

105TH CONGRESS
2D SESSION

S. 2303

To deter and punish international crime, to protect United States nationals and interests at home and abroad, and to promote global cooperation against international crime.

IN THE SENATE OF THE UNITED STATES

JULY 14, 1998

Mr. LEAHY (for himself and Mr. BIDEN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To deter and punish international crime, to protect United States nationals and interests at home and abroad, and to promote global cooperation against international crime.

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 “International Crime Control Act of 1998”.

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

Sec. 1. Short title; table of contents.

TITLE I—INVESTIGATING AND PUNISHING VIOLENT CRIMES
AGAINST UNITED STATES NATIONALS ABROAD

- Sec. 1001. Murder and extortion against United States nationals abroad in furtherance of organized crime.
- Sec. 1002. Murder or serious assault of a State or local official abroad.

TITLE II—STRENGTHENING THE AIR, LAND, AND SEA BORDERS
OF THE UNITED STATES

Subtitle A—Violence Committed Along United States Border

- Sec. 2101. Felony punishment for violence committed along the United States border.

Subtitle B—Strengthening Maritime Law Enforcement Along United States
Borders

- Sec. 2201. Sanctions for failure to heave to, obstructing a lawful boarding, and providing false information.
- Sec. 2202. Civil penalties to support maritime law enforcement.
- Sec. 2203. Customs orders.

Subtitle C—Smuggling of Contraband and Other Illegal Products

- Sec. 2301. Smuggling contraband and other goods from the United States.
- Sec. 2302. Controlling illicit liquor trafficking.
- Sec. 2303. Customs duties.
- Sec. 2304. False certifications relating to exports.

TITLE III—DENYING SAFE HAVENS TO INTERNATIONAL
CRIMINALS

Subtitle A—Strengthening Extradition To Ensure International Criminals Are
Brought to Justice

- Sec. 3101. Extradition for offenses not covered by a list treaty.
- Sec. 3102. Extradition absent a treaty.
- Sec. 3103. Technical and conforming amendments.

Subtitle B—Strengthening Immigration Laws To Exclude International
Criminals From the United States

- Sec. 3201. Inadmissibility of persons fleeing prosecution in other countries.
- Sec. 3202. Inadmissibility of persons involved in racketeering and arms trafficking.
- Sec. 3203. Inadmissibility of persons who have benefited from illicit activities of drug traffickers.
- Sec. 3204. Inadmissibility of persons involved in international alien smuggling.

Subtitle C—Additional Tools To Deny Safe Haven to International Criminals

- Sec. 3301. Temporary transfer of persons in custody for prosecution.
- Sec. 3302. Prohibiting fugitives from benefiting from fugitive status.
- Sec. 3303. Transfer of foreign prisoners to serve sentences in country of origin.
- Sec. 3304. Transit of fugitives for prosecution in foreign countries.

TITLE IV—SEIZING AND FORFEITING THE ASSETS OF
INTERNATIONAL CRIMINALS

- Sec. 4001. Criminal penalties for violations of anti-money laundering orders.
- Sec. 4002. Search of mail.
- Sec. 4003. Forfeiture.
- Sec. 4004. Cracking down on illegal money transmitting businesses.
- Sec. 4005. Enhancing prosecutions in international drug and money laundering cases.
- Sec. 4006. Seizure of assets of persons arrested abroad.
- Sec. 4007. Access to financial records in bank secrecy jurisdictions.
- Sec. 4008. Expanding civil money laundering laws to reach foreign persons.
- Sec. 4009. Punishment of money laundering through foreign banks.
- Sec. 4010. Addition of serious foreign crimes to list of money laundering predicates.
- Sec. 4011. Authority to order convicted criminals to return property located abroad.
- Sec. 4012. Enforcement of foreign forfeiture judgments.
- Sec. 4013. Administrative summons authority under the Bank Secrecy Act.
- Sec. 4014. Encouraging financial institutions to notify law enforcement authorities of suspicious financial transactions.
- Sec. 4015. Exempting financial enforcement data from unnecessary disclosure.
- Sec. 4016. Criminal and civil penalties under the International Emergency Economic Powers Act.
- Sec. 4017. Attempted violations of the Trading With the Enemy Act.

TITLE V—RESPONDING TO EMERGING INTERNATIONAL CRIME THREATS

Subtitle A—Computer and High-Tech Crime

- Sec. 5101. Enhanced authority to investigate computer fraud and attacks on computer systems.
- Sec. 5102. Jurisdiction over certain financial crimes committed abroad.

Subtitle B—Alien Smuggling

- Sec. 5201. Forfeiture for alien smuggling.

Subtitle C—Trafficking in Chemicals Used To Produce Drugs

- Sec. 5301. Import and export of chemicals used to produce illicit drugs.

Subtitle D—Arms Trafficking

- Sec. 5401. Enhanced tools to investigate illicit arms trafficking.
- Sec. 5402. Background checks for purchases of explosives.
- Sec. 5403. Prohibiting convicted felons from possessing black powder.

TITLE VI—PROMOTING GLOBAL COOPERATION IN THE FIGHT AGAINST INTERNATIONAL CRIME

- Sec. 6001. Sharing proceeds of joint forfeiture operations with cooperating foreign agencies.
- Sec. 6002. Streamlined procedures for execution of MLAT requests.
- Sec. 6003. Temporary transfer of incarcerated witnesses.
- Sec. 6004. Training of foreign law enforcement agencies.
- Sec. 6005. Discretionary authority to use forfeiture proceeds.

TITLE VII—STREAMLINING THE INVESTIGATION AND PROSECUTION OF INTERNATIONAL CRIMES IN UNITED STATES COURTS

Sec. 7001. Reimbursement of State and local law enforcement agencies in international crime cases.

Sec. 7002. Facilitating the admission of foreign records in United States courts.

Sec. 7003. Safe conduct for foreign witnesses testifying in United States courts.

Sec. 7004. Prohibiting fugitives from benefiting from time served abroad.

Sec. 7005. Suspension of statute of limitations for collection of evidence located abroad.

Sec. 7006. Clarification of discretionary nature of payments to informants.

1 **TITLE I—INVESTIGATING AND**
 2 **PUNISHING VIOLENT CRIMES**
 3 **AGAINST UNITED STATES NA-**
 4 **TIONALS ABROAD**

5 **SEC. 1001. MURDER AND EXTORTION AGAINST UNITED**
 6 **STATES NATIONALS ABROAD IN FURTHER-**
 7 **ANCE OF ORGANIZED CRIME.**

8 Section 2332 of title 18, United States Code, is
 9 amended—

10 (1) by redesignating subsection (d) as sub-
 11 section (e);

12 (2) by inserting after subsection (c) the follow-
 13 ing:

14 “(d) EXTORTION OF UNITED STATES NATIONALS
 15 ABROAD.—Whoever commits or attempts to commit extor-
 16 tion against a national of the United States, while the na-
 17 tional is outside the United States, shall be fined under
 18 this title, imprisoned not more than 20 years, or both.”;

19 (3) in subsection (e), as redesignated, by insert-
 20 ing “, or was intended to further the objectives of

1 an organized criminal group. A certification under
2 this paragraph shall not be subject to judicial re-
3 view” before the period at the end; and

4 (4) by adding at the end the following:

5 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
6 tion may be construed as indicating an intent on the part
7 of Congress—

8 “(1) to interfere with the exercise of criminal
9 jurisdiction by the nation or nations in which the
10 criminal act occurred; or

11 “(2) to mandate that each potential violation
12 should be the subject of investigation or prosecution
13 by the United States.

14 “(g) DEFINITIONS.—In this section—

15 “(1) the term ‘extortion’ means the obtaining of
16 property worth \$100,000 or more from another by
17 threatening or placing another person in fear that
18 any person will be subjected to bodily injury or kid-
19 napping or that any property will be damaged or de-
20 stroyed; and

21 “(2) the term ‘organized criminal group’ means
22 a group that has a hierarchical structure or is a con-
23 tinuing enterprise, and that is engaged in or has as
24 a purpose the commission of an act or acts that
25 would constitute racketeering activity (as defined in

1 section 1961) if committed within the United
2 States.”.

3 **SEC. 1002. MURDER OR SERIOUS ASSAULT OF A STATE OR**
4 **LOCAL OFFICIAL ABROAD.**

5 (a) IN GENERAL.—Chapter 51 of title 18, United
6 States Code, is amended by adding at the end the follow-
7 ing:

8 **“§ 1123. Murder or serious assault of a State or local**
9 **law enforcement, judicial, or other offi-**
10 **cial abroad**

11 “(a) DEFINITIONS.—In this section:

12 “(1) SERIOUS BODILY INJURY.—The term ‘seri-
13 ous bodily injury’ has the meaning given the term in
14 section 2119.

15 “(2) STATE.—The term ‘State’ has the mean-
16 ing given the term in section 245(d).

17 “(b) PENALTIES.—Whoever, in the circumstance de-
18 scribed in subsection (c)—

19 “(1) kills or attempts to kill an official of a
20 State or a political subdivision thereof shall be pun-
21 ished as provided in sections 1111, 1112, and 1113;
22 or

23 “(2) assaults an official of a State or a political
24 subdivision thereof, if that assault results in serious

1 bodily injury shall be punished as provided in section
2 113.

3 “(c) CIRCUMSTANCE DESCRIBED.—The circumstance
4 described in this subsection is that the official of a State
5 or political subdivision—

6 “(1) is outside the territorial jurisdiction of the
7 United States; and

8 “(2) is engaged in, or the prohibited activity oc-
9 curs on account of the performance by that official
10 of training, technical assistance, or other assistance
11 to the United States or a foreign government in con-
12 nection with any program funded, in whole or in
13 part, by the Federal Government.

14 “(d) LIMITATIONS ON PROSECUTION.—No prosecu-
15 tion may be instituted against any person under this sec-
16 tion except upon the written approval of the Attorney Gen-
17 eral, the Deputy Attorney General, or an Assistant Attor-
18 ney General, which function of approving prosecutions
19 may not be delegated and shall not be subject to judicial
20 review.

