems in conjunction with
11 CSI;

12 “(B) require each port designated under
13 CSI to operate nonintrusive inspection and nu-
14 clear and radiological detection systems in ac-
15 cordance with the technical capability criteria
16 and standard operating procedures established
17 under subparagraph (A); and

18 “(C) continually monitor the technologies,
19 processes, and techniques used to inspect cargo
20 at ports designated under CSI.

21 “(2) CONSISTENCY OF STANDARDS AND PROCE-
22 DURES.—The Secretary shall ensure that the tech-
23 nical capability criteria and standard operating pro-
24 cedures established under paragraph (1)(A) are con-
25 sistent with such standards and procedures of any

1 other department or agency of the Federal govern-
2 ment with respect to deployment of nuclear and ra-
3 diological detection systems outside the United
4 States.

5 “(3) FOREIGN ASSISTANCE.—

6 “(A) IN GENERAL.—The Secretary, in con-
7 sultation with the Secretary of State, the Sec-
8 retary of Energy, and the heads of other Fed-
9 eral agencies, shall identify foreign assistance
10 programs that could facilitate the implementa-
11 tion of cargo security antiterrorism measures at
12 ports designated under CSI and foreign ports
13 not designated under CSI that lack effective
14 antiterrorism measures.

15 “(B) ACQUISITION.—The Secretary is au-
16 thorized to loan or otherwise assist in the de-
17 ployment of nonintrusive inspection or nuclear
18 and radiological detection systems for cargo
19 containers at each designated CSI port under
20 such terms and conditions as the Secretary de-
21 termines to be appropriate and to provide train-
22 ing for foreign personnel involved in CSI.

23 “(e) PROHIBITION.—

24 “(1) IN GENERAL.—The Secretary shall issue a
25 ‘do not load’ order to each port designated under

1 CSI to prevent the onload of any cargo that has
2 been identified as higher risk by the Automated Tar-
3 geting System unless the cargo—

4 “(A) is scanned with a non intrusive im-
5 agery device and nuclear or radiological detec-
6 tion equipment;

7 “(B) is devanned and inspected with nu-
8 clear or radiological detection equipment; or

9 “(C) is determined to be of lower risk fol-
10 lowing additional inquiries by appropriate per-
11 sonnel of U.S. Customs and Border Protection.

12 “(2) RULE OF CONSTRUCTION.—Nothing in
13 this subsection shall be construed to interfere with
14 the ability of the Secretary to deny entry of any
15 cargo into the United States.

16 “(f) REPORT.—The Secretary shall submit to the ap-
17 propriate congressional committees not later than March
18 1 of each year a report on the status of CSI, including—

19 “(1) a description of the security improvements
20 gained through CSI;

21 “(2) the rationale for the continuance of each
22 port designated under CSI;

23 “(3) an assessment of the personnel needs at
24 each port designated under CSI; and

1 “(4) a description of the potential for remote
2 targeting to decrease the number of personnel who
3 are deployed at foreign ports under CSI.

4 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated \$196,000,000 for each
6 of the fiscal years 2007 through 2012 to carry out this
7 section.

8 **“SEC. 1806. INFORMATION SHARING RELATING TO SUPPLY**
9 **CHAIN SECURITY COOPERATION.**

10 “(a) PURPOSES.—The purposes of this section are—

11 “(1) to establish continuing liaison and to pro-
12 vide for supply chain security cooperation between
13 Department and the private sector; and

14 “(2) to provide for regular and timely inter-
15 change of information between the private sector
16 and the Department concerning developments and
17 security risks in the supply chain environment.

18 “(b) SECURE SYSTEM.—The Secretary shall develop
19 a secure electronic data interchange system to collect from
20 and share appropriate risk information related to securing
21 the supply chain with the private sector entities deter-
22 mined appropriate by the Secretary.

23 “(c) CONSULTATION.—In developing the system
24 under subsection (b), the Secretary shall consult with the
25 Commercial Operations Advisory Committee and a broad

1 range of public and private sector entities likely to utilize
2 the system, including importers, exporters, carriers, cus-
3 toms brokers, and freight forwarders, among other par-
4 ties.

5 “(d) PROCEDURES.—The Secretary shall establish
6 uniform procedures for the receipt, care, and storage of
7 supply chain security information that is voluntarily sub-
8 mitted to the Department through the system developed
9 under subsection (b).

10 “(e) LIMITATIONS.—The voluntary information col-
11 lected through the system developed under subsection (b)
12 shall be used exclusively for ensuring security and shall
13 not be used for determining entry or for any other com-
14 mercial enforcement purpose. The voluntary information
15 submitted to the Department through the system devel-
16 oped under subsection (b) shall not be construed to con-
17 stitute compliance with any requirement to submit such
18 information to a Federal agency under any other provision
19 of law.

20 “(f) PARTICIPANTS.—The Secretary shall develop
21 protocols for determining appropriate private sector per-
22 sonnel who shall have access to the system developed
23 under subsection (b). Such personnel shall include des-
24 ignated security officers within companies that are deter-
25 mined to be low risk through participation in the Customs-

1 Trade Partnership Against Terrorism program established
2 pursuant to subtitle B of this title.

3 “(g) CONFIDENTIALITY.—Notwithstanding any other
4 provision of law, information that is voluntarily submitted
5 by the private sector to the Department through the sys-
6 tem developed under subsection (b)—

7 “(1) shall be exempt from disclosure under sec-
8 tion 552 of title 5, United States Code (commonly
9 referred to as the Freedom of Information Act);

10 “(2) shall not, without the written consent of
11 the person or entity submitting such information, be
12 used directly by the Department or a third party, in
13 any civil action arising under Federal or State law
14 if such information is submitted in good faith; and

15 “(3) shall not, without the written consent of
16 the person or entity submitting such information, be
17 used or disclosed by any officer or employee of the
18 United States for purposes other than the purposes
19 of this section, except—

20 “(A) in furtherance of an investigation or
21 other prosecution of a criminal act; or

22 “(B) when disclosure of the information
23 would be—

24 “(i) to either House of Congress, or to
25 the extent of matter within its jurisdiction,

1 any committee or subcommittee thereof,
2 any joint committee thereof or sub-
3 committee of any such joint committee; or
4 “(ii) to the Comptroller General, or
5 any authorized representative of the Comp-
6 troller General, in the course of the per-
7 formance of the duties of the Comptroller
8 General.

9 “(h) INDEPENDENTLY OBTAINED INFORMATION.—
10 Nothing in this section shall be construed to limit or other-
11 wise affect the ability of a Federal, State, or local, govern-
12 ment entity, under applicable law, to obtain supply chain
13 security information, including any information lawfully
14 and properly disclosed generally or broadly to the public
15 and to use such information in any manner permitted by
16 law.

17 “(i) PENALTIES.—Whoever, being an officer or em-
18 ployee of the United States or of any department or agen-
19 cy thereof, knowingly publishes, divulges, discloses, or
20 makes known in any manner or to any extent not author-
21 ized by law, any supply chain security information pro-
22 tected in this section from disclosure, shall be fined under
23 title 18, United States Code, imprisoned not more than
24 1 year, or both, and shall be removed from office or em-
25 ployment.

1 “(j) **AUTHORITY TO ISSUE WARNINGS.**—The Sec-
2 retary may provide advisories, alerts, and warnings to rel-
3 evant companies, targeted sectors, other governmental en-
4 tities, or the general public regarding potential risks to
5 the supply chain as appropriate. In issuing a warning, the
6 Secretary shall take appropriate actions to protect from
7 disclosure—

8 “(1) the source of any voluntarily submitted
9 supply chain security information that forms the
10 basis for the warning; and

11 “(2) information that is proprietary, business
12 sensitive, relates specifically to the submitting per-
13 son or entity, or is otherwise not appropriately in
14 the public domain.

15 **“Subtitle B—Customs-Trade Part-**
16 **nership Against Terrorism (C-**
17 **TPAT)**

18 **“SEC. 1811. ESTABLISHMENT.**

19 “(a) **ESTABLISHMENT.**—The Secretary is authorized
20 to establish a voluntary program (to be known as the ‘Cus-
21 toms-Trade Partnership Against Terrorism’ or ‘C-
22 TPAT’) to strengthen and improve the overall security of
23 the international supply chain and United States border
24 security.

1 “(b) MINIMUM SECURITY REQUIREMENTS.—The
2 Secretary shall review the minimum security requirements
3 of C-TPAT at least once every year and update such re-
4 quirements as necessary.

5 **“SEC. 1812. ELIGIBLE ENTITIES.**

6 “Importers, brokers, forwarders, air, sea, land car-
7 riers, contract logistics providers, and other entities in the
8 international supply chain and intermodal transportation
9 system are eligible to apply to voluntarily enter into part-
10 nerships with the Department under C-TPAT.

11 **“SEC. 1813. MINIMUM REQUIREMENTS.**

12 “An applicant seeking to participate in C-TPAT
13 shall—

14 “(1) demonstrate a history of moving commerce
15 in the international supply chain;

16 “(2) conduct an assessment of its supply chains
17 based upon security criteria established by the Sec-
18 retary, including—

19 “(A) business partner requirements;

20 “(B) container security;

21 “(C) physical security and access controls;

22 “(D) personnel security;

23 “(E) procedural security;

24 “(F) security training and threat aware-
25 ness; and

1 “(G) information technology security;
2 “(3) implement and maintain security measures
3 and supply chain security practices meeting security
4 criteria; and
5 “(4) meet all other requirements established by
6 the Secretary.

7 **“SEC. 1814. TIER ONE PARTICIPANTS.**

8 “(a) BENEFITS.—The Secretary may offer limited
9 benefits to C-TPAT participants whose security measures
10 and supply chain security practices have been certified in
11 accordance with the guidelines established pursuant to
12 subsection (b).

13 “(b) GUIDELINES.—The Secretary shall update
14 guidelines for certifying a C-TPAT participant’s security
15 measures and supply chain security practices under this
16 section.

17 **“SEC. 1815. TIER TWO PARTICIPANTS.**

18 “(a) IN GENERAL.—Not later than one year after a
19 C-TPAT participant has been certified under section
20 1814, the Secretary shall validate, directly or through
21 third party entities certified in accordance with section
22 1817, the security measures and supply chain security
23 practices of that participant. Such validation shall include
24 assessments at appropriate foreign locations utilized by
25 the participant as part of the supply chain.