21 “(e) RULE OF CONSTRUCTION.—Nothing in this sec-
22 tion may be construed to indicate an intent on the part
23 of Congress—

1 “(1) to interfere with the exercise of criminal
2 jurisdiction by the nation or nations in which the
3 criminal act occurred; or

4 “(2) to mandate that each potential violation
5 should be the subject of investigation or prosecution
6 by the United States.”.

7 (b) TECHNICAL AND CONFORMING AMENDMENT.—
8 The analysis for chapter 51 of title 18, United States
9 Code, is amended by adding at the end the following:

“1123. Murder or serious assault of a State or local law enforcement, judicial,
or other official abroad.”.

10 **TITLE II—STRENGTHENING THE**
11 **AIR, LAND, AND SEA BOR-**
12 **DERS OF THE UNITED STATES**
13 **Subtitle A—Violence Committed**
14 **Along United States Border**

15 **SEC. 2101. FELONY PUNISHMENT FOR VIOLENCE COMMIT-**
16 **TED ALONG THE UNITED STATES BORDER.**

17 (a) IN GENERAL.—Chapter 27 of title 18, United
18 States Code, is amended by adding at the end the follow-
19 ing:

1 **“§ 554. Violence while eluding inspection or during**
2 **violation of arrival, reporting, entry, or**
3 **clearance requirements**

4 “(a) IN GENERAL.—Whoever attempts to commit or
5 commits a crime of violence or recklessly operates any con-
6 veyance during and in relation to—

7 “(1)(A) attempting to elude or eluding immi-
8 gration, customs, or agriculture inspection; or

9 “(B) failing to stop at the command of an offi-
10 cer or employee of the United States charged with
11 enforcing the immigration, customs, or other laws of
12 the United States along any border of the United
13 States; or

14 “(2) an intentional violation of arrival, report-
15 ing, entry, or clearance requirements, as set forth in
16 section 107 of the Federal Plant Pest Act (7 U.S.C.
17 150ff), section 10 of the Act of August 20, 1912
18 (commonly known as the ‘Plant Quarantine Act’ (7
19 U.S.C. 164a)), section 7 of the Federal Noxious
20 Weed Act of 1974 (7 U.S.C. 2807), section 431,
21 433, 434, or 459 of the Tariff Act of 1930 (19
22 U.S.C. 1431, 1433, 1434, and 1459), section 10 of
23 the Act of August 30, 1890 (26 Stat. 417; chapter
24 839 (21 U.S.C. 105), section 2 of the Act of Feb-
25 ruary 2, 1903 (32 Stat. 792; chapter 349; 21 U.S.C.
26 111), section 4197 of the Revised Statutes (46

1 U.S.C. App. 91), or sections 231, 232, and 234
2 through 238 of the Immigration and Nationality Act
3 (8 U.S.C. 1221, 1222, and 1224 through 1228)
4 shall be—

5 “(A) fined under this title, imprisoned not
6 more than 5 years, or both;

7 “(B) if bodily injury (as defined in section
8 1365(g)) results, fined under this title, impris-
9 oned not more than 10 years, or both; or

10 “(C) if death results, fined under this title,
11 imprisoned for any term of years or for life, or
12 both, and may be sentenced to death.

13 “(b) CONSPIRACY.—If 2 or more persons conspire to
14 commit an offense under subsection (a), and 1 or more
15 of those persons do any act to effect the object of the con-
16 spiracy, each shall be punishable as a principal, except
17 that a sentence of death may not be imposed.”.

18 (b) TECHNICAL AND CONFORMING AMENDMENT.—
19 The analysis for chapter 27 of title 18, United States
20 Code, is amended by adding at the end the following:

“554. Violence while eluding inspection or during violation of arrival, reporting,
entry, or clearance requirements.”.

21 (c) RECKLESS ENDANGERMENT.—Section 111 of
22 title 18, United States Code, is amended—

23 (1) by redesignating subsection (b) as sub-
24 section (c); and

1 (2) by inserting after subsection (a) the follow-
2 ing:

3 “(b) RECKLESS ENDANGERMENT.—Whoever—

4 “(1) knowingly disregards or disobeys the law-
5 ful authority or command of any officer or employee
6 of the United States charged with enforcing the im-
7 migration, customs, or other laws of the United
8 States along any border of the United States while
9 engaged in, or on account of, the performance of of-
10 ficial duties of that officer or employee; and

11 “(2) as a result of disregarding or disobeying
12 an authority or command referred to in paragraph
13 (1), endangers the safety of any person or property,
14 shall be fined under this title, imprisoned not more than
15 6 months, or both.”.

16 **Subtitle B—Strengthening Mari-**
17 **time Law Enforcement Along**
18 **United States Borders**

19 **SEC. 2201. SANCTIONS FOR FAILURE TO HEAVE TO, OB-**
20 **STRUCTING A LAWFUL BOARDING, AND PRO-**
21 **VIDING FALSE INFORMATION.**

22 (a) IN GENERAL.—Chapter 109 of title 18, United
23 States Code, is amended by adding at the end the follow-
24 ing:

1 **“§ 2237. Sanctions for failure to heave to; sanctions**
2 **for obstruction of boarding or providing**
3 **false information**

4 “(a) DEFINITIONS.—In this section:

5 “(1) FEDERAL LAW ENFORCEMENT OFFICER.—
6 The term ‘Federal law enforcement officer’ has the
7 meaning given that term in section 115(e).

8 “(2) HEAVE TO.—The term ‘heave to’ means,
9 with respect to a vessel, to cause that vessel to slow
10 or come to a stop to facilitate a law enforcement
11 boarding by adjusting the course and speed of the
12 vessel to account for the weather conditions and the
13 sea state.

14 “(3) VESSEL OF THE UNITED STATES; VESSEL
15 SUBJECT TO THE JURISDICTION OF THE UNITED
16 STATES.—The terms ‘vessel of the United States’
17 and ‘vessel subject to the jurisdiction of the United
18 States’ have the meanings given those terms in sec-
19 tion 3 of the Maritime Drug Law Enforcement Act
20 (46 U.S.C. App. 1903).

21 “(b) FAILURE TO OBEY AN ORDER TO HEAVE TO.—

22 “(1) IN GENERAL.—It shall be unlawful for the
23 master, operator, or person in charge of a vessel of
24 the United States or a vessel subject to the jurisdic-
25 tion of the United States, to fail to obey an order

1 to heave to that vessel on being ordered to do so
2 by an authorized Federal law enforcement officer.

3 “(2) IMPEDING BOARDING; PROVIDING FALSE
4 INFORMATION IN CONNECTION WITH A BOARDING.—

5 It shall be unlawful for any person on board a vessel
6 of the United States or a vessel subject to the juris-
7 diction of the United States knowingly or willfully
8 to—

9 “(A) fail to comply with an order of an au-
10 thorized Federal law enforcement officer in con-
11 nection with the boarding of the vessel;

12 “(B) impede or obstruct a boarding or ar-
13 rest, or other law enforcement action authorized
14 by any Federal law; or

15 “(C) provide false information to a Federal
16 law enforcement officer during a boarding of a
17 vessel regarding the destination, origin, owner-
18 ship, registration, nationality, cargo, or crew of
19 the vessel.

20 “(c) STATUTORY CONSTRUCTION.—Nothing in this
21 section may be construed to limit the authority granted
22 before the date of enactment of the International Crime
23 Control Act of 1998 to—

24 “(1) a customs officer under section 581 of the
25 Tariff Act of 1930 (19 U.S.C. 1581) or any other

1 provision of law enforced or administered by the
2 United States Customs Service; or

3 “(2) any Federal law enforcement officer under
4 any Federal law to order a vessel to heave to.

5 “(d) CONSENT OR WAIVER OF OBJECTION BY A FOR-
6 EIGN COUNTRY.—

7 “(1) IN GENERAL.—A foreign country may con-
8 sent to or waive objection to the enforcement of
9 United States law by the United States under this
10 section by international agreement or, on a case-by-
11 case basis, by radio, telephone, or similar oral or
12 electronic means.

13 “(2) PROOF OF CONSENT OR WAIVER.—The
14 Secretary of State or a designee of the Secretary of
15 State may prove a consent or waiver described in
16 paragraph (1) by certification.

17 “(e) PENALTIES.—Any person who intentionally vio-
18 lates any provision of this section shall be fined under this
19 title, imprisoned not more than 5 years, or both.

20 “(f) SEIZURE OF VESSELS.—

21 “(1) IN GENERAL.—A vessel that is used in vio-
22 lation of this section may be seized and forfeited.

23 “(2) APPLICABILITY OF LAWS.—

24 “(A) IN GENERAL.—Subject to subpara-
25 graph (C), the laws described in subparagraph

1 (B) shall apply to seizures and forfeitures un-
2 dertaken, or alleged to have been undertaken,
3 under any provision of this section.

4 “(B) LAWS DESCRIBED.—The laws de-
5 scribed in this subparagraph are the laws relat-
6 ing to the seizure, summary, judicial forfeiture,
7 and condemnation of property for violation of
8 the customs laws, the disposition of the prop-
9 erty or the proceeds from the sale thereof, the
10 remission or mitigation of the forfeitures, and
11 the compromise of claims.

12 “(C) EXECUTION OF DUTIES BY OFFICERS
13 AND AGENTS.—Any duty that is imposed upon
14 a customs officer or any other person with re-
15 spect to the seizure and forfeiture of property
16 under the customs laws shall be performed with
17 respect to a seizure or forfeiture of property
18 under this section by the officer, agent, or other
19 person that is authorized or designated for that
20 purpose.

21 “(3) IN REM LIABILITY.—A vessel that is used
22 in violation of this section shall, in addition to any
23 other liability prescribed under this subsection, be
24 liable in rem for any fine or civil penalty imposed
25 under this section.”.