1 “(b) CONSEQUENCES FOR FAILED VALIDATION.—If
2 a C-TPAT participant’s security measures and supply
3 chain security practices fail to meet the validation require-
4 ments under this section, the Commissioner of U.S. Cus-
5 toms and Border Protection may—

6 “(1) deny the participant benefits under C-
7 TPAT on a temporary or permanent basis; or

8 “(2) suspend or expel the participant from C-
9 TPAT.

10 “(c) RIGHT OF APPEAL.—A C-TPAT participant de-
11 scribed in subsection (b) may file an appeal with the Sec-
12 retary of the Commissioner’s decision under subsection
13 (b)(1) to deny benefits under C-TPAT or under sub-
14 section (b)(2) to suspend or expel the participant from C-
15 TPAT.

16 “(d) BENEFITS.—The Secretary shall extend benefits
17 to each C-TPAT participant that has been validated
18 under this section, which may include—

19 “(1) reduced examinations; and

20 “(2) priority processing for searches.

21 **“SEC. 1816. TIER THREE PARTICIPANTS.**

22 “(a) IN GENERAL.—The Secretary shall establish a
23 third tier of C-TPAT that offers additional benefits to C-
24 TPAT participants that demonstrate a sustained commit-

1 ment beyond the minimum criteria for participation in C-
2 TPAT.

3 “(b) ADDITIONAL CRITERIA.—The Secretary shall
4 designate criteria for C-TPAT participants under this sec-
5 tion that may include criteria to ensure—

6 “(1) cargo is loaded on a vessel with a vessel
7 security plan approved under section 70103(c) of
8 title 46, United States Code, or on a vessel with a
9 valid International Ship Security Certificate as pro-
10 vided for under part 104 of title 33, Code of Federal
11 Regulations;

12 “(2) container security devices, policies, or
13 practices that exceed the standards and procedures
14 established by the Secretary are utilized; and

15 “(3) cargo complies with any other require-
16 ments determined by the Secretary.

17 “(c) BENEFITS.—The Secretary, in consultation with
18 the Commercial Operations Advisory Committee and the
19 National Maritime Security Advisory Committee, may pro-
20 vide benefits to C-TPAT participants under this section,
21 which may include—

22 “(1) the expedited release of tier three cargo
23 into destination ports within the United States dur-
24 ing all threat levels designated by the Secretary;

1 “(2) reduced or streamlined bonding require-
2 ments that are consistent with obligations under
3 other applicable provisions of law;

4 “(3) preference to vessels;

5 “(4) further reduced examinations;

6 “(5) priority processing for examinations;

7 “(6) further reduced scores in the Automated
8 Targeting System; and

9 “(7) streamlined billing of any customs duties
10 or fees.

11 “(d) DEFINITION.—In this section, the term ‘con-
12 tainer security device’ means a mechanical or electronic
13 device designed to, at a minimum, positively identify con-
14 tainers and detect and record unauthorized intrusion of
15 containers. Such devices shall have false alarm rates that
16 have been demonstrated to be below one percent.

17 **“SEC. 1817. CONSEQUENCES FOR LACK OF COMPLIANCE.**

18 “(a) IN GENERAL.—If a C-TPAT participant’s secu-
19 rity measures and supply chain security practices fail to
20 meet any of the requirements under this subtitle, the Sec-
21 retary may deny the participant benefits in whole or in
22 part under this subtitle.

23 “(b) FALSE OR MISLEADING INFORMATION.—If a C-
24 TPAT participant intentionally provides false or mis-
25 leading information to the Secretary or a third party enti-

1 ty during the validation process of the participant under
2 this subtitle, the Commissioner of U.S. Customs and Bor-
3 der Protection shall suspend or expel the participant from
4 C-TPAT for a period of not less than five years.

5 “(c) RIGHT OF APPEAL.—A C-TPAT participant de-
6 scribed in subsection (a) may file an appeal with the Sec-
7 retary of the Secretary’s decision under subsection (a) to
8 deny benefits under this subtitle. A C-TPAT participant
9 described in subsection (b) may file an appeal with the
10 Secretary of the Commissioner’s decision under subsection
11 (b) to suspend or expel the participant from C-TPAT.

12 **“SEC. 1818. VALIDATIONS BY THIRD PARTY ENTITIES.**

13 “(a) IN GENERAL.—In conducting the pilot program
14 under subsection (f), and if the Secretary determines to
15 expand the use of third party entities to conduct valida-
16 tions of C-TPAT participants upon completion of the pilot
17 program under subsection (f), the Secretary shall—

18 “(1) develop, document, and update, as nec-
19 essary, minimum standard operating procedures and
20 requirements applicable to such entities for the con-
21 duct of such validations; and

22 “(2) meet all requirements under subtitle G of
23 the title VIII of this Act to review and designate
24 such minimum standard operating procedures as a

1 qualified anti-terrorism technology for purposes of
2 such subtitle.

3 “(b) CERTIFICATION OF THIRD PARTY ENTITIES.—

4 “(1) ISSUANCE OF CERTIFICATE OF CONFORM-
5 ANCE.—In accordance with section 863(d)(3) of this
6 Act, the Secretary shall issue a certificate of con-
7 formance to a third party entity to conduct valida-
8 tions under this subtitle if the entity—

9 “(A) demonstrates to the satisfaction of
10 the Secretary the ability to perform validations
11 in accordance with standard operating proce-
12 dures and requirements (or updates thereto)
13 designated as a qualified anti-terrorism tech-
14 nology by the Secretary under subsection (a);
15 and

16 “(B) agrees—

17 “(I) to perform validations in accord-
18 ance with such standard operating proce-
19 dures and requirements (or updates there-
20 to); and

21 “(ii) to maintain liability insurance
22 coverage at policy limits and in accordance
23 with conditions to be established by the
24 Secretary pursuant to section 864 of this
25 Act; and

1 “(C) signs an agreement to protect all pro-
2 prietary information of C-TPAT participants
3 with respect to which the entity will conduct
4 validations.

5 “(2) LITIGATION AND RISK MANAGEMENT PRO-
6 TECTIONS.—A third party entity that maintains li-
7 ability insurance coverage at policy limits and in ac-
8 cordance with conditions to be established by the
9 Secretary pursuant to section 864 of this Act and
10 receives a certificate of conformance under para-
11 graph (1) shall receive all applicable litigation and
12 risk management protections under sections 863 and
13 864 of this Act.

14 “(3) RECIPROCAL WAIVER OF CLAIMS.—A re-
15 ciprocal waiver of claims shall be deemed to have
16 been entered into between a third party entity that
17 receives a certificate of conformance under para-
18 graph (1) and its contractors, subcontractors, sup-
19 pliers, vendors, customers, and contractors and sub-
20 contractors of customers involved in the use or oper-
21 ation of the validation services of the third party en-
22 tity.

23 “(c) INFORMATION FOR ESTABLISHING LIMITS OF
24 LIABILITY INSURANCE.—A third party entity seeking a
25 certificate of conformance under subsection (b)(1) shall

1 provide to the Secretary necessary information for estab-
2 lishing the limits of liability insurance required to be main-
3 tained by the entity under section 864(a) of this Act.

4 “(d) ADDITIONAL REQUIREMENTS.—The Secretary
5 shall ensure that—

6 “(1) any third party entity under this section—

7 “(A) has no beneficial interest in or any
8 direct or indirect control over the C-TPAT par-
9 ticipant that is contracting for the validation
10 services; and

11 “(B) has no other conflict of interest with
12 respect to the C-TPAT participant; and

13 “(2) the C-TPAT participant has entered into
14 a contract with the third party entity under which
15 the C-TPAT participant agrees to pay all costs as-
16 sociated with the validation.

17 “(e) MONITORING.—

18 “(1) IN GENERAL.—The Secretary shall regu-
19 larly monitor and inspect the operations of a third
20 party entity conducting validations under this sub-
21 title to ensure that the entity is meeting the min-
22 imum standard operating procedures and require-
23 ments for the validation of C-TPAT participants es-
24 tablished under subsection (a) and all other applica-

1 ble requirements for validation services under this
2 subtitle.

3 “(2) REVOCATION.—If the Secretary finds that
4 a third party entity is not meeting the minimum
5 standard operating procedures and requirements, the
6 Secretary shall—

7 “(A) revoke the entity’s certificate of con-
8 formance issued under subsection (b)(1); and

9 “(B) review any validations conducted by
10 the entity.

11 “(f) PILOT PROGRAM.—

12 “(1) IN GENERAL.—The Secretary shall carry
13 out a pilot program to test the feasibility, costs, and
14 benefits of utilizing third party entities to conduct
15 validations of C-TPAT participants. In conducting
16 the pilot program, the Secretary shall comply with
17 all applicable requirements of this section with re-
18 spect to eligibility of third party entities to conduct
19 validations of C-TPAT participants.

20 “(2) REPORT.—Not later than 30 days after
21 the completion of the pilot program conducted pur-
22 suant to paragraph (1), the Secretary shall submit
23 to the appropriate congressional committees a report
24 that contains—

25 “(A) the results of the pilot program; and

1 “(B) the determination of the Secretary
2 whether or not to expand the use of third party
3 entities to conduct validations of C-TPAT par-
4 ticipants.

5 **“SEC. 1819. REVALIDATION.**

6 “The Secretary shall establish a process for revali-
7 dating C-TPAT participants under this subtitle. Such re-
8 validation shall occur not less frequently than once during
9 every 3-year period following the initial validation.

10 **“SEC. 1820. NON-CONTAINERIZED CARGO.**

11 “The Secretary may consider the potential for par-
12 ticipation in C-TPAT by importers of non-containerized
13 cargoes that otherwise meet the requirements under this
14 subtitle.

15 **“SEC. 1821. AUTHORIZATION OF APPROPRIATIONS.**

16 “There are authorized to be appropriated
17 \$75,000,000 for each of the fiscal years 2007 through
18 2012 to carry out this subtitle.

19 **“Subtitle C—Miscellaneous**
20 **Provisions**

21 **“SEC. 1831. RESEARCH, DEVELOPMENT, TEST, AND EVALUA-**
22 **TION EFFORTS IN FURTHERANCE OF MARI-**
23 **TIME AND CARGO SECURITY.**

24 “(a) IN GENERAL.—The Secretary shall—

1 “(1) direct research, development, test, and
2 evaluation efforts in furtherance of maritime and
3 cargo security;

4 “(2) encourage the ingenuity of the private sec-
5 tor in developing and testing technologies and proc-
6 ess innovations in furtherance of these objectives;
7 and

8 “(3) evaluate such technologies.

9 “(b) COORDINATION.—The Secretary, in coordina-
10 tion with the Undersecretary for Science and Technology,
11 the Director of the Domestic Nuclear Detection Office of
12 the Department, and the heads of other appropriate of-
13 fices or entities of the Department, shall ensure that—

14 “(1) research, development, test, and evaluation
15 efforts funded by the Department in furtherance of
16 maritime and cargo security are coordinated to avoid
17 duplication of efforts; and

18 “(2) the results of such efforts are shared
19 throughout the Department and other Federal,
20 State, and local agencies, as appropriate.

21 **“SEC. 1832. GRANTS UNDER OPERATION SAFE COMMERCE.**

22 “(a) IN GENERAL.—The Secretary shall provide
23 grants, as part of Operation Safe Commerce, to—

24 “(1) integrate nonintrusive imaging inspection
25 and nuclear and radiological detection systems with

1 automatic identification methods for containers, ves-
2 sels, and vehicles;

3 “(2) test physical access control protocols and
4 technologies to include continuous tracking devices
5 that provide real-time monitoring and reporting;

6 “(3) create a data sharing network capable of
7 transmitting data required by entities participating
8 in the international supply chain from every inter-
9 modal transfer point to the National Targeting Cen-
10 ter of the Department; and

11 “(4) otherwise further maritime and cargo secu-
12 rity, as determined by the Secretary.

13 “(b) SUPPLY CHAIN SECURITY FOR SPECIAL CON-
14 TAINER AND NONCONTAINERIZED CARGO.—In providing
15 grants under subsection (a), the Secretary shall establish
16 demonstration projects that further the security of the
17 international supply chain, including refrigerated con-
18 tainers, and noncontainerized cargo, including roll-on/roll-
19 off, break-bulk, liquid, and dry bulk cargo, through real-
20 time, continuous tracking technology for special or high-
21 risk container cargo that poses unusual potential for
22 human or environmental harm.

23 “(c) COMPETITIVE SELECTION PROCESS.—The Sec-
24 retary shall select recipients of grants under subsection

1 (a) through a competitive process on the basis of the fol-
2 lowing criteria:

3 “(1) The extent to which the applicant can
4 demonstrate that personnel, laboratory, and organi-
5 zational resources will be available to the applicant
6 to carry out the activities authorized under this sec-
7 tion.

8 “(2) The applicant’s capability to provide lead-
9 ership in making national and regional contributions
10 to the solution of maritime and cargo security
11 issues.

12 “(3) The extent to which the applicant’s pro-
13 grams, projects, and activities under the grant will
14 address highest risk priorities as determined by the
15 Secretary.

16 “(4) The extent to which the applicant has a
17 strategic plan for carrying out the programs,
18 projects, and activities under the grant.

19 “(5) Any other criteria the Secretary deter-
20 mines to be appropriate.

21 “(d) ADMINISTRATIVE PROVISIONS.—

22 “(1) PROHIBITION ON DUPLICATION OF EF-
23 FORT.—Before providing any grant under subsection
24 (a), the Secretary shall coordinate with other Fed-
25 eral departments and agencies to ensure the grant

1 will not duplicate work already being carried out
2 with Federal funding.

3 “(2) ACCOUNTING, REPORTING, AND REVIEW
4 PROCEDURES.—The Secretary shall establish ac-
5 counting, reporting, and review procedures to ensure
6 that—

7 “(A) amounts made available under a
8 grant provided under subsection (a)—

9 “(i) are used for the purpose for
10 which such amounts were made available;
11 and

12 “(ii) are properly accounted for; and

13 “(B) amounts not used for such purpose
14 and amounts not expended are recovered.

15 “(3) RECORDKEEPING.—The recipient of a
16 grant under subsection (a) shall keep all records re-
17 lated to expenditures and obligations of amounts
18 provided under the grant and make such records
19 available upon request to the Secretary for audit and
20 examination.

21 “(4) REVIEW.—The Secretary shall annually
22 review the programs, projects, and activities carried
23 out using amounts made available under grants pro-
24 vided under subsection (a) to ensure that obligations
25 and expenditures of such amounts are consistent

1 with the purposes for which such amounts are made
2 available.

3 “(e) ANNUAL REPORT.—Not later than March 1 of
4 each year, the Secretary shall submit to the appropriate
5 congressional committees a report detailing the results of
6 Operation Safe Commerce.

7 “(f) DEFINITION.—In this section, the term ‘Oper-
8 ation Safe Commerce’ means the research, development,
9 test, and evaluation grant program that brings together
10 private sector shareholders, port officials, and Federal,
11 State, and local representatives to analyze existing secu-
12 rity procedures for cargo and develop new security proto-
13 cols that have the potential to increase the security of
14 cargo shipments by monitoring the movement and integ-
15 rity of cargo through the international supply chain.

16 “(g) AUTHORIZATION OF APPROPRIATIONS.—

17 “(1) IN GENERAL.—Subject to paragraph (2),
18 there are authorized to be appropriated \$25,000,000
19 for each of fiscal years 2007 through 2012 to carry
20 out this section.

21 “(2) EFFECTIVE DATE.—Paragraph (1) shall
22 be effective beginning on the date on which the Sec-
23 retary submits to the appropriate congressional com-
24 mittees a report on the implementation and results
25 of grants provided under Operation Safe Commerce

1 before the date of the enactment of the Security and
2 Accountability For Every Port Act.

3 **“SEC. 1833. DEFINITIONS.**

4 “In this title, the following definitions apply:

5 “(1) AUTOMATED TARGETING SYSTEM.—The
6 term ‘Automated Targeting System’ means the
7 rules-based system incorporating intelligence mate-
8 rial and import transaction history, established by
9 U.S. Customs and Border Protection to target high
10 risk shipments of cargo.

11 “(2) EXAMINATION.—The term ‘examination’
12 means a physical inspection or the imaging and radi-
13 ation screening of a conveyance using non-intrusive
14 inspection (NII) technology, for the presence of con-
15 traband.

16 “(3) INSPECTION.—The term ‘inspection’
17 means the comprehensive process used by U.S. Cus-
18 toms and Border Protection for assessing goods en-
19 tering the United States to appraise them for duty
20 purposes, to detect the presence of restricted or pro-
21 hibited items, and to ensure compliance with all ap-
22 plicable laws. This process may include screening,
23 conducting an examination, or conducting a search.

24 “(4) INTERNATIONAL SUPPLY CHAIN.—The
25 term ‘international supply chain’ means the end-to-

1 end process for shipping goods from a point of ori-
2 gin overseas to and from the United States.

3 “(5) NUCLEAR AND RADIOLOGICAL DETECTION
4 SYSTEM.—The term ‘nuclear and radiological detec-
5 tion system’ means any technology that is capable of
6 detecting or identifying nuclear and radiological ma-
7 terial or explosive devices.

8 “(6) SCREENING.—The term ‘screening’ means
9 a visual or automated review of information about
10 goods, including manifest or entry documentation
11 accompanying a shipment being imported into the
12 United States, to determine or assess the threat of
13 such cargo.

14 “(7) SEARCH.—The term ‘search’ means an in-
15 trusive examination in which a container is opened
16 and its contents are de-vanned and visually in-
17 spected for the presence of misdeclared, restricted,
18 or prohibited items.”.

19 (b) CLERICAL AMENDMENT.—The table of contents
20 in section 1(b) of the Homeland Security Act of 2002 (116
21 Stat. 2135) is amended by adding at the end the following:

“TITLE XVIII—SECURITY OF THE INTERNATIONAL SUPPLY
CHAIN

“Subtitle A—General Provisions

“Sec. 1801. Strategic plan to enhance the security of the international supply
chain.

“Sec. 1802. Transmission of additional data elements for improved high risk
targeting.

- “Sec. 1803. Plan to improve the Automated Targeting System.
- “Sec. 1804. Container standards and verification procedures.
- “Sec. 1805. Container Security Initiative (CSI).
- “Sec. 1806. Information sharing relating to supply chain security cooperation.

“Subtitle B—Customs-Trade Partnership Against Terrorism (C-TPAT)

- “Sec. 1811. Establishment.
- “Sec. 1812. Eligible entities.
- “Sec. 1813. Minimum requirements.
- “Sec. 1814. Tier one participants.
- “Sec. 1815. Tier two participants.
- “Sec. 1816. Tier three participants.
- “Sec. 1817. Consequences for lack of compliance.
- “Sec. 1818. Validations by third party entities.
- “Sec. 1819. Revalidation.
- “Sec. 1820. Non-containerized cargo.
- “Sec. 1821. Authorization of appropriations.

“Subtitle C—Miscellaneous Provisions

- “Sec. 1831. Research, development, test, and evaluation efforts in furtherance of maritime and cargo security.
- “Sec. 1832. Grants under Operation Safe Commerce.
- “Sec. 1833. Definitions.”.