1 (b) TECHNICAL AND CONFORMING AMENDMENT.—

2 The analysis for chapter 109 of title 18, United States

3 Code, is amended by adding at the end the following:

“2237. Sanctions for failure to heave to; sanctions for obstruction of boarding
or providing false information.”.

4 **SEC. 2202. CIVIL PENALTIES TO SUPPORT MARITIME LAW**
5 **ENFORCEMENT.**

6 (a) IN GENERAL.—Chapter 17 of title 14, United

7 States Code, is amended by adding at the end the follow-

8 ing:

9 **“§ 675. Civil penalty for failure to comply with a law-**
10 **ful boarding, obstruction of boarding, or**
11 **providing false information**

12 “(a) IN GENERAL.—Any person who violates section
13 2237(b) of title 18 shall be liable for a civil penalty of
14 not more than \$25,000.

15 “(b) IN REM LIABILITY.—In addition to being sub-
16 ject to the liability under subsection (a), a vessel used to
17 violate an order relating to the boarding of a vessel issued
18 under the authority of section 2237 of title 18 shall be
19 liable in rem and may be seized, forfeited, and sold in ac-
20 cordance with section 594 of the Tariff Act of 1930 (19
21 U.S.C. 1594).”.

22 (b) TECHNICAL AND CONFORMING AMENDMENT.—

23 The analysis for chapter 17 of title 14, United States

24 Code, is amended by adding at the end the following:

“675. Civil penalty for failure to comply with a lawful boarding, obstruction of boarding, or providing false information.”.

1 **SEC. 2203. CUSTOMS ORDERS.**

2 Section 581 of the Tariff Act of 1930 (19 U.S.C.
3 1581) is amended by adding at the end the following:

4 “(i) **AUTHORIZED PLACE DEFINED.**—In this section,
5 the term ‘authorized place’ includes, with respect to a ves-
6 sel or vehicle, a location in a foreign country at which
7 United States customs officers are permitted to conduct
8 inspections, examinations, or searches.”.

9 **Subtitle C—Smuggling of Contra-**
10 **band and Other Illegal Products**

11 **SEC. 2301. SMUGGLING CONTRABAND AND OTHER GOODS**
12 **FROM THE UNITED STATES.**

13 (a) **IN GENERAL.**—

14 (1) **SMUGGLING GOODS FROM THE UNITED**
15 **STATES.**—Chapter 27 of title 18, United States
16 Code, as amended by section 2101 of this Act, is
17 amended by adding at the end the following:

18 **“§ 555. Smuggling goods from the United States**

19 “(a) **UNITED STATES DEFINED.**—In this section, the
20 term ‘United States’ has the meaning given that term in
21 section 545.

22 “(b) **PENALTIES.**—Whoever—

23 “(1) fraudulently or knowingly exports or sends
24 from the United States, or attempts to export or

1 send from the United States, any merchandise, arti-
2 cle, or object contrary to any law of the United
3 States (including any regulation of the United
4 States); or

5 “(2) receives, conceals, buys, sells, or in any
6 manner facilitates the transportation, concealment,
7 or sale of that merchandise, article, or object, prior
8 to exportation, knowing that merchandise, article, or
9 object to be intended for exportation contrary to any
10 law of the United States,

11 shall be fined under this title, imprisoned not more than
12 5 years, or both.”.

13 (2) TECHNICAL AND CONFORMING AMEND-
14 MENT.—The analysis for chapter 27 of title 18,
15 United States Code, is amended by adding at the
16 end the following:

“555. Smuggling goods from the United States.”.

17 (b) LAUNDERING OF MONETARY INSTRUMENTS.—
18 Section 1956(c)(7)(D) of title 18, United States Code, is
19 amended by inserting “section 555 (relating to smuggling
20 goods from the United States),” before “section 641 (re-
21 lating to public money, property, or records),”.

22 (c) MERCHANDISE EXPORTED FROM UNITED
23 STATES.—Section 596 of the Tariff Act of 1930 (19
24 U.S.C. 1595a) is amended by adding at the end the follow-
25 ing:

1 “(d) MERCHANDISE EXPORTED FROM THE UNITED
2 STATES.—Merchandise exported or sent from the United
3 States or attempted to be exported or sent from the
4 United States contrary to law, or the value thereof, and
5 property used to facilitate the receipt, purchase, transpor-
6 tation, concealment, or sale of that merchandise prior to
7 exportation shall be forfeited to the United States.”.

8 **SEC. 2302. CONTROLLING ILLICIT LIQUOR TRAFFICKING.**

9 (a) IN GENERAL.—Title 18, United States Code, is
10 amended—

11 (1) in section 546—

12 (A) by inserting “, vehicle, aircraft, con-
13 veyance or other mode of transportation” after
14 “vessel” each place it appears; and

15 (B) by striking “if under the laws of such
16 foreign government any penalty or forfeiture is
17 provided for violation of the laws of the United
18 States respecting the customs revenue,”;

19 (2) by striking section 1261 and inserting the
20 following:

21 **“§ 1261. Enforcement**

22 “The Secretary of the Treasury shall enforce this
23 chapter and may promulgate such regulations as the Sec-
24 retary determines to be necessary to carry out this chap-
25 ter.”;

1 (3) in section 1956(c)(7)(D), by inserting be-
 2 fore “section 549 (relating to removing goods from
 3 Customs custody)” the following: “section 546 (re-
 4 lating to smuggling goods into foreign countries),”;
 5 and

6 (4) in chapter 59, by adding at the end the fol-
 7 lowing:

8 **“§ 1266. Trafficking in contraband liquor**

9 “(a) STATE DEFINED.—In this section, the term
 10 ‘State’ includes a State of the United States, the District
 11 of Columbia, and a commonwealth, territory, or possession
 12 of the United States.

13 “(b) PROHIBITION.—It shall be unlawful for any per-
 14 son to ship or transport or attempt to ship or transport,
 15 or introduce or attempt to introduce, more than 360 liters
 16 of distilled spirits from 1 State into another State or for-
 17 eign country, or receive or possess more than 360 liters
 18 of distilled spirits that have been transported in interstate
 19 or foreign commerce in violation of Federal or State law.

20 “(c) PENALTIES.—

21 “(1) IN GENERAL.—Whoever knowingly violates
 22 subsection (b)—

23 “(A) in the case of a violation involving a
 24 quantity of distilled spirits of 15,000 liters or

1 less, shall be fined under this title, imprisoned
2 not more than 5 years, or both; or

3 “(B) in the case of a violation involving a
4 quantity of distilled spirits of more than 15,000
5 liters, shall be fined under this title, imprisoned
6 not more than 10 years, or both.

7 “(2) SEIZURE AND FORFEITURE.—Subject to
8 paragraph (3), the Secretary of the Treasury shall
9 seize and forfeit, in accordance with section 9703(o)
10 of title 31, any—

11 “(A) conveyance, liquor, or monetary in-
12 strument (that is included under the definition
13 of ‘monetary instruments’ in section 5312 of
14 title 31) involved in a violation of this section;
15 or

16 “(B) property (real or personal) that con-
17 stitutes or is derived from proceeds traceable to
18 a violation of this section.

19 “(3) LIMITATION.—No property shall be for-
20 feited under this section to the extent of the interest
21 of an owner or lien holder by reason of any act or
22 omission established by that owner or lien holder to
23 have been committed without the knowledge of that
24 owner or lien holder.

25 “(4) SEIZURE AND FORFEITURE.—

1 “(A) IN GENERAL.—In imposing sentence
2 on a person convicted of violating this section,
3 the court shall order that person to forfeit to
4 the United States any property described in
5 paragraph (2) involved in the violation.

6 “(B) APPLICABLE LAWS.—The seizure and
7 forfeiture of property referred to in subpara-
8 graph (A) shall be governed by subsections (b),
9 (c), and (e) through (p) of section 413 of the
10 Comprehensive Drug Abuse Prevention and
11 Control Act of 1970 (21 U.S.C. 853).

12 “(d) STATUTORY CONSTRUCTION.—Nothing in this
13 chapter may be construed to affect the concurrent jurisdic-
14 tion of a State to enact and enforce liquor laws, to provide
15 for the confiscation of liquor and other property seized for
16 violation of those laws, and to provide for penalties for
17 the violation of those laws.”.

18 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
19 The analysis for chapter 59 of title 18, United States
20 Code, is amended—

21 (1) by striking the item relating to section 1261
22 and inserting the following:

 “1261. Enforcement.”; and

23 (2) by adding at the end the following:

 “1266. Trafficking in contraband liquor.”.

1 **SEC. 2303. CUSTOMS DUTIES.**

2 (a) IN GENERAL.—Section 542 of title 18, United
3 States Code, is amended—

4 (1) in the section heading, by adding “**theft,**
5 **embezzlement, or misapplication of du-**
6 **ties**” at the end;

7 (2) by redesignating the fourth and fifth undes-
8 igned paragraphs as subsections (b) and (c), re-
9 spectively;

10 (3) in the third undesignated paragraph—

11 (A) by striking “Shall be fined” and in-
12 serting the following:

13 “shall be fined”; and

14 (B) by striking “two years” and inserting
15 “5 years”;

16 (4) in the second undesignated paragraph—

17 (A) by striking “Whoever is guilty” and in-
18 serting the following:

19 “(2) is guilty”; and

20 (B) by striking “act or omission—” and
21 inserting “act or omission; or”;

22 (5) in the first undesignated paragraph, by
23 striking “Whoever knowingly effects” and inserting
24 the following:

25 “(a) Whoever—

26 “(1) knowingly effects”; and

1 (6) in subsection (a) (as so designated by para-
2 graph (5) of this subsection) by inserting after para-
3 graph (2) (as so designated by paragraph (4) of this
4 subsection) the following:

5 “(3) embezzles, steals, abstracts, purloins, will-
6 fully misapplies, willfully permits to be misapplied,
7 or wrongfully converts to his own use, or to the use
8 of another, moneys, funds, credits, assets, securities
9 or other property entrusted to his or her custody or
10 care, or to the custody or care of another for the
11 purpose of paying any lawful duties;”.