1 (c) EFFECTIVE DATES.—The Secretary of Homeland
2 Security shall—

3 (1) submit to the appropriate congressional
4 committees the report required by section 1801(e)(1)
5 of the Homeland Security Act of 2002, as added by
6 subsection (a), not later than 180 days after the
7 date of enactment of this Act;

8 (2) promulgate regulations under section
9 1802(b) of the Homeland Security Act of 2002, as
10 added by subsection (a), not later than one year
11 after the date of the enactment of this Act;

12 (3) develop and implement the plan to improve
13 the Automated Targeting System under section
14 1803(a) of the Homeland Security Act of 2002, as

1 added by subsection (a), not later than 180 days
2 after the date of the enactment of this Act;

3 (4) develop the standards and verification pro-
4 cedures described in section 1804(a)(1) of the
5 Homeland Security Act of 2002, as added by sub-
6 section (a), not later than 180 days after the date
7 of the enactment of this Act;

8 (5) begin exercising authority to issue a “do not
9 load” order to each port designated under CSI pur-
10 suant to section 1805(e) of the Homeland Security
11 Act of 2002, as added by subsection (a), not later
12 than 180 days after the date of the enactment of
13 this Act;

14 (6) develop the secure electronic data inter-
15 change system under section 1806(b) of the Home-
16 land Security Act of 2002, as added by subsection
17 (a), not later than one year after the date of the en-
18 actment of this Act;

19 (7) update guidelines for certifying a C-TPAT
20 participant’s security measures and supply chain se-
21 curity practices under section 1814(b) of the Home-
22 land Security Act of 2002, as added by subsection
23 (a), not later than 180 days after the date of the en-
24 actment of this Act;

1 (8) develop a schedule and update guidelines for
2 validating a C-TPAT participant's security meas-
3 ures and supply chain security practices under sec-
4 tion 1815 of the Homeland Security Act of 2002, as
5 added by subsection (a), not later than 180 days
6 after the date of enactment of this Act;

7 (9) provide appropriate benefits described in
8 subsection (d) of section 1816 of the Homeland Se-
9 curity Act of 2002, as added by subsection (a), to
10 C-TPAT participants under section 1816 of such
11 Act beginning not later than two years after the
12 date of the enactment of this Act; and

13 (10) carry out the pilot program described in
14 section 1818(f) of the Homeland Security Act of
15 2002, as added by subsection (a), beginning not
16 later than one year after the date of the enactment
17 of this Act for a duration of not less than a one-year
18 period.

19 **SEC. 202. NEXT GENERATION SUPPLY CHAIN SECURITY**
20 **TECHNOLOGIES.**

21 (a) **EVALUATION OF EMERGING TECHNOLOGIES.—**

22 While maintaining the current layered, risk-based ap-
23 proach to screening, scanning, and inspecting cargo at for-
24 eign ports bound for the United States in accordance with
25 existing statutory provisions, the Secretary of Homeland

1 Security shall evaluate the development of nuclear and ra-
2 diological detection systems and other inspection tech-
3 nologies for use at foreign seaports to increase the volume
4 of containers scanned prior to loading on vessels bound
5 for the United States. In carrying out this section, the
6 Secretary's evaluation shall include an analysis of battery
7 powered portable neutron and gamma-ray detection de-
8 vices that can be inexpensively mass produced.

9 (b) EMERGING TECHNOLOGY.—Not later than one
10 year after the date of the enactment of this Act, the Sec-
11 retary shall, having evaluated emerging technologies under
12 subsection (a), determine if more capable, commercially
13 available technology exists, and whether such technology—

14 (1) has a sufficiently low false alarm rate for
15 use in the supply chain;

16 (2) is capable of being deployed and operated at
17 ports overseas;

18 (3) is capable of integrating, where necessary,
19 with existing systems;

20 (4) does not significantly impact trade capacity
21 and flow of cargo at foreign or United States ports;
22 and

23 (5) provides an automated notification of ques-
24 tionable or high-risk cargo as a trigger for further
25 inspection by appropriately trained personnel.

1 (c) CONTINGENT IMPLEMENTATION.—If the Sec-
2 retary determines the available technology meets the cri-
3 teria outlined in subsection (b), the Secretary, in coopera-
4 tion with the Secretary of State, shall within 180 days
5 of such determination, seek to secure the cooperation of
6 foreign governments to initiate and maximize the use of
7 such technology at foreign ports to scan all cargo possible.

8 (d) INTERNATIONAL COOPERATION.—If the Sec-
9 retary determines that a proposed technology meets the
10 requirements of subsection (b), but cannot be implemented
11 as a result of a foreign government’s refusal to cooperate
12 in the phased deployment, the Secretary may refuse to ac-
13 cept containerized cargo from that port.

14 (e) REPORT.—The Secretary shall submit to the ap-
15 propriate congressional committees on an annual basis a
16 report on the evaluation performed under subsections (a)
17 and (b), the status of any implementation initiated in ac-
18 cordance with subsection (c), and a detailed assessment
19 of the level of cooperation of foreign governments, as well
20 as any actions taken by the Secretary under subsection
21 (d).

22 (f) DEFINITION.—In this section, the term “nuclear
23 and radiological detection system” means any technology
24 that is capable of detecting or identifying nuclear and ra-
25 diological material or explosive devices.

1 **SEC. 203. INTERNATIONAL TRADE DATA SYSTEM.**

2 (a) ESTABLISHMENT.—The President shall establish
3 and implement the International Trade Data System, a
4 single, uniform data system for the electronic collection,
5 dissemination, and sharing of import and export informa-
6 tion, to increase the efficiency of data submission and the
7 security of such data related to border security, trade, and
8 public health and safety of international cargoes.

9 (b) PRIVATE SECTOR CONSULTATION.—The Presi-
10 dent shall consult with private sector stakeholders in de-
11 veloping uniform data submission requirements, proce-
12 dures, and schedules under the system established pursu-
13 ant to subsection (a).

14 (c) REPORT.—Not later than 120 days after the date
15 of the enactment of this Act, the President shall transmit
16 to the appropriate congressional committees a report on
17 the schedule for full implementation of the system estab-
18 lished pursuant to subsection (a).

19 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
20 tion shall be construed to prevent any Federal department
21 or agency from collecting import and export information
22 under any other provision of law.

23 **SEC. 204. FOREIGN PORT ASSESSMENTS.**

24 Section 70108 of title 46, United States Code, is
25 amended by adding at the end the following:

1 “(d) PERIODIC REASSESSMENT.—The Secretary, act-
2 ing through the Commandant of the Coast Guard, shall
3 reassess the effectiveness of antiterrorism measures main-
4 tained at ports as described under subsection (a) and of
5 procedures described in subsection (b) not less than every
6 3 years.”.

7 **SEC. 205. PILOT PROGRAM TO IMPROVE THE SECURITY OF**
8 **EMPTY CONTAINERS.**

9 (a) IN GENERAL.—The Secretary of Homeland Secu-
10 rity shall conduct a one-year pilot program to evaluate and
11 improve the security of empty containers at United States
12 seaports to ensure the safe and secure delivery of cargo
13 and to prevent potential acts of terrorism involving such
14 containers. The pilot program shall include the use of vis-
15 ual searches of empty containers at United States sea-
16 ports.

17 (b) REPORT.—Not later than 90 days after the com-
18 pletion of the pilot program under paragraph (1), the Sec-
19 retary shall prepare and submit to the appropriate con-
20 gressional committees a report that contains—

21 (1) the results of pilot program; and

22 (2) the determination of the Secretary whether
23 or not to expand the pilot program.

1 **SEC. 206. STUDY AND REPORT ON ADVANCED IMAGERY**
2 **PILOT PROGRAMS.**

3 (a) STUDY.—

4 (1) IN GENERAL.—The Secretary of Homeland
5 Security, in consultation with the Commissioner of
6 U.S. Customs and Border Protection, shall conduct
7 a study of the merits of current container inspection
8 pilot programs which include nuclear or radiological
9 detection, non-intrusive imagery, and density scan-
10 ning capabilities.

11 (2) REQUIREMENTS.—The study required
12 under paragraph (1) shall include, at a minimum—

13 (A) an evaluation of the cost, personnel,
14 and infrastructure required to operate the pilot
15 programs, as well as the cost, personnel, and
16 infrastructure required to move the pilot pro-
17 grams into full-scale deployment to screen all
18 cargo imported from foreign ports;

19 (B) an evaluation of the cost, personnel,
20 and infrastructure required by U.S. Customs
21 and Border Protection to validate the data gen-
22 erated from the pilot programs;

23 (C) a summary of best practices and tech-
24 nological advances of the pilot programs that
25 could be integrated into the Container Security

1 Initiative and other container security pro-
2 grams; and

3 (D) an assessment of the impact of tech-
4 nology or processes utilized in the pilot pro-
5 grams on improving cargo operations and secu-
6 rity.

7 (b) REPORT.—Not later than 60 days after the date
8 of the enactment of this Act, the Secretary shall submit
9 to the appropriate congressional committees a report that
10 contains—

11 (1) the results of the study required under sub-
12 section (a); and

13 (2) recommendations to improve container secu-
14 rity programs within the Department of Homeland
15 Security.

16 **SEC. 207. REPORT ON NATIONAL TARGETING CENTER.**

17 (a) STUDY.—The Secretary of Homeland Security
18 shall conduct a study to assess the activities of U.S. Cus-
19 toms and Border Protection’s National Targeting Center
20 (NTC).

21 (b) REPORT.—Not later than 180 days after the date
22 of the enactment of this Act, the Secretary shall submit
23 to the appropriate congressional committees a report that
24 contains—

1 (1) the results of the study conducted under
2 subsection (a); and

3 (2) recommendations to improve and strengthen
4 the activities of NTC.

5 **SEC. 208. INTEGRATED CONTAINER INSPECTION SYSTEM**
6 **PILOT PROJECT.**

7 Not later than 180 days after the date of the enact-
8 ment of this Act, the Secretary of Homeland Security shall
9 conduct a pilot project at an overseas port similar to the
10 Integrated Container Inspection System being tested at
11 the port in Hong Kong.

12 **TITLE III—DIRECTORATE FOR**
13 **POLICY, PLANNING, AND**
14 **INTERNATIONAL AFFAIRS**

15 **SEC. 301. ESTABLISHMENT OF DIRECTORATE.**

16 (a) ESTABLISHMENT.—The Homeland Security Act
17 of 2002 (6 U.S.C. 101 et seq.) is amended—

18 (1) by redesignating title VI as title XIX, and
19 moving such title so as to appear after title XVIII,
20 as added by section 201;

21 (2) by striking the heading for such title and
22 inserting the following:

1 **“TITLE XIX—MISCELLANEOUS**
2 **PROVISIONS”.**

3 (3) by redesignating section 601 as section
4 1901; and

5 (4) by inserting after title V the following new
6 title:

7 **“TITLE VI—POLICY, PLANNING,**
8 **AND INTERNATIONAL AFFAIRS**

9 **“SEC. 601. DIRECTORATE FOR POLICY, PLANNING, AND**
10 **INTERNATIONAL AFFAIRS.**

11 “(a) ESTABLISHMENT.—There shall be in the De-
12 partment a Directorate for Policy, Planning, and Inter-
13 national Affairs.