12 (b) TECHNICAL AND CONFORMING AMENDMENT.—
13 The analysis for chapter 27 of title 18, United States
14 Code, is amended by striking the item relating to section
15 542 and inserting the following:

“542. Entry of goods by means of false statements, theft, embezzlement, or
misapplication of duties.”.

16 **SEC. 2304. FALSE CERTIFICATIONS RELATING TO EXPORTS.**

17 (a) IN GENERAL.—Chapter 27 of title 18, United
18 States Code, as amended by section 2301 of this Act, is
19 amended by adding at the end the following:

20 **“§ 556. False certifications relating to exports**

21 “Whoever knowingly transmits in interstate or for-
22 eign commerce any false or fraudulent certificate of origin,
23 invoice, declaration, affidavit, letter, paper, or statement
24 (whether written or otherwise), that represents explicitly

1 or implicitly that goods, wares, or merchandise to be ex-
 2 ported qualify for purposes of any international trade
 3 agreement to which the United States is a signatory shall
 4 be fined under this title, imprisoned not more than 5
 5 years, or both.”.

6 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 7 The analysis for chapter 27 of title 18, United States
 8 Code, is amended by adding at the end the following:

“556. False certifications relating to exports.”.

9 **TITLE III—DENYING SAFE HA-**
 10 **VENS TO INTERNATIONAL**
 11 **CRIMINALS**

12 **Subtitle A—Strengthening Extra-**
 13 **dition To Ensure International**
 14 **Criminals Are Brought to Jus-**
 15 **tice**

16 **SEC. 3101. EXTRADITION FOR OFFENSES NOT COVERED BY**
 17 **A LIST TREATY.**

18 Chapter 209 of title 18, United States Code, is
 19 amended by adding at the end the following:

20 **“§ 3197. Extradition for offenses not covered by a list**
 21 **treaty**

22 “(a) SERIOUS OFFENSE DEFINED.—In this section,
 23 the term ‘serious offense’ means conduct that would be—

1 “(1) an offense described in any multilateral
2 treaty to which the United States is a party that ob-
3 ligates parties—

4 “(A) to extradite alleged offenders found
5 in the territory of the parties; or

6 “(B) submit the case to the competent au-
7 thorities of the parties for prosecution; or

8 “(2) conduct that, if that conduct occurred in
9 the United States, would constitute—

10 “(A) a crime of violence (as defined in sec-
11 tion 16);

12 “(B) the distribution, manufacture, impor-
13 tation or exportation of a controlled substance
14 (as defined in section 201 of the Controlled
15 Substances Act (21 U.S.C. 802);

16 “(C) bribery of a public official; misappro-
17 priation, embezzlement or theft of public funds
18 by or for the benefit of a public official;

19 “(D) obstruction of justice, including pay-
20 ment of bribes to jurors or witnesses;

21 “(E) the laundering of monetary instru-
22 ments, as described in section 1956, if the value
23 of the monetary instruments involved exceeds
24 \$100,000;

1 “(F) fraud, theft, embezzlement, or com-
2 mercial bribery if the aggregate value of prop-
3 erty that is the object of all of the offenses re-
4 lated to the conduct exceeds \$100,000;

5 “(G) counterfeiting, if the obligations, se-
6 curities or other items counterfeited, have an
7 apparent value that exceeds \$100,000;

8 “(H) a conspiracy or attempt to commit
9 any of the offenses described in any of subpara-
10 graphs (A) through (G), or aiding and abetting
11 a person who commits any such offense; or

12 “(I) a crime against children under chap-
13 ter 109A or section 2251, 2251A, 2252, or
14 2252A.

15 “(b) AUTHORIZATION OF FILING.—

16 “(1) IN GENERAL.—If a foreign government
17 makes a request for the extradition of a person who
18 is charged with or has been convicted of an offense
19 within the jurisdiction of that foreign government,
20 and an extradition treaty between the United States
21 and the foreign government is in force, but the trea-
22 ty does not provide for extradition for the offense
23 with which the person has been charged or for which
24 the person has been convicted, the Attorney General

1 may authorize the filing of a complaint for extra-
2 dition pursuant to subsections (c) and (d).

3 “(2) FILING OF COMPLAINTS.—

4 “(A) IN GENERAL.—A complaint author-
5 ized under paragraph (1) shall be filed pursu-
6 ant to section 3184.

7 “(B) PROCEDURES.—With respect to a
8 complaint filed under paragraph (1), the proce-
9 dures contained in sections 3184 and 3186 and
10 the terms of the relevant extradition treaty
11 shall apply as if the offense were a crime pro-
12 vided for by the treaty, in a manner consistent
13 with section 3184.

14 “(c) CRITERIA FOR AUTHORIZATION OF COM-
15 PLAINTS.—

16 “(1) IN GENERAL.—The Attorney General may
17 authorize the filing of a complaint under subsection
18 (b) only upon a certification—

19 “(A) by the Attorney General, that in the
20 judgment of the Attorney General—

21 “(i) the offense for which extradition
22 is sought is a serious offense; and

23 “(ii) submission of the extradition re-
24 quest would be important to the law en-

1 forcement interests of the United States or
2 otherwise in the interests of justice; and

3 “(B) by the Secretary of State, that in the
4 judgment of the Secretary of State, submission
5 of the request would be consistent with the for-
6 eign policy interests of the United States.

7 “(2) FACTORS FOR CONSIDERATION.—In mak-
8 ing any certification under paragraph (1)(B), the
9 Secretary of State may consider whether the facts
10 and circumstances of the request then known appear
11 likely to present any significant impediment to the
12 ultimate surrender of the person who is the subject
13 of the request for extradition, if that person is found
14 to be extraditable.

15 “(3) LIMITATION ON JUDICIAL REVIEW.—Any
16 decision or exercise of authority by the Attorney
17 General or the Secretary of State pursuant to this
18 subsection shall not be subject to judicial review.

19 “(d) CASES OF URGENCY.—

20 “(1) IN GENERAL.—In any case of urgency, the
21 Attorney General may, with the concurrence of the
22 Secretary of State and before any formal certifi-
23 cation under subsection (c), authorize the filing of a
24 complaint seeking the provisional arrest and deten-
25 tion of the person sought for extradition before the

1 receipt of documents or other proof in support of
2 the request for extradition.

3 “(2) APPLICABILITY OF RELEVANT TREATY.—

4 With respect to a case described in paragraph (1),
5 a provision regarding provisional arrest in the rel-
6 evant treaty shall apply.

7 “(3) FILING AND EFFECT OF FILING OF COM-
8 PLAINTS.—

9 “(A) IN GENERAL.—A complaint author-
10 ized under this subsection shall be filed in the
11 same manner as provided in section 3184.

12 “(B) ISSUANCE OF ORDERS.—Upon the fil-
13 ing of a complaint under this subsection, the
14 appropriate judicial officer may issue an order
15 for the provisional arrest and detention of the
16 person as provided in section 3184.

17 “(e) CONDITIONS OF SURRENDER; ASSURANCES.—

18 “(1) IN GENERAL.—Before issuing a warrant of
19 surrender under section 3184 or 3186, the Secretary
20 of State may—

21 “(A) impose conditions upon the surrender
22 of the person that is the subject of the warrant;
23 and

1 “(B) require those assurances of compli-
2 ance with those conditions, as are determined
3 by the Secretary to be appropriate.

4 “(2) ADDITIONAL ASSURANCES.—

5 “(A) IN GENERAL.—In addition to impos-
6 ing conditions and requiring assurances under
7 paragraph (1), the Secretary of State shall de-
8 mand, as a condition of the extradition of the
9 person in every case, an assurance described in
10 subparagraph (B) that the Secretary deter-
11 mines to be satisfactory.

12 “(B) DESCRIPTION OF ASSURANCES.—An
13 assurance described in this subparagraph is an
14 assurance that the person that is sought for ex-
15 tradition shall not be tried or punished for an
16 offense other than that for which the person
17 has been extradited, absent the consent of the
18 United States.”.

19 **SEC. 3102. EXTRADITION ABSENT A TREATY.**

20 Chapter 209 of title 18, United States Code, as
21 amended by section 3101 of this Act, is amended by add-
22 ing at the end the following:

1 **“§ 3198. Extradition absent a treaty**

2 “(a) SERIOUS OFFENSE DEFINED.—In this section,
3 the term ‘serious offense’ has the meaning given that term
4 in section 3197(a).

5 “(b) AUTHORIZATION OF FILING.—

6 “(1) IN GENERAL.—If a foreign government
7 makes a request for the extradition of a person who
8 is charged with or has been convicted of an offense
9 within the jurisdiction of that foreign government,
10 and no extradition treaty is in force between the
11 United States and the foreign government, the At-
12 torney General may authorize the filing of a com-
13 plaint for extradition pursuant to subsections (c)
14 and (d).

15 “(2) FILING AND TREATMENT OF COM-
16 PLAINTS.—

17 “(A) IN GENERAL.—A complaint author-
18 ized under paragraph (1) shall be filed pursu-
19 ant to section 3184.

20 “(B) PROCEDURES.—With respect to a
21 complaint filed under paragraph (1), procedures
22 of sections 3184 and 3186 shall be followed as
23 if the offense were a ‘crime provided for by
24 such treaty’ as described in section 3184.

25 “(c) CRITERIA FOR AUTHORIZATION OF COM-
26 PLAINTS.—The Attorney General may authorize the filing

1 of a complaint described in subsection (b) only upon a cer-
2 tification—

3 “(1) by the Attorney General, that in the judg-
4 ment of the Attorney General—

5 “(A) the offense for which extradition is
6 sought is a serious offense; and

7 “(B) submission of the extradition request
8 would be important to the law enforcement in-
9 terests of the United States or otherwise in the
10 interests of justice; and

11 “(2) by the Secretary of State, that in the judg-
12 ment of the certifying official, based on information
13 then known—

14 “(A) submission of the request would be
15 consistent with the foreign policy interests of
16 the United States;

17 “(B) the facts and circumstances of the re-
18 quest, including humanitarian considerations,
19 do not appear likely to present a significant im-
20 pediment to the ultimate surrender of the per-
21 son if found extraditable; and

22 “(C) the foreign government submitting
23 the request is not submitting the request in
24 order to try or punish the person sought for ex-
25 tradition primarily on the basis of the race, reli-

1 gion, nationality, or political opinions of that
2 person.