14 “(b) UNDER SECRETARY FOR POLICY.—

15 “(1) IN GENERAL.—The head of the Direc-
16 torate shall be the Under Secretary for Policy, who
17 shall be appointed by the President.

18 “(2) QUALIFICATIONS.—No individual shall be
19 appointed Under Secretary for Policy under para-
20 graph (1) unless the individual has, by education
21 and experience, demonstrated knowledge, ability,
22 and skill in the fields of policy and strategic plan-
23 ning.

24 “(c) RESPONSIBILITIES OF UNDER SECRETARY.—

1 “(1) POLICY RESPONSIBILITIES.—Subject to
2 the direction and control of the Secretary, the policy
3 responsibilities of the Under Secretary for Policy
4 shall be as follows:

5 “(A) To serve as the principal policy advi-
6 sor to the Secretary.

7 “(B) To provide overall direction and su-
8 pervision of policy development for the pro-
9 grams, offices, and activities of the Depart-
10 ment.

11 “(C) To establish and implement a formal
12 policymaking process for the Department.

13 “(D) To analyze, evaluate, and review the
14 completed, ongoing, and proposed programs of
15 the Department to ensure they are compatible
16 with the statutory and regulatory responsibil-
17 ities of the Department and with the Sec-
18 retary’s priorities, strategic plans, and policies.

19 “(E) To ensure that the budget of the De-
20 partment (including the development of future
21 year budgets and interaction with the Office of
22 Management and Budget and with Congress) is
23 compatible with the statutory and regulatory re-
24 sponsibilities of the Department and with the

1 Secretary's priorities, strategic plans, and poli-
2 cies.

3 “(F) To represent the Department in any
4 development of policy that requires the Depart-
5 ment to consult with another Federal agency,
6 the Office of the President, a foreign govern-
7 ment, or any other governmental or private sec-
8 tor entity.

9 “(G) To supervise and oversee policy devel-
10 opment undertaken by the component agencies
11 and offices of the Department.

12 “(H) To provide for the coordination and
13 maintenance of the trade and customs revenue
14 functions of the Department.

15 “(2) STRATEGIC PLANNING RESPONSIBIL-
16 ITIES.—Subject to the direction and control of the
17 Secretary, the strategic planning responsibilities of
18 the Under Secretary for Policy shall be as follows:

19 “(A) To conduct long-range, strategic
20 planning for the Department.

21 “(B) To prepare national and Department
22 strategies, as appropriate.

23 “(C) To conduct net assessments of issues
24 facing the Department.

1 “(3) INTERNATIONAL RESPONSIBILITIES.—Sub-
2 ject to the direction and control of the Secretary, the
3 international responsibilities of the Under Secretary
4 for Policy shall be as follows:

5 “(A) To promote the exchange of informa-
6 tion and the sharing of best practices and tech-
7 nology relating to homeland security with na-
8 tions friendly to the United States, including—

9 “(i) the exchange of information on
10 research and development on homeland se-
11 curity technologies;

12 “(ii) joint training exercises of first
13 responders in coordination with the Assist-
14 ant Secretary for Grants and Training;
15 and

16 “(iii) exchanging expertise and infor-
17 mation on terrorism prevention, response,
18 and crisis management.

19 “(B) To identify any homeland security-re-
20 lated area in which the United States and other
21 nations and appropriate international organiza-
22 tions could collaborate to improve capabilities
23 and to encourage the exchange of information
24 or sharing of best practices and technology re-
25 lating to that area.

1 “(C) To plan and participate in inter-
2 national conferences, exchange programs (in-
3 cluding the exchange of scientists, engineers,
4 and other experts), and other training activities
5 with friendly nations.

6 “(D) To manage international activities
7 within the Department in coordination with
8 other Federal officials with responsibility for
9 counterterrorism matters.

10 “(E) To oversee the activities of Depart-
11 ment personnel operating in other countries or
12 traveling to other countries.

13 “(F) To represent the Department in
14 international negotiations, working groups, and
15 standards-setting bodies.

16 “(4) PRIVATE SECTOR.—

17 “(A) To create and foster strategic com-
18 munications with the private sector to enhance
19 the primary mission of the Department to pro-
20 tect the United States.

21 “(B) To advise the Secretary on the im-
22 pact on the private sector of the policies, regu-
23 lations, processes, and actions of the Depart-
24 ment.

1 “(C) To create and manage private sector
2 advisory councils composed of representatives of
3 industries and associations designated by the
4 Secretary—

5 “(i) to advise the Secretary on private
6 sector products, applications, and solutions
7 as they relate to homeland security chal-
8 lenges; and

9 “(ii) to advise the Secretary on home-
10 land security policies, regulations, proc-
11 esses, and actions that affect the partici-
12 pating industries and associations.

13 “(D) To promote existing public-private
14 partnerships and develop new public-private
15 partnerships to provide for collaboration and
16 mutual support to address homeland security
17 challenges.

18 “(E) To identify private sector resources
19 and capabilities that could be effective in
20 supplementing functions of the Department and
21 State and local governments to prevent or re-
22 spond to acts of terrorism.

23 “(F) To coordinate among the Depart-
24 ment’s operating entities and with the Assistant
25 Secretary for Trade Development of the De-

1 partment of Commerce on issues related to the
2 travel and tourism industries.

3 “(5) TRADE AND CUSTOMS REVENUE FUNC-
4 TIONS.—The Under Secretary for Policy shall—

5 “(A) ensure that the trade and customs
6 revenue functions of the Department are coordi-
7 nated within the Department and with other
8 Federal departments and agencies, and that the
9 impact on legitimate trade is taken into account
10 in any action impacting these functions; and

11 “(B) monitor and report to Congress on
12 the Department’s mandate to ensure that the
13 trade and customs revenue functions of the De-
14 partment are not diminished, including how
15 spending, operations, and personnel related to
16 these functions have kept pace with the level of
17 trade entering the United States.

18 **“SEC. 602. OFFICE OF INTERNATIONAL AFFAIRS.**

19 “(a) ESTABLISHMENT.—There is established within
20 the Directorate of Policy, Planning, and International Af-
21 fairs an Office of International Affairs. The Office shall
22 be headed by an Assistant Secretary, who shall be ap-
23 pointed by the Secretary.

24 “(b) DUTIES OF THE ASSISTANT SECRETARY.—The
25 Assistant Secretary shall have the following duties:

1 “(1) To promote information and education ex-
2 change with nations friendly to the United States in
3 order to promote sharing of best practices and tech-
4 nologies relating to homeland security. Such ex-
5 change shall include the following:

6 “(A) Exchange of information on research
7 and development on homeland security tech-
8 nologies.

9 “(B) Joint training exercises of first re-
10 sponders.

11 “(C) Exchange of expertise on terrorism
12 prevention, response, and crisis management.

13 “(2) To identify areas for homeland security in-
14 formation and training exchange where the United
15 States has a demonstrated weakness and another
16 friendly nation or nations have a demonstrated ex-
17 pertise.

18 “(3) To plan and undertake international con-
19 ferences, exchange programs, and training activities.

20 “(4) To manage international activities within
21 the Department in coordination with other Federal
22 officials with responsibility for counter-terrorism
23 matters.

1 **“SEC. 603. OTHER OFFICES AND OFFICIALS.**

2 “(a) IN GENERAL.—The Under Secretary for Policy
3 shall establish the following offices in the Directorate for
4 Policy, Planning, and International Affairs:

5 “(1) The Office of Policy, which shall be admin-
6 istered by an Assistant Secretary for Policy.

7 “(2) The Office of Strategic Plans, which shall
8 be administered by an Assistant Secretary for Stra-
9 tegic Plans and which shall include—

10 “(A) a Secure Border Initiative Program
11 Office; and

12 “(B) a Screening Coordination and Oper-
13 ations Office.

14 “(3) The Office of the Private Sector, which
15 shall be administered by an Assistant Secretary for
16 the Private Sector.

17 “(4) The Victim Assistance Officer.

18 “(5) The Tribal Security Officer.

19 “(6) Such other offices as considered necessary
20 by the Under Secretary for Policy.

21 “(b) DIRECTOR OF CARGO SECURITY POLICY.—

22 “(1) IN GENERAL.—There shall be in the Di-
23 rectorate for Policy, Planning, and International Af-
24 fairs a Director of Cargo Security Policy (herein-
25 after in this subsection referred to as the ‘Director’),

1 who shall be subject to the direction and control of
2 the Under Secretary for Policy.

3 “(2) RESPONSIBILITIES.—The Director shall—

4 “(A) advise the Assistant Secretary for
5 Policy regarding all aspects of Department pro-
6 grams relating to cargo security;

7 “(B) develop Department-wide policies re-
8 garding cargo security; and

9 “(C) coordinate the cargo security policies
10 and programs of the Department with other
11 Federal departments and agencies, including by
12 working with officials of the Department of En-
13 ergy and the Department of State, as appro-
14 priate, in negotiating international agreements
15 relating to cargo security.

16 “(c) DIRECTOR OF TRADE POLICY.—

17 “(1) IN GENERAL.—There shall be in the Di-
18 rectorate for Policy, Planning, and International Af-
19 fairs a Director of Trade Policy (hereinafter in this
20 subsection referred to as the ‘Director’), who shall
21 be subject to the direction and control of the Under
22 Secretary for Policy.

23 “(2) RESPONSIBILITIES.—The Director shall—

24 “(A) advise the Assistant Secretary for
25 Policy regarding all aspects of Department pro-

1 grams relating to the trade and customs rev-
2 enue functions of the Department;

3 “(B) develop Department-wide policies re-
4 garding trade and customs revenue functions
5 and trade facilitation; and

6 “(C) coordinate the trade and customs rev-
7 enue-related programs of the Department with
8 other Federal departments and agencies.

9 **“SEC. 604. CONSULTATION ON TRADE AND CUSTOMS REV-
10 ENUE FUNCTIONS.**

11 “(a) IN GENERAL.—The Secretary and the Under
12 Secretary for Policy shall consult with representatives of
13 the business community involved in international trade, in-
14 cluding seeking the advice and recommendations of the
15 Commercial Operations Advisory Committee (COAC), on
16 Department policies and actions that have a significant
17 impact on international trade and customs revenue func-
18 tions.