3 “(d) LIMITATIONS ON DELEGATION AND JUDICIAL
4 REVIEW.—

5 “(1) DELEGATION BY ATTORNEY GENERAL; JU-
6 DICIAL REVIEW.—The authorities and responsibil-
7 ities of the Attorney General under subsection (c)
8 may be delegated only to the Deputy Attorney Gen-
9 eral.

10 “(2) DELEGATION.—The authorities and re-
11 sponsibilities of the Secretary of State set forth in
12 this subsection may be delegated only to the Deputy
13 Secretary of State.

14 “(3) LIMITATION ON JUDICIAL REVIEW.—The
15 authorities and responsibilities set forth in this sub-
16 section are not subject to judicial review.

17 “(e) CASES OF URGENCY.—

18 “(1) IN GENERAL.—In any case of urgency, the
19 Attorney General may, with the concurrence of the
20 Secretary of State and before any formal certifi-
21 cation under subsection (c), authorize the filing of a
22 complaint seeking the provisional arrest and deten-
23 tion of the person sought for extradition before the
24 receipt of documents or other proof in support of the
25 request for extradition.

1 “(2) FILING OF COMPLAINTS; ORDER BY JUDI-
2 CIAL OFFICER.—

3 “(A) FILING.—A complaint filed under
4 this subsection shall be filed in the same man-
5 ner as provided in section 3184.

6 “(B) ORDERS.—Upon the filing of a com-
7 plaint under subparagraph (A), the appropriate
8 judicial officer may issue an order for the provi-
9 sional arrest and detention of the person.

10 “(C) RELEASES.—If, not later than 45
11 days after the arrest, the formal request for ex-
12 tradition and documents in support of that are
13 not received by the Department of State, the
14 appropriate judicial officer may order that a
15 person detained pursuant to this subsection be
16 released from custody.

17 “(f) HEARINGS.—

18 “(1) IN GENERAL.—Subject to subsection (h),
19 upon the filing of a complaint for extradition and re-
20 ceipt of documents or other proof in support of the
21 request of a foreign government for extradition, the
22 appropriate judicial officer shall hold a hearing to
23 determine whether the person sought for extradition
24 is extraditable.

1 “(2) CRITERIA FOR EXTRADITION.—Subject to
2 subsection (g) in a hearing conducted under para-
3 graph (1), the judicial officer shall find a person ex-
4 traditable if the officer finds—

5 “(A) probable cause to believe that the
6 person before the judicial officer is the person
7 sought in the foreign country of the requesting
8 foreign government;

9 “(B) probable cause to believe that the
10 person before the judicial officer committed the
11 offense for which that person is sought, or was
12 duly convicted of that offense in the foreign
13 country of the requesting foreign government;

14 “(C) that the conduct upon which the re-
15 quest for extradition is based, if that conduct
16 occurred within the United States, would be a
17 serious offense punishable by imprisonment for
18 more than 10 years under the laws of—

19 “(i) the United States;

20 “(ii) the majority of the States in the
21 United States; or

22 “(iii) of the State in which the fugi-
23 tive is found; and

24 “(D) no defense to extradition under sub-
25 section (f) has been established.

1 “(g) LIMITATION OF EXTRADITION.—

2 “(1) IN GENERAL.—A judicial officer shall not
3 find a person extraditable under this section if the
4 person has established that the offense for which ex-
5 tradition is sought is—

6 “(A) an offense for which the person is
7 being proceeded against, or has been tried or
8 punished, in the United States; or

9 “(B) a political offense.

10 “(2) POLITICAL OFFENSES.—For purposes of
11 this section, a political offense does not include—

12 “(A) a murder or other violent crime
13 against the person of a head of state of a for-
14 eign state, or of a member of the family of the
15 head of state;

16 “(B) an offense for which both the United
17 States and the requesting foreign government
18 have the obligation pursuant to a multilateral
19 international agreement to—

20 “(i) extradite the person sought; or

21 “(ii) submit the case to the competent
22 authorities for decision as to prosecution;
23 or

24 “(C) a conspiracy or attempt to commit
25 any of the offenses referred to in subparagraph

1 (A) or (B), or aiding or abetting a person who
2 commits or attempts to commit any such of-
3 fenses.

4 “(h) LIMITATIONS ON FACTORS FOR CONSIDERATION
5 AT HEARINGS.—

6 “(1) IN GENERAL.—At a hearing conducted
7 under subsection (a), the judicial officer conducting
8 the hearing shall not consider issues regarding—

9 “(A) humanitarian concerns;

10 “(B) the nature of the judicial system of
11 the requesting foreign government; and

12 “(C) whether the foreign government is
13 seeking extradition of a person for the purpose
14 of prosecuting or punishing the person because
15 of the race, religion, nationality or political
16 opinions of that person.

17 “(2) CONSIDERATION BY SECRETARY OF
18 STATE.—The issues referred to in paragraph (1)
19 shall be reserved for consideration exclusively by the
20 Secretary of State as described in subsection (c)(2).

21 “(3) ADDITIONAL CONSIDERATION.—Notwith-
22 standing the certification requirements described in
23 subsection (c)(2), the Secretary of State may, within
24 the sole discretion of the Secretary—

1 “(A) in addition to considering the issues
2 referred to in paragraph (1) for purposes of
3 certifying the filing of a complaint under this
4 section, consider those issues again in exercis-
5 ing authority to surrender the person sought
6 for extradition in carrying out the procedures
7 under section 3184 and 3186; and

8 “(B) impose conditions on surrender in-
9 cluding those provided in subsection (i).

10 “(i) CONDITIONS OF SURRENDER; ASSURANCES.—

11 “(1) IN GENERAL.—The Secretary of State
12 may—

13 “(A) impose conditions upon the surrender
14 of a person sought for extradition under this
15 section; and

16 “(B) require such assurances of compli-
17 ance with those conditions, as the Secretary de-
18 termines to be appropriate.

19 “(2) ADDITIONAL ASSURANCES.—In addition to
20 imposing conditions and requiring assurances under
21 paragraph (1), the Secretary shall demand, as a con-
22 dition of the extradition of the person that is sought
23 for extradition—

24 “(A) in every case, an assurance the Sec-
25 retary determines to be satisfactory that the

1 person shall not be tried or punished for an of-
2 fense other than the offense for which the per-
3 son has been extradited, absent the consent of
4 the United States; and

5 “(B) in a case in which the offense for
6 which extradition is sought is punishable by
7 death in the foreign country of the requesting
8 foreign government and is not so punishable
9 under the applicable laws in the United States,
10 an assurance the Secretary determines to be
11 satisfactory that the death penalty—

12 “(i) shall not be imposed; or

13 “(ii) if imposed, shall not be carried
14 out.”.

15 **SEC. 3103. TECHNICAL AND CONFORMING AMENDMENTS.**

16 (a) IN GENERAL.—Chapter 309 of title 18, United
17 States Code, is amended—

18 (1) in section 3181, by inserting “, other than
19 sections 3197 and 3198,” after “The provisions of
20 this chapter” each place that term appears; and

21 (2) in section 3186, by striking “or 3185” and
22 inserting “, 3185, 3197 or 3198”.

23 (b) CHAPTER ANALYSIS.—The analysis for chapter
24 209 of title 18, United States Code, is amended by adding
25 at the end the following:

“3197. Extradition for offenses not covered by a list treaty.

“3198. Extradition absent a treaty.”.

1 **Subtitle B—Strengthening Immi-**
 2 **gration Laws To Exclude Inter-**
 3 **national Criminals From the**
 4 **United States**

5 **SEC. 3201. INADMISSIBILITY OF PERSONS FLEEING PROS-**
 6 **ECUTION IN OTHER COUNTRIES.**

7 (a) NEW GROUNDS OF INADMISSIBILITY.—Section
 8 212(a)(2) of the Immigration and Nationality Act (8
 9 U.S.C. 1182(a)(2)) is amended by adding at the end the
 10 following:

11 “(G) UNLAWFUL FLIGHT TO AVOID PROS-
 12 ECUTION.—Any alien who is coming to the
 13 United States solely, principally, or incidentally
 14 to avoid lawful prosecution in a foreign country
 15 for a crime involving moral turpitude (other
 16 than a purely political offense) is inadmis-
 17 sible.”.

18 (b) COUNTRIES TO WHICH ALIENS MAY BE RE-
 19 MOVED.—Section 241(b) of the Immigration and Nation-
 20 ality Act (8 U.S.C. 1231(b)) is amended by adding at the
 21 end the following:

22 “(4) ALIENS SOUGHT FOR PROSECUTION.—
 23 Notwithstanding paragraphs (1) and (2) of this sub-
 24 section, any alien who is found removable under sec-

1 tion 212(a)(2)(G) (or section 212(a)(2)(G) as ap-
 2 plied pursuant to section 237(a)(1)(A)), shall be re-
 3 moved to the country seeking prosecution of that
 4 alien unless, in the discretion of the Attorney Gen-
 5 eral, the removal is determined to be impracticable,
 6 inadvisable, or impossible. In that case, removal
 7 shall be directed according to paragraphs (1) and
 8 (2) of this subsection.”.

9 **SEC. 3202. INADMISSIBILITY OF PERSONS INVOLVED IN**
 10 **RACKETEERING AND ARMS TRAFFICKING.**

11 (a) NEW GROUNDS OF INADMISSIBILITY.—Section
 12 212(a)(2) of the Immigration and Nationality Act (8
 13 U.S.C. 1182) is amended by adding at the end the follow-
 14 ing:

15 “(H) RACKETEERING ACTIVITIES.—Any
 16 alien is inadmissible if the consular officer or
 17 the Attorney General knows or has reason to
 18 believe that the alien—

19 “(i) is or has been engaged in activi-
 20 ties that, if engaged in within the United
 21 States, would constitute ‘pattern of rack-
 22 eteering activity’ (as defined in section
 23 1961 of title 18, United States Code) or
 24 has been a knowing assister, abettor, con-

1 spirator, or colluder with others in any
2 such illicit activity; or

3 “(ii) is the spouse, son, or daughter of
4 an alien inadmissible under clause (i), has,
5 during the preceding 5-year period, ob-
6 tained any financial or other benefit from
7 the illicit activity of that alien, and knew
8 or reasonably should have known that the
9 financial or other benefit was the product
10 of the illicit activity.

11 “(I) TRAFFICKING IN FIREARMS OR NU-
12 CLEAR OR EXPLOSIVE MATERIALS.—Any alien
13 inadmissible if the consular officer or the Attor-
14 ney General knows or has reason to believe that
15 the alien—

16 “(i) is or has been engaged in illicit
17 trafficking of firearms (as defined in sec-
18 tion 921 of title 18, United States Code),
19 nuclear materials (as defined in section
20 831 of title 18, United States Code), or ex-
21 plosive materials (as defined in section 841
22 of title 18, United States Code); or has
23 been a knowing assister, abettor, conspira-
24 tor, or colluder with others in the illicit ac-
25 tivity; or

1 “(ii) is the spouse, son, or daughter of
2 an alien inadmissible under clause (i), has,
3 during the preceding 5-year period, ob-
4 tained any financial or other benefit from
5 the illicit activity of that alien, and knew
6 or reasonably should have known that the
7 financial or other benefit was the product
8 of the illicit activity.”.

9 (b) WAIVER AUTHORITY.—Section 212(h) of the Im-
10 migration and Nationality Act (8 U.S.C. 1182) is amend-
11 ed, in the matter preceding paragraph (1)—

12 (1) by striking “The Attorney General” and all
13 that follows through “of subsection (a)(2)” and in-
14 serting the following: “The Attorney General may,
15 as a matter of discretion, waive the application of
16 subparagraphs (A)(i)(I), (B), (C)(ii), (D), (E),
17 (H)(ii), and (I)(ii) of subsection (a)(2),”; and

18 (2) by inserting before “if—” the following: “,
19 and subparagraph (H)(i) of that subsection insofar
20 as it relates to an offense other than an aggravated
21 felony”.

1 **SEC. 3203. INADMISSIBILITY OF PERSONS WHO HAVE BENE-**
2 **FITED FROM ILLICIT ACTIVITIES OF DRUG**
3 **TRAFFICKERS.**

4 Section 212(a)(2)(C) of the Immigration and Nation-
5 ality Act (8 U.S.C.1182 (a)(2)(C)) is amended to read as
6 follows:

7 “(C) CONTROLLED SUBSTANCE TRAFFICK-
8 ERS.—Any alien is inadmissible if the consular
9 officer or the Attorney General knows or has
10 reason to believe that the alien—

11 “(i) is or has been an illicit trafficker
12 in any controlled substance or in any listed
13 chemical or listed precursor chemical (as
14 defined in section 102 of the Controlled
15 Substances Act (21 U.S.C. 802)), or is or
16 has been a knowing assister, abettor, con-
17 spirator, or colluder with others in the il-
18 licit trafficking in any such controlled or
19 listed substance or chemical; or

20 “(ii) is the spouse, son, or daughter of
21 an alien inadmissible under clause (i), has,
22 during the preceding 5-year period, ob-
23 tained any financial or other benefit from
24 the illicit activity of that alien, and knew
25 or reasonably should have known that the

1 financial or other benefit was the product
2 of the illicit activity.”.

3 **SEC. 3204. INADMISSIBILITY OF PERSONS INVOLVED IN**
4 **INTERNATIONAL ALIEN SMUGGLING.**

5 Section 212 of the Immigration and Nationality Act
6 (8 U.S.C. 1182) is amended—

7 (1) in subsection (a)(6), by striking subpara-
8 graph (E) and inserting the following:

9 “(E) SMUGGLERS.—Any alien is inadmis-
10 sible if, at any time, the alien has knowingly en-
11 couraged, induced, assisted, abetted, or aided
12 any other alien—

13 “(i) to enter or try to enter the
14 United States in violation of law; or

15 “(ii) to enter or try to enter any other
16 country, if that alien knew or reasonably
17 should have known that the entry or at-
18 tempted entry was likely to be in further-
19 ance of the entry or attempted entry by
20 that alien into the United States in viola-
21 tion of law.”; and

22 (2) in subsection (d)(11), by inserting “or to
23 enter any other country in furtherance of an entry
24 or attempted entry into the United States in viola-
25 tion of law” before the period at the end.

1 **Subtitle C—Additional Tools To**
2 **Deny Safe Haven to Inter-**
3 **national Criminals**

4 **SEC. 3301. TEMPORARY TRANSFER OF PERSONS IN CUS-**
5 **TODY FOR PROSECUTION.**

6 (a) IN GENERAL.—Chapter 306 of title 18, United
7 States Code, is amended by adding at the end the follow-
8 ing:

9 **“§ 4116. Temporary transfer for prosecution**

10 “(a) STATE DEFINED.—In this section, the term
11 ‘State’ includes a State of the United States, the District
12 of Columbia, and a commonwealth, territory, or possession
13 of the United States.

14 “(b) AUTHORITY OF ATTORNEY GENERAL WITH RE-
15 SPECT TO TEMPORARY TRANSFERS.—

16 “(1) IN GENERAL.—Subject to subsection (d),
17 if a person is in pretrial detention or is otherwise
18 being held in custody in a foreign country based
19 upon a violation of the law in that foreign country,
20 and that person is found extraditable to the United
21 States by the competent authorities of that foreign
22 country while still in the pretrial detention or cus-
23 tody, the Attorney General shall have the author-
24 ity—

1 “(A) to request the temporary transfer of
2 that person to the United States in order to
3 face prosecution in a Federal or State criminal
4 proceeding;

5 “(B) to maintain the custody of that per-
6 son while the person is in the United States;
7 and

8 “(C) to return that person to the foreign
9 country at the conclusion of the criminal pros-
10 ecution, including any imposition of sentence.

11 “(2) REQUIREMENTS FOR REQUESTS BY AT-
12 TORNEY GENERAL.—The Attorney General shall
13 make a request under paragraph (1) only if the At-
14 torney General determines, after consultation with
15 the Secretary of State, that the return of that per-
16 son to the foreign country in question would be con-
17 sistent with international obligations of the United
18 States.

19 “(3) LIMITATION ON JUDICIAL REVIEW.—Any
20 decision or exercise of authority by the Attorney
21 General under this subsection shall not be subject to
22 judicial review.

23 “(c) AUTHORITY OF ATTORNEY GENERAL WITH RE-
24 SPECT TO PRETRIAL DETENTIONS.—

25 “(1) IN GENERAL.—

1 “(A) AUTHORITY OF ATTORNEY GEN-
2 ERAL.—Subject to paragraph (2) and sub-
3 section (d), the Attorney General shall have the
4 authority to carry out the actions described in
5 subparagraph (B), if—

6 “(i) a person is in pretrial detention
7 or is otherwise being held in custody in the
8 United States based upon a violation of
9 Federal or State law, and that person is
10 found extraditable to a foreign country
11 while still in the pretrial detention or cus-
12 tody pursuant to section 3184, 3197, or
13 3198; and

14 “(ii) a determination is made by the
15 Secretary of State and the Attorney Gen-
16 eral that the person will be surrendered.

17 “(B) ACTIONS.—If the conditions de-
18 scribed in subparagraph (A) are met, the Attor-
19 ney General shall have the authority to—

20 “(i) temporarily transfer the person
21 described in subparagraph (A) to the for-
22 eign country of the foreign government re-
23 questing the extradition of that person in
24 order to face prosecution;

1 “(ii) transport that person from the
2 United States in custody; and

3 “(iii) return that person in custody to
4 the United States from the foreign coun-
5 try.

6 “(2) CONSENT BY STATE AUTHORITIES.—If the
7 person is being held in custody for a violation of
8 State law, the Attorney General may exercise the au-
9 thority described in paragraph (1) if the appropriate
10 State authorities give their consent to the Attorney
11 General.

12 “(3) CRITERION FOR REQUEST.—The Attorney
13 General shall make a request under paragraph (1)
14 only if the Attorney General determines, after con-
15 sultation with the Secretary of State, that the return
16 of the person sought for extradition to the foreign
17 country of the foreign government requesting the ex-
18 tradition would be consistent with United States
19 international obligations.

20 “(4) JUDICIAL REVIEW.—Any decision or exer-
21 cise of authority by the Attorney General under this
22 subsection shall not be subject to judicial review.

23 “(5) EFFECT OF TEMPORARY TRANSFER.—
24 With regard to any person in pretrial detention—

1 “(A) a temporary transfer under this sub-
2 section shall result in an interruption in the
3 pretrial detention status of that person; and

4 “(B) the right to challenge the conditions
5 of confinement pursuant to section 3142(f) does
6 not extend to the right to challenge the condi-
7 tions of confinement in a foreign country while
8 in that foreign country temporarily under this
9 subsection.

10 “(d) CONSENT BY PARTIES TO WAIVE PRIOR FIND-
11 ING OF WHETHER A PERSON IS EXTRADITABLE.—The
12 Attorney General may exercise the authority described in
13 subsections (b) and (c) absent a prior finding that the per-
14 son in custody is extraditable, if the person, any appro-
15 priate State authorities in a case under subsection (c), and
16 the requesting foreign government give their consent to
17 waive that requirement.