19 “(b) COAC CONSULTATION AND NOTIFICATION.—

20 “(1) IN GENERAL.—Subject to paragraph (2),
21 the Secretary shall seek the advice and recommenda-
22 tions of COAC on any proposed Department policies,
23 initiatives, actions, or organizational reforms that
24 will have a major impact on trade and customs rev-
25 enue functions not later than 45 days prior to the

1 finalization of the policies, initiatives, actions, or or-
2 ganizational reforms.

3 “(2) EXCEPTION.—If the Secretary determines
4 that it is important to the national security interest
5 of the United States to finalize any proposed De-
6 partment policies, initiatives, actions, or organiza-
7 tional reforms prior to the provision of advice and
8 recommendations described in paragraph (1), the
9 Secretary shall—

10 “(A) seek the advice and recommendations
11 of COAC on the policies, initiatives, actions, or
12 organizational reforms not later than 30 days
13 after the date on which the policies, initiatives,
14 actions, or organizational reforms are finalized;
15 and

16 “(B) to the extent appropriate, modify the
17 policies, initiatives, actions, or organizational
18 reforms based upon the advice and rec-
19 ommendations of COAC.

20 “(c) CONGRESSIONAL CONSULTATION AND NOTIFI-
21 CATION.—

22 “(1) IN GENERAL.—Subject to paragraph (2),
23 the Secretary shall consult with and provide any rec-
24 ommendations of COAC received under subsection
25 (b) to the appropriate congressional committees not

1 later than 30 days prior to the finalization of any
2 Department policies, initiatives, actions or organiza-
3 tional reforms that will have a major impact on
4 trade and customs revenue functions.

5 “(2) EXCEPTION.—If the Secretary determines
6 that it is important to the national security interest
7 of the United States to finalize any Department
8 policies, initiatives, actions, or organizational re-
9 forms prior to the consultation described in para-
10 graph (1), the Secretary shall—

11 “(A) consult with and provide any rec-
12 ommendations of COAC received under sub-
13 section (b) to the appropriate congressional
14 committees not later than 45 days after the
15 date on which the policies, initiative, actions, or
16 organizational reforms are finalized; and

17 “(B) to the extent appropriate, modify the
18 policies, initiatives, actions, or organizational
19 reforms based upon the consultations with the
20 appropriate congressional committees.”.

21 (b) CONFORMING AMENDMENTS.—Section 879 of the
22 Homeland Security Act of 2002 (6 U.S.C. 459) is re-
23 pealed.

24 (c) CLERICAL AMENDMENTS.—The table of contents
25 in section 1(b) of such Act is amended—

- 1 (1) by striking the item relating to section 879;
 2 (2) by striking the items relating to title VI and
 3 inserting the following:

“TITLE VI—POLICY, PLANNING, AND INTERNATIONAL AFFAIRS

“Sec. 601. Directorate for Policy, Planning, and International Affairs.

“Sec. 602. Office of International Affairs.

“Sec. 603. Other offices and officials.”;

4 and

- 5 (3) by inserting after the items relating to title
 6 XVIII the following:

“TITLE XIX—MISCELLANEOUS PROVISIONS

“Sec. 1901. Treatment of charitable trusts for members of the armed forces of
 the United States and other governmental organizations.”.

7 **SEC. 302. STUDY AND REPORT ON CUSTOMS REVENUE**
 8 **FUNCTIONS.**

9 (a) STUDY.—

10 (1) IN GENERAL.—The Comptroller General
 11 shall conduct a study evaluating the extent to which
 12 the Department of Homeland Security is meeting its
 13 obligations under section 412(b) of the Homeland
 14 Security Act of 2002 (6 U.S.C. 212(b)) with respect
 15 to the maintenance of customs revenue functions.

16 (2) ANALYSIS.—The study shall include an
 17 analysis of—

18 (A) the extent to which the customs rev-
 19 enue functions carried out by the former U.S.
 20 Customs Service have been consolidated with

1 other functions of the Department (including
2 the assignment of non-customs revenue func-
3 tions to personnel responsible for customs rev-
4 enue collection), discontinued, or diminished fol-
5 lowing the transfer of the U.S. Customs Service
6 to the Department;

7 (B) the extent to which staffing levels or
8 resources attributable to customs revenue func-
9 tions have decreased since the transfer of the
10 U.S. Customs Service to the Department; and

11 (C) the extent to which the management
12 structure created by the Department ensures
13 effective trade facilitation and customs revenue
14 collection.

15 (b) REPORT.—Not later than 180 days after the date
16 of the enactment of this Act, the Comptroller General shall
17 submit to the appropriate congressional committees a re-
18 port on the results of study conducted under subsection
19 (a).

20 (c) DEFINITION.—In this section, the term “customs
21 revenue functions” means the functions described in sec-
22 tion 412(b)(2) of the Homeland Security Act of 2002 (6
23 U.S.C. 212(b)(2)).

1 **TITLE IV—OFFICE OF DOMESTIC**
2 **NUCLEAR DETECTION**

3 **SEC. 401. ESTABLISHMENT OF OFFICE.**

4 (a) ESTABLISHMENT.—The Homeland Security Act
5 of 2002 (6 U.S.C. 101 et seq.) is amended by adding at
6 the end the following new title:

7 **“TITLE XX—OFFICE OF DOMES-**
8 **TIC NUCLEAR DETECTION**

9 **“SEC. 2001. DOMESTIC NUCLEAR DETECTION OFFICE.**

10 “(a) IN GENERAL.—There shall be in the Depart-
11 ment of Homeland Security a Domestic Nuclear Detection
12 Office.

13 “(b) PURPOSE.—The purpose of the Office shall be
14 to protect against the unauthorized importation, posses-
15 sion, storage, transportation, development, or use of a nu-
16 clear explosive device, fissile material, or radiological ma-
17 terial against the United States.

18 “(c) DIRECTOR.—The Office shall be headed by a Di-
19 rector of Domestic Nuclear Detection, who shall be ap-
20 pointed by the President from among individuals nomi-
21 nated by the Secretary.

22 “(d) LIMITATION.—This title shall not be construed
23 to affect the performance, by directorates and agencies of
24 the Department other than the Office, of functions that

1 are not related to detection and prevention of nuclear and
2 radiological terrorism.

3 **“SEC. 2002. FUNCTIONS OF DIRECTOR OF THE DOMESTIC**
4 **NUCLEAR DETECTION OFFICE, GENERALLY.**

5 “(a) IN GENERAL.—The Secretary shall vest in the
6 Director the primary responsibility in the Department
7 for—

8 “(1) administering all nuclear and radiological
9 detection and prevention functions and assets of the
10 Department, including those functions vested in the
11 Department before the enactment of the Security
12 and Accountability For Every Port Act; and

13 “(2) for coordinating such administration with
14 nuclear and radiological detection and prevention ac-
15 tivities of other Federal departments and agencies.

16 “(b) TRANSFER OF FUNCTIONS.—The Secretary
17 shall transfer to the Director the authority to administer,
18 or supervise the administration of, all functions, per-
19 sonnel, assets, and liabilities of all Department programs
20 and projects relating to nuclear and radiological detection
21 research, development, testing, and evaluation, and nu-
22 clear and radiological detection system acquisition and de-
23 ployment, including with respect to functions and assets
24 transferred by section 303(1)(B), (C), and (E) and func-

1 tions, assets, and personnel transferred pursuant to sec-
2 tion 2010(c).

3 **“SEC. 2003. GLOBAL NUCLEAR DETECTION ARCHITECTURE.**

4 “(a) IN GENERAL.—The Director shall coordinate
5 the Federal Government’s implementation of a global nu-
6 clear detection architecture.

7 “(b) FUNCTIONS OF DIRECTOR.—The Director shall,
8 under subsection (a)—

9 “(1) design a strategy that will guide deploy-
10 ment of the global nuclear detection architecture;

11 “(2) implement Department components of the
12 strategy in the United States; and

13 “(3) coordinate Department and Federal inter-
14 agency efforts to deploy the elements of the global
15 nuclear detection architecture outside the United
16 States.

17 “(c) RELATIONSHIP TO OTHER DEPARTMENTS AND
18 AGENCIES.—The authority of the Director under this sec-
19 tion shall not affect an authority or responsibility of any
20 other department or agency of the Federal Government
21 with respect to the deployment of nuclear and radiological
22 detection systems under any program administered by
23 that department or agency.

1 **“SEC. 2004. RESEARCH AND DEVELOPMENT.**

2 “(a) IN GENERAL.—The Director shall carry out a
3 research and development program to achieve trans-
4 formational and evolutionary improvements in detection
5 capabilities for shielded and unshielded nuclear explosive
6 devices and radiological dispersion devices.

7 “(b) HIGH-RISK PROJECTS.—The program shall in-
8 clude funding for transformational research and develop-
9 ment projects that may have a high risk of failure but
10 have the potential to provide significant benefits.

11 “(c) LONG-TERM PROJECTS.—In order to reflect a
12 long-term commitment to the development of more effec-
13 tive detection technologies, the program shall include the
14 provision of funding for projects having a duration of more
15 than 3 years, as appropriate.

16 “(d) COORDINATION WITH OTHER FEDERAL PRO-
17 GRAMS.—The Director shall coordinate implementation of
18 the program with other Federal agencies performing simi-
19 lar research and development in order to accelerate the
20 development of effective technologies, promote technology
21 sharing, and to avoid duplication, including through the
22 use of the interagency coordination council established
23 under section 2013.

1 **“SEC. 2005. SYSTEM ASSESSMENTS.**

2 “(a) IN GENERAL.—The Director shall carry out a
3 program to test and evaluate technology for detecting nu-
4 clear explosive devices and fissile or radiological material.

5 “(b) PERFORMANCE METRICS.—The Director shall
6 establish performance metrics for evaluating the effective-
7 ness of individual detectors and detection systems in de-
8 tecting nuclear explosive devices or fissile or radiological
9 material—

10 “(1) under realistic operational and environ-
11 mental conditions; and

12 “(2) against realistic adversary tactics and
13 countermeasures.

14 **“(c) PROVISION OF TESTING SERVICES.—**

15 “(1) IN GENERAL.—The Director may, under
16 the program, make available testing services to de-
17 velopers of detection technologies. The results of the
18 tests performed with services made available under
19 this subsection shall be confidential and may not be
20 disclosed to individuals or entities outside of the
21 Federal Government without the consent of the de-
22 veloper for whom the tests are performed.