18 “(e) RETURN OF PERSONS.—

19 “(1) IN GENERAL.—If the temporary transfer
20 to or from the United States of a person in custody
21 for the purpose of prosecution is provided for by this
22 section, that person shall be returned to the United
23 States or to the foreign country from which the per-
24 son is transferred on completion of the proceedings
25 upon which the transfer was based.

1 ings in any related criminal forfeiture action if that per-
 2 son—

3 “(1) purposely leaves the jurisdiction of the
 4 United States;

5 “(2) declines to enter or reenter the United
 6 States to submit to its jurisdiction; or

7 “(3) otherwise evades the jurisdiction of the
 8 court in which a criminal case is pending against the
 9 person.”.

10 (b) **TECHNICAL AND CONFORMING AMENDMENT.**—

11 The analysis for chapter 163 of title 28, United States
 12 Code, is amended by adding at the end the following:

“2466. Fugitive disentitlement.”.

13 **SEC. 3303. TRANSFER OF FOREIGN PRISONERS TO SERVE**
 14 **SENTENCES IN COUNTRY OF ORIGIN.**

15 Section 4100(b) of title 18, United States Code, is
 16 amended in the third sentence by inserting “, unless other-
 17 wise provided by treaty,” before “an offender”.

18 **SEC. 3304. TRANSIT OF FUGITIVES FOR PROSECUTION IN**
 19 **FOREIGN COUNTRIES.**

20 (a) **IN GENERAL.**—Chapter 305 of title 18, United
 21 States Code, is amended by adding at the end the follow-
 22 ing:

1 **“§ 4087. Transit through the United States of persons**
2 **wanted in a foreign country**

3 “(a) IN GENERAL.—The Attorney General may, in
4 consultation with the Secretary of State, permit the tem-
5 porary transit through the United States of a person
6 wanted for prosecution or imposition of sentence in a for-
7 eign country.

8 “(b) LIMITATION ON JUDICIAL REVIEW.—A deter-
9 mination by the Attorney General to permit or not to per-
10 mit a temporary transit described in subsection (a) shall
11 not be subject to judicial review.

12 “(c) CUSTODY.—If the Attorney General permits a
13 temporary transit under subsection (a), Federal law en-
14 forcement personnel may hold the person subject to that
15 transit in custody during the transit of the person through
16 the United States.

17 “(d) CONDITIONS APPLICABLE TO PERSONS SUB-
18 JECT TO TEMPORARY TRANSIT.—Notwithstanding any
19 other provision of law, a person who is subject to a tem-
20 porary transit through the United States under this sec-
21 tion shall—

22 “(1) be required to have only such documents
23 as the Attorney General shall require;

24 “(2) not be considered to be admitted or pa-
25 roled into the United States; and

1 “(3) not be entitled to apply for or obtain any
2 right or remedy under the Immigration and Nation-
3 ality Act (8 U.S.C. 1101 et seq.), including the right
4 to apply for or be granted asylum or withholding of
5 deportation.”.

6 (b) TECHNICAL AND CONFORMING AMENDMENT.—

7 The analysis for chapter 305 of title 18, United States
8 Code, is amended by adding at the end the following:

 “4087. Transit through the United States of persons wanted in a foreign coun-
 try.”.

9 **TITLE IV—SEIZING AND FOR-**
10 **FEITING THE ASSETS OF**
11 **INTERNATIONAL CRIMINALS**

12 **SEC. 4001. CRIMINAL PENALTIES FOR VIOLATIONS OF ANTI-**
13 **MONEY LAUNDERING ORDERS.**

14 (a) REPORTING VIOLATIONS.—Section 5324(a) of
15 title 31, United States Code, is amended—

16 (1) in the matter preceding paragraph (1), by
17 inserting “, or the reporting requirements imposed
18 by an order issued pursuant to section 5326” after
19 “any such section”; and

20 (2) in each of paragraphs (1) and (2), by in-
21 serting “, or a report required under any order
22 issued pursuant to section 5326” before the semi-
23 colon.

1 (b) PENALTIES.—Sections 5321(a)(1), 5322(a), and
2 5322(b) of title 31, United States Code, are each amended
3 by inserting “or order issued” after “or a regulation pre-
4 scribed” each place that term appears.

5 **SEC. 4002. SEARCH OF MAIL.**

6 (a) IN GENERAL.—Part V of title IV of the Tariff
7 Act of 1930 (19 U.S.C. 1581 et seq.) is amended by in-
8 serting after section 582 the following:

9 **“SEC. 583. SEARCH OF MAIL.**

10 “(a) DEFINITIONS.—In this section:

11 “(1) CUSTOMS LAWS OF THE UNITED
12 STATES.—The term ‘customs laws of the United
13 States’ means any law enforced or administered by
14 the Customs Service, including any law listed in sub-
15 section (c)(3) or any related provision.

16 “(2) MAIL SEALED AGAINST INSPECTION.—The
17 term ‘mail sealed against inspection’ includes mail
18 described in section 145.1 (b) or (c) of title 19, Code
19 of Federal Regulations.

20 “(b) SEARCH OF MAIL.—In order to assure compli-
21 ance with and enforce the customs laws of the United
22 States, a customs officer may stop and search mail origi-
23 nating in the United States that is addressed to a location
24 outside of the United States in accordance with regula-

1 tions prescribed by the Secretary of Treasury pursuant to
2 this section.

3 “(c) REGULATIONS.—The regulations prescribed pur-
4 suant to subsection (b) shall meet the following require-
5 ments:

6 “(1) SEARCH BY CUSTOMS OFFICERS.—Except
7 as provided in paragraph (3)(C), examination and
8 search of mail conducted pursuant to this section
9 shall be by customs officers.

10 “(2) UNSEALED AND CERTAIN OTHER MAIL.—
11 Mail may be examined and searched pursuant to this
12 section if it—

13 “(A) is not sealed against inspection under
14 the postal laws of the United States;

15 “(B) bears a customs declaration; or

16 “(C) is mail with respect to which the
17 sender or addressee has given written consent
18 for such examination or search.

19 “(3) SEALED MAIL.—

20 “(A) IN GENERAL.—Subject to subpara-
21 graphs (B) and (C), mail sealed against inspec-
22 tion under the postal laws of the United States
23 may be examined and searched if there is rea-
24 sonable cause to suspect that such mail con-
25 tains—

1 “(i) a monetary instrument (as de-
2 fined in section 5312 of title 31, United
3 States Code);

4 “(ii) a weapon of mass destruction (as
5 defined in section 2332a of title 18, United
6 States Code);

7 “(iii) a drug or other substance listed
8 in schedule I, II, III, or IV of section 202
9 of the Controlled Substances Act (21
10 U.S.C. 812);

11 “(iv) any merchandise mailed in viola-
12 tion of section 1715 or 1716 of title 18,
13 United States Code;

14 “(v) any merchandise mailed in viola-
15 tion of chapter 71 of title 18, United
16 States Code;

17 “(vi) any merchandise mailed in viola-
18 tion of the Export Administration Act (50
19 U.S.C. App. 2401 et seq.);

20 “(vii) any merchandise mailed in vio-
21 lation of section 38 of the Arms Export
22 Control Act (22 U.S.C. 2778);

23 “(viii) any merchandise mailed in vio-
24 lation of the International Emergency Eco-

1 nomic Powers Act (50 U.S.C. 1701 et
2 seq.); or

3 “(ix) any merchandise mailed in viola-
4 tion of the Trading With the Enemy Act
5 (50 U.S.C. App. 1 et seq.).

6 “(B) LIMITATIONS.—A person examining
7 or searching mail pursuant to this section may
8 not read, or authorize any other person to read,
9 any correspondence contained in mail described
10 in subparagraph (A), unless—

11 “(i) a search warrant has been issued
12 pursuant to rule 41, Federal Rules of
13 Criminal Procedure, which permits such
14 reading; or

15 “(ii) the sender or addressee of such
16 mail has given written consent for such
17 reading.

18 “(C) PROCEDURES.—The examination and
19 search of mail under this paragraph shall be
20 conducted pursuant to an agreement entered
21 into between the Department of the Treasury
22 and the United States Postal Service, in the
23 presence of employees of the Department of the
24 Treasury (including a customs officer) and the
25 United States Postal Service, and in a manner

1 that does not unduly delay the movement of the
2 mail.”.

3 (b) MAIL CLASSIFICATION.—Section 3623(d) of title
4 39, United States Code, is amended by inserting “or pur-
5 suant to section 583 of the Tariff Act of 1930” before
6 the period at the end.

7 **SEC. 4003. FORFEITURE.**

8 (a) FORFEITURE OF PROCEEDS OF FOREIGN
9 CRIMES.—Section 981(a)(1)(B) of title 18, United States
10 Code, is amended by inserting “or involving any other con-
11 duct described in section 1956(c)(7)(D),” after “Con-
12 trolled Substances Act),”.

13 (b) FORFEITURE OF PROPERTY USED TO COMMIT
14 DRUG CRIMES ABROAD.—Section 981(a)(1)(B) of title
15 18, United States Code, is amended by inserting “, or any
16 property used to facilitate an offense described in subpara-
17 graph (i)” before the period at the end.

18 (c) FORFEITURE OF PROPERTY USED TO VIOLATE
19 FEDERAL EXPLOSIVES LAWS.—

20 (1) IN GENERAL.—Section 981(a)(1) of title
21 18, United States Code, is amended by adding at
22 the end the following:

23 “(G) Any conveyance, chemical, laboratory
24 equipment, or other material, article, apparatus, de-
25 vice, or thing made, possessed, fitted, used, or in-

1 tended to be used to commit a violation of sub-
 2 section (a)(1), (a)(3), (b), (c), (d), (h), (i), (l), (m),
 3 or (n) of section 842, or any of subsections (d)
 4 through (m) of section 844, or a conspiracy to com-
 5 mit any such offense, and any property traceable to
 6 any such item.”.