23 “(2) FEES.—The Director may charge fees, as
24 appropriate, for performance of services under this
25 subsection.

26 **“(d) SYSTEM ASSESSMENTS.—**

1 “(1) IN GENERAL.—The Director shall periodically perform system-wide assessments of the global
2 nuclear detection architecture to identify
3 vulnerabilities and to gauge overall system performance against nuclear and radiological threats.
4
5

6 “(2) INCLUDED ACTIVITIES.—The assessments shall include—
7

8 “(A) red teaming activities to identify
9 vulnerabilities and possible modes of attack and
10 concealment methods; and

11 “(B) net assessments to determine architecture performance against adversary tactics
12 and concealment methods.
13

14 “(3) USE.—The Director shall use the assessments to guide deployment of the global nuclear
15 detection architecture and the research and development activities of the Office.
16
17

18 **“SEC. 2006. TECHNOLOGY ACQUISITION, DEPLOYMENT,**
19 **SUPPORT, AND TRAINING.**

20 “(a) ACQUISITION STRATEGY.—

21 “(1) IN GENERAL.—The Director shall develop
22 and, subject to the availability of appropriations,
23 execute a strategy for the acquisition and deployment of detection systems in order to implement the
24

1 Department components of the global nuclear detec-
2 tion architecture developed under section 2003.

3 “(2) USE OF AVAILABLE CONTRACTING PROCE-
4 DURES.—The Director shall make use of all con-
5 tracting procedures available to the Secretary to im-
6 plement the acquisition strategy.

7 “(3) DETERMINATION OF QUALIFIED ANTI-TER-
8 RORISM TECHNOLOGY.—The Director shall make
9 recommendations based on the criteria included in
10 section 862(b) as to whether the detection systems
11 acquired pursuant to this subsection shall be des-
12 ignated by the Secretary as anti-terrorism tech-
13 nologies that qualify for protection under the system
14 of risk management set forth in subtitle G of title
15 VIII. The Undersecretary for Science and Tech-
16 nology shall consider the Director’s recommenda-
17 tions and expedite the process of determining wheth-
18 er such detection systems shall be designated as
19 anti-terrorism technologies that qualify for such pro-
20 tection.

21 “(b) DEPLOYMENT.—The Director shall deploy de-
22 tection systems for use by Department operational units
23 and other end-users in implementing the global nuclear
24 detection architecture.

25 “(c) OPERATIONAL SUPPORT AND PROTOCOLS.—

1 “(1) OPERATIONAL SUPPORT.—The Director
2 shall provide operational support for all systems ac-
3 quired to implement the acquisition strategy devel-
4 oped under subsection (a).

5 “(2) OPERATIONAL PROTOCOLS.—The Director
6 shall develop operational protocols for detection tech-
7 nology acquired and deployed to implement the ac-
8 quisition strategy, including procedures for alarm
9 resolution and notification of appropriate response
10 agencies in the event that illicit nuclear, radioactive,
11 or fissile materials are detected by such a product or
12 service.

13 “(3) TECHNICAL REACHBACK.—The Director
14 will ensure that the expertise necessary to accurately
15 interpret detection data is made available in a timely
16 manner for all technology deployed to implement the
17 global nuclear detection architecture.

18 “(d) TRAINING.—The Director shall develop and dis-
19 tribute training materials and provide training to all end-
20 users of technology acquired by the Director under the ac-
21 quisition strategy.

22 “(e) SOLICITATION OF END-USER INPUT.—In devel-
23 oping requirements for the research and development pro-
24 gram of section 2004 and requirements for the acquisition
25 of detection systems to implement the strategy in sub-

1 section (a), the Director shall solicit input from end-users
2 of such systems.

3 “(f) STATE AND LOCAL SUPPORT.—Upon request,
4 the Director shall provide guidance regarding radiation
5 detection technology acquisitions to be made by State, ter-
6 ritorial, tribal and local governments and emergency re-
7 sponse providers.

8 **“SEC. 2007. SITUATIONAL AWARENESS.**

9 “(a) DETECTION INFORMATION.—The Director—

10 “(1) shall continuously monitor detection infor-
11 mation received from foreign and domestic detection
12 systems to maintain for the Department a situa-
13 tional awareness of all nuclear threats;

14 “(2) shall gather and archive—

15 “(A) detection data measurements taken of
16 benign activities in the normal flows of com-
17 merce; and

18 “(B) alarm data, including false alarms
19 and nuisance alarms.

20 “(b) INFORMATION SHARING.—The Director shall
21 coordinate with other governmental agencies to ensure
22 that the detection of unauthorized nuclear explosive de-
23 vices, fissile material, or radiological material is promptly
24 reported to all appropriate Federal response agencies in-
25 cluding the Attorney General, the Director of the Federal

1 Bureau of Investigation, the Secretary of Defense, and the
2 Secretary of Energy.

3 “(c) INCIDENT RESOLUTION.—The Director shall as-
4 sess nuclear threats communicated by Federal, State, trib-
5 al, or local officials and provide adequate technical
6 reachback capability for swift and effective incident resolu-
7 tion.

8 “(d) SECURITY.—The Director shall—

9 “(1) develop and implement security standards
10 and protocols for the control and protection of all
11 classified or sensitive information in possession of
12 the Office; and

13 “(2) ensure that relevant personnel of the Of-
14 fice have the required security clearances to properly
15 handle such information.

16 **“SEC. 2008. FORENSIC ANALYSIS.**

17 “The Director shall perform all research, develop-
18 ment, and acquisition activities of the Department per-
19 taining to forensic analysis and attribution of nuclear and
20 radiological attacks.

21 **“SEC. 2009. THREAT INFORMATION.**

22 “(a) THREAT ASSESSMENTS.—The Director shall
23 utilize classified and unclassified nuclear and radiological
24 threat assessments in designing the global nuclear detec-
25 tion architecture under section 2003, prioritizing detection

1 system deployments, and testing and optimizing system
2 performance of that architecture, including assessments
3 of—

4 “(1) smuggling routes;

5 “(2) locations of relevant nuclear and radio-
6 logical material throughout the world;

7 “(3) relevant terrorist tradecraft and conceal-
8 ment methods;

9 “(4) relevant nuclear and radiological threat ob-
10 jects in terms of possible detection signatures.

11 “(b) ACCESS TO INFORMATION.—The Secretary shall
12 provide the Director access to all information relating to
13 nuclear and radiological threats, including reports, assess-
14 ments, analyses, and unevaluated intelligence, that is nec-
15 essary to successfully design, deploy, and support the op-
16 eration of an effective global detection architecture under
17 section 1903.

18 “(c) ANALYTICAL SUPPORT.—The Director shall re-
19 quest that the Secretary provide to the Director, pursuant
20 to section 201(d)(18), the requisite intelligence and infor-
21 mation analysis support necessary to effectively discharge
22 the Director’s responsibilities.

23 “(d) ANALYTICAL EXPERTISE.—For the purposes of
24 performing any of the assessments required under sub-
25 section (a), the Director, subject to the availability of ap-

1 appropriations, may hire professional personnel who are ana-
2 lysts with experience in performing nuclear and radio-
3 logical threat assessments.

4 “(e) COLLECTION REQUESTS.—The Director shall
5 recommend to the Secretary consultation that should
6 occur pursuant to section 201(d)(10) regarding intel-
7 ligence collection to design, deploy, and support the oper-
8 ation of the global detection architecture under section
9 2003.

10 **“SEC. 2010. ADMINISTRATIVE AUTHORITIES.**

11 “(a) HIRING.—In hiring personnel for the Office, the
12 Secretary shall have hiring and management authorities
13 described in section 1101 of the Strom Thurmond Na-
14 tional Defense Authorization Act for Fiscal Year 1999 (5
15 U.S.C. 3104 note; Public Law 105–261). The term of ap-
16 pointments for employees under subsection (c)(1) of that
17 section may not exceed 5 years before granting any exten-
18 sion under subsection (c)(2) of that section.

19 “(b) DETAIL OF PERSONNEL.—In order to assist the
20 Director in discharging the Director’s responsibilities, per-
21 sonnel of other Federal agencies may be detailed to the
22 Office for the performance of analytic functions and re-
23 lated duties.

24 “(c) TRANSFER OF SCIENCE AND TECHNOLOGY
25 FUNCTIONS, PERSONNEL, AND ASSETS.—

1 “(1) TRANSFER REQUIRED.—Except as pro-
2 vided in paragraph (2), the Secretary shall transfer
3 to the Director the functions, assets, and personnel
4 of the Department relating to radiological and nu-
5 clear countermeasures, including forensics of con-
6 taminated evidence and attack attribution.

7 “(2) EXCEPTIONS.—The Secretary shall not
8 transfer under paragraph (1) functions, assets, and
9 personnel relating to consequence management and
10 recovery.

11 “(3) ELIMINATION OF DUPLICATION OF EF-
12 FORT.—The Secretary shall ensure that to the ex-
13 tent there are complementary functions vested in the
14 Directorate of Science and Technology and the Of-
15 fice with respect to radiological and nuclear counter-
16 measures, the Under Secretary for Science and
17 Technology and the Director coordinate the pro-
18 grams they administer to eliminate duplication and
19 increase integration opportunities, particularly with
20 respect to technology development and test and eval-
21 uation.

22 **“SEC. 2011. REPORT REQUIREMENT.**

23 “The Director shall submit to the appropriate con-
24 gressional committees an annual report on the following:

1 “(1) The global detection strategy developed
2 under section 2003.

3 “(2) The status of implementation of such ar-
4 chitecture.

5 “(3) The schedule for future detection system
6 deployments under such architecture.

7 “(4) The research and development program of
8 the Office.

9 “(5) A summary of actions taken by the Office
10 during the reporting period to counter nuclear and
11 radiological threats.

12 **“SEC. 2012. ADVISORY COUNCIL ON NUCLEAR DETECTION.**

13 “(a) ESTABLISHMENT.—Pursuant to section 871 of
14 this Act, the Secretary shall establish within the Office
15 an Advisory Council on Nuclear Detection, which shall re-
16 port to the Director (in this section referred to as the ‘Ad-
17 visory Council’).

18 “(b) FUNCTIONS.—The Advisory Council shall, at the
19 request of the Director—

20 “(1) advise the Director on recommendations
21 for the global nuclear detection architecture devel-
22 oped under section 2003(a);

23 “(2) identify research areas for development of
24 next-generation and transformational nuclear and
25 radiological detection technologies; and

1 “(3) and have such additional responsibilities as
2 the Director may assign in furtherance of the De-
3 partment’s homeland security mission with respect
4 to enhancing domestic and international nuclear and
5 radiological detection capabilities.

6 “(c) MEMBERSHIP.—The Advisory Council shall con-
7 sist of 5 members appointed by the Director, who shall—

8 “(1) be individuals who have an eminent knowl-
9 edge and technical expertise related to nuclear and
10 radiological detection research and development and
11 radiation detection;

12 “(2) be selected solely on the basis of their es-
13 tablished record of distinguished service; and

14 “(3) not be employees of the Federal Govern-
15 ment, other than employees of National Labora-
16 tories.

17 “(d) CONFLICT OF INTEREST RULES.—The Advisory
18 Council shall establish rules for determining when one of
19 its members has a conflict of interest in a matter being
20 considered by the Advisory Council, and the appropriate
21 course of action to address such conflicts of interest.

22 **“SEC. 2013. INTERAGENCY COORDINATION COUNCIL.**

23 “The President—

1 “(1) shall establish an interagency coordination
2 council to facilitate interagency cooperation for pur-
3 poses of implementing this title;

4 “(2) shall appoint the Secretary to chair the
5 interagency coordination council; and

6 “(3) may appoint the Attorney General, the
7 Secretary of Energy, the Secretary of State, the Sec-
8 retary of Defense, and the heads of other appro-
9 priate Federal agencies to designate members to
10 serve on such council.

11 **“SEC. 2014. AUTHORIZATION OF APPROPRIATIONS.**

12 “There is authorized to be appropriated to carry out
13 this title—

14 “(1) \$536,000,000 for fiscal year 2007; and

15 “(2) such sums as may be necessary for each
16 subsequent fiscal year.

17 **“SEC. 2015. DEFINITIONS.**

18 “In this title:

19 “(1) The term ‘Director’ means the Director of
20 the Domestic Nuclear Detection Office.

21 “(2) The term ‘fissile materials’ means mate-
22 rials capable of sustaining a nuclear chain reaction.

23 “(3) The term ‘global nuclear detection archi-
24 tecture’ means a multi-layered system of detectors
25 deployed internationally and domestically to detect

1 and interdict nuclear and radiological materials in-
2 tended for illicit use.

3 “(4) The term ‘nuclear and radiological detec-
4 tion system’ means any technology that is capable of
5 detecting or identifying nuclear and radiological ma-
6 terial or explosive devices.

7 “(5) The term ‘Office’ means the Domestic Nu-
8 clear Detection Office.

9 “(6) The term ‘radiological material’ means
10 material that emits nuclear radiation.

11 “(7) The term ‘nuclear explosive device’ means
12 an explosive device capable of producing a nuclear
13 yield.

14 “(8) The term ‘technical reachback’ means
15 technical expert support provided to operational end
16 users for data interpretation and alarm resolution.

17 “(9) The term ‘transformational’ means that, if
18 successful, will produce dramatic technological im-
19 provements over existing capabilities in the areas of
20 performance, cost, or ease of use.”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) Section 103(d) of the Homeland Security
23 Act of 2002 (6 U.S.C. 113(d)) is amended by adding
24 at the end the following:

1 “(5) A Director of the Domestic Nuclear Detec-
2 tion Office.”.

3 (2) Section 302 of such Act (6 U.S.C. 182) is
4 amended—

5 (A) in paragraph (2) by striking “radio-
6 logical, nuclear,”; and

7 (B) in paragraph (5)(A) by striking “radi-
8 ological, nuclear,”.

9 (3) Section 305 of such Act (6 U.S.C. 185) is
10 amended by inserting “and the Director of the Do-
11 mestic Nuclear Detection Office” after “Tech-
12 nology”.

13 (4) Section 308 of such Act (6 U.S.C. 188) is
14 amended in each of subsections (a) and (b)(1) by in-
15 sserting “and the Director of the Domestic Nuclear
16 Detection Office” after “Technology”.

17 (c) CLERICAL AMENDMENT.—The table of contents
18 in section 1(b) of the Homeland Security Act of 2002 (116
19 Stat. 2135) is amended by adding at the end the following:

“TITLE XX—OFFICE OF DOMESTIC NUCLEAR DETECTION

“Sec. 2001. Domestic Nuclear Detection Office.

“Sec. 2002. Functions of Director of the Domestic Nuclear Detection Office,
generally.

“Sec. 2003. Global nuclear detection architecture.

“Sec. 2004. Research and development.

“Sec. 2005. System assessments.

“Sec. 2006. Technology acquisition, deployment, support, and training.

“Sec. 2007. Situational awareness.

“Sec. 2008. Forensic analysis.

“Sec. 2009. Threat information.

“Sec. 2010. Administrative authorities.

“Sec. 2011. Report requirement.

“Sec. 2012. Advisory Council on Nuclear Detection.

“Sec. 2013. Interagency coordination council.

“Sec. 2014. Authorization of appropriations.

“Sec. 2015. Definitions.”.

1 **SEC. 402. NUCLEAR AND RADIOLOGICAL DETECTION SYS-**
2 **TEMS.**

3 (a) DEPLOYMENT.—Not later than September 30,
4 2007, the Secretary of Homeland Security shall deploy nu-
5 clear and radiological detection systems at 22 United
6 States seaports. To the extent feasible, the Secretary shall
7 deploy the next-generation radiation portal monitors test-
8 ed in the pilot program under subsection (d) at such
9 United States seaports.

10 (b) STRATEGY.—Not later than 90 days after the
11 date of the enactment of this Act, the Secretary, acting
12 through the Director of the Domestic Nuclear Detection
13 Office of the Department, shall submit to the appropriate
14 congressional committees a strategy for the deployment of
15 nuclear and radiological detection systems at all remaining
16 United States seaports.

17 (c) CONTENTS.—The strategy submitted under sub-
18 section (b) shall include—

19 (1) a risk-based prioritization of United States
20 seaports at which nuclear and radiological detection
21 systems will be deployed;

1 (2) a proposed timeline of when nuclear and ra-
2 diological detection systems will be deployed at each
3 of the seaports identified under paragraph (1);

4 (3) the type of systems to be used at each of
5 the seaports identified under paragraph (1);

6 (4) standard operating procedures for exam-
7 ining containers with such systems;

8 (5) the Department policy for using nuclear
9 and radiological detection systems;

10 (6) a classified annex that details plans for cov-
11 ert testing; and

12 (7) a classified annex that outlines the risk-
13 based prioritization of seaports used under para-
14 graph (1).

15 (d) SAFETY PLAN.—Not later than 180 days after
16 the date of the enactment of this Act, the Secretary shall
17 submit to the appropriate congressional committees a plan
18 that—

19 (1) details the health and safety impacts of nu-
20 clear and radiological detection systems; and

21 (2) describes the policy of U.S. Customs and
22 Border Protection for using nuclear and radiological
23 detection systems.

24 (e) PILOT PROGRAM.—

1 (1) IN GENERAL.—Not later than January 1,
2 2007, the Secretary, acting through the Director of
3 the Domestic Nuclear Detection Office of the De-
4 partment, shall initiate a pilot program to deploy
5 and test the operational performance of next-genera-
6 tion radiation portal monitors at one or more United
7 States seaports with a high-volume of containerized
8 cargo.

9 (2) REPORT.—Not later than March 31, 2007,
10 the Secretary shall submit to the appropriate con-
11 gressional committees a report that contains—

12 (A) a description of the next-generation ra-
13 diation portal monitors deployed at United
14 States seaports under the pilot program;

15 (B) a description of the operational charac-
16 teristics of the pilot program at selected United
17 States seaports; and

18 (C) an evaluation of the operational per-
19 formance of the next-generation radiation portal
20 monitors, including nuisance alarm rates, and a
21 description of the standards used in such eval-
22 uation.

23 (f) DEPLOYMENT OF NEXT-GENERATION RADIATION
24 PORTAL MONITORS.—

1 (1) IN GENERAL.—If the Secretary, acting
2 through the Director of the Domestic Nuclear De-
3 tection Office of the Department, determines that
4 the operational performance of the next-generation
5 radiation portal monitors under the pilot program
6 carried out under subsection (e) has met the stand-
7 ards described subsection (e)(2)(C), the Secretary
8 shall deploy next-generation radiation portal mon-
9 itors, in fixed or other configurations, at all United
10 States seaports with a high-volume of containerized
11 cargo to improve cargo screening capabilities at such
12 seaports not later than September 30, 2007.

13 (2) CONGRESSIONAL NOTIFICATION.—If any de-
14 ployment of next-generation radiation portal mon-
15 itors is deemed by the Secretary to be operationally
16 infeasible or would result in ineffective, inefficient,
17 or otherwise wasteful use of resources, the Secretary
18 shall notify the appropriate congressional committees
19 and recommend alternative actions.

20 (g) ENHANCING OVERSEAS DETECTION CAPABILI-
21 TIES.—The Secretary, acting through the Director of the
22 Domestic Nuclear Detection Office of the Department,
23 shall work with appropriate Federal departments and
24 agencies to coordinate the installation of nuclear and radi-
25 ological detection systems at foreign seaports.

1 (h) DEFINITIONS.—In this section:

2 (1) NEXT-GENERATION RADIATION PORTAL
3 MONITORS.—The term “next-generation radiation
4 portal monitors” means non-intrusive, containerized
5 cargo examination technologies that possess radio-
6 nuclide isotope identification capabilities.

7 (2) NUCLEAR AND RADIOLOGICAL DETECTION
8 SYSTEM.—The term “nuclear and radiological detec-
9 tion system” means any technology that is capable
10 of detecting or identifying nuclear and radiological
11 material or explosive devices.

Passed the House of Representatives May 4, 2006.

Attest:

KAREN L. HAAS,

Clerk.

Calendar No. 432

109TH CONGRESS
2^D SESSION

H. R. 4954

AN ACT

To improve maritime and cargo security through enhanced layered defenses, and for other purposes.

MAY 16, 2006

Read the second time and placed on the calendar