7 (2) CONFORMING AMENDMENT.—Section
 8 982(a) of title 18, United States Code, is amended
 9 by adding at the end the following:

10 “(6) In imposing a sentence on a person con-
 11 victed of an offense punishable for a violation of
 12 chapter 40, or a conspiracy to commit such an of-
 13 fense, the court shall order the person to forfeit to
 14 the United States any—

15 “(A) conveyance, chemical, laboratory
 16 equipment, or other material, article, apparatus,
 17 device, or thing made, possessed, fitted, used,
 18 or intended to be used to commit such offense;
 19 and

20 “(B) property traceable to any item de-
 21 scribed in subparagraph (A).”

22 **SEC. 4004. CRACKING DOWN ON ILLEGAL MONEY TRANS-**
 23 **MITTING BUSINESSES.**

24 (a) CIVIL FORFEITURE FOR MONEY TRANSMITTING
 25 VIOLATION.—Section 981(a)(1)(A) of title 18, United

1 States Code, is amended by striking “or 1957” and insert-
 2 ing “, 1957, or 1960”.

3 (b) SCIENTER REQUIREMENT FOR SECTION 1960
 4 VIOLATION.—Section 1960 of title 18, United States
 5 Code, is amended by adding at the end the following:

6 “(c) SCIENTER REQUIREMENT.—For the purposes of
 7 proving a violation of this section involving an illegal
 8 money transmitting business (as defined in subsection
 9 (b)(1)(A))—

10 “(1) it shall be sufficient for the government to
 11 prove that the defendant knew that the money trans-
 12 mitting business lacked a license required by State
 13 law; and

14 “(2) it shall not be necessary to show that the
 15 defendant knew that the operation of such a busi-
 16 ness without the required license was an offense
 17 punishable as a felony or misdemeanor under State
 18 law.”.

19 **SEC. 4005. ENHANCING PROSECUTIONS IN INTERNATIONAL**
 20 **DRUG AND MONEY LAUNDERING CASES.**

21 Section 981 of title 18, United States Code, is
 22 amended by adding at the end the following:

23 “(k) REBUTTABLE PRESUMPTIONS.—

24 “(1) IN GENERAL.—At the trial of an action
 25 brought pursuant to subsection (a)(1)(B), there is a

1 presumption, governed by Rule 301 of the Federal
2 Rules of Evidence, that the property is subject to
3 forfeiture if the United States establishes, by a pre-
4 ponderance of the evidence, that the property was
5 acquired during a period of time in which the person
6 who acquired the property was engaged in an offense
7 against a foreign nation described in subsection
8 (a)(1)(B) or within a reasonable time after that pe-
9 riod, and there was no likely source for the property
10 other than the offense.

11 “(2) OTHER OFFENSES.—At the trial of an ac-
12 tion brought pursuant to subsection (a)(1)(A), there
13 is a presumption, governed by Rule 301 of the Fed-
14 eral Rules of Evidence, that the property was in-
15 volved in a violation of section 1956 or 1957, if the
16 United States establishes, by a preponderance of the
17 evidence, any 3 or more of the following factors:

18 “(A) The property constitutes or is trace-
19 able to more than \$10,000 that has been or was
20 intended to be transported, transmitted or
21 transferred to or from a major drug transit
22 country, a major illicit drug producing country,
23 or a major money laundering country, as those
24 terms are determined pursuant to sections

1 481(e) and 490(h) of the Foreign Assistance
2 Act of 1961 (22 U.S.C. 2291(e) and 2291j(h)).

3 “(B) The transaction giving rise to the for-
4 feiture occurred in part in a foreign country
5 whose bank secrecy laws have rendered the
6 United States unable to obtain records relating
7 to the transaction by judicial process, treaty or
8 executive agreement.

9 “(C) A person more than minimally in-
10 volved in the transaction giving rise to the for-
11 feiture action has been convicted in any Fed-
12 eral, State, or foreign jurisdiction of a felony
13 offense involving money laundering or the man-
14 ufacture, importation, sale or distribution of a
15 controlled substance, or is a fugitive from pros-
16 ecution for any such offense.

17 “(D) The transaction giving rise to the for-
18 feiture action was conducted by, to, or through
19 a shell corporation not engaged in any legiti-
20 mate business activity in the United States.

21 “(3) SHELL CORPORATION DEFINED.—In this
22 subsection, the term ‘shell corporation’ means any
23 corporation that does not conduct any ongoing and
24 significant commercial or manufacturing business or
25 any other form of commercial operation.

1 United States that would be subject to forfeiture;
2 and

3 “(ii) contain a statement that the restraining
4 order is necessary to preserve the availability of
5 property for such time as is necessary to receive evi-
6 dence from the foreign country or elsewhere in sup-
7 port of probable cause for the seizure of the property
8 under this subsection.”.

9 **SEC. 4007. ACCESS TO FINANCIAL RECORDS IN BANK SE-**
10 **CRECY JURISDICTIONS.**

11 Section 986 of title 18, United States Code, is
12 amended by adding at the end the following:

13 “(d) ACCESS TO FINANCIAL RECORDS IN BANK SE-
14 CRECY JURISDICTIONS.—

15 “(1) IN GENERAL.—In any civil forfeiture case,
16 or in any ancillary proceeding in any criminal for-
17 feiture case governed by section 413(n) of the Con-
18 trolled Substances Act (21 U.S.C. 853(n)), the re-
19 fusal of a claimant to provide financial records lo-
20 cated in a foreign country in response to a discovery
21 request, or to take the action otherwise necessary to
22 make those records available, shall result in the dis-
23 missal of the claim with prejudice, if—

24 “(A) the records may be material—

1 “(2) For purposes of adjudicating an action filed or
2 enforcing a penalty ordered under this section, the district
3 courts shall have jurisdiction over any foreign person, in-
4 cluding any financial institution registered in a foreign
5 country, that commits an offense under subsection (a) in-
6 volving a financial transaction that occurs in whole or in
7 part in the United States, if service of process upon the
8 foreign person is made in accordance with the Federal
9 Rules of Civil Procedure or the law of the foreign country
10 in which the foreign person is found.

11 “(3) The court may issue a pretrial restraining order
12 or take any other action necessary to ensure that any bank
13 account or other property held by the defendant in the
14 United States is available to satisfy a judgment under this
15 section.”.

16 **SEC. 4009. PUNISHMENT OF MONEY LAUNDERING**
17 **THROUGH FOREIGN BANKS.**

18 Section 1956(e)(6) of title 18, United States Code,
19 is amended to read as follows:

20 “(6) the term ‘financial institution’ includes any
21 financial institution described in section 5312(a)(2)
22 of title 31, United States Code, or the regulations
23 promulgated thereunder, as well as any foreign bank
24 (as defined in section 1(b)(7) of the International
25 Banking Act of 1978 (12 U.S.C. 3101(7));”.

1 **SEC. 4010. ADDITION OF SERIOUS FOREIGN CRIMES TO**
2 **LIST OF MONEY LAUNDERING PREDICATES.**

3 Section 1956(c)(7) of title 18, United States Code,
4 is amended—

5 (1) in subparagraph (B)—

6 (A) by striking clause (ii) and inserting the
7 following:

8 “(ii) any act or acts constituting a
9 crime of violence;” and

10 (B) by adding at the end the following:

11 “(iv) fraud, or any scheme to defraud,
12 committed against a foreign government or
13 foreign governmental entity;

14 “(v) bribery of a public official, or the
15 misappropriation, theft or embezzlement of
16 public funds by or for the benefit of a pub-
17 lic official;

18 “(vi) smuggling or export control vio-
19 lations involving munitions listed in the
20 United States Munitions List or tech-
21 nologies with military applications as de-
22 fined in the Commerce Control List of the
23 Export Administration Regulations; or

24 “(vii) an offense with respect to which
25 the United States would be obligated by a
26 multilateral treaty either to extradite the

1 alleged offender or to submit the case for
2 prosecution, if the offender were found
3 within the territory of the United States;”;

4 (2) in subparagraph (D)—

5 (A) by inserting “section 541 (relating to
6 goods falsely classified),” before “section 542”;

7 (B) by inserting “section 922(l) (relating
8 to the unlawful importation of firearms), sec-
9 tion 924(m) (relating to firearms trafficking),”
10 before “section 956”;

11 (C) by inserting “section 1030 (relating to
12 computer fraud and abuse),” before “1032”;
13 and

14 (D) by inserting “any felony violation of
15 the Foreign Agents Registration Act of 1938
16 (22 U.S.C. 611 et seq.),” before “or any felony
17 violation of the Foreign Corrupt Practices Act”;
18 and

19 (3) in subparagraph (E), by inserting “the
20 Clean Air Act (42 U.S.C. 6901 et seq.),” after “the
21 Safe Drinking Water Act (42 U.S.C. 300f et seq.),”.

22 **SEC. 4011. AUTHORITY TO ORDER CONVICTED CRIMINALS**
23 **TO RETURN PROPERTY LOCATED ABROAD.**

24 (a) ORDER OF FORFEITURE.—Section 413(p) of the
25 Controlled Substances Act (21 U.S.C. 853(p)) is amended

1 by adding at the end the following: “In the case of prop-
2 erty described in paragraph (3), the court may, in addi-
3 tion, order the defendant to return the property to the
4 jurisdiction of the court so that the property may be seized
5 and forfeited.”.

6 (b) PRETRIAL RESTRAINING ORDER.—Section
7 413(e) of the Controlled Substances Act (21 U.S.C.
8 853(e)) is amended by inserting after paragraph (3) the
9 following:

10 “(4)(A) Pursuant to its authority to enter a
11 pretrial restraining order under this section, includ-
12 ing its authority to restrain any property forfeitable
13 as substitute assets, the court may also order the de-
14 fendant to repatriate any property subject to forfeit-
15 ure pending trial, and to deposit that property in the
16 registry of the court, or with the United States Mar-
17 shals Service or the Secretary of the Treasury, in an
18 interest-bearing account.

19 “(B) Failure to comply with an order under
20 this subsection, or an order to repatriate property
21 under subsection (p), shall be punishable as a civil
22 or criminal contempt of court, and may also result
23 in an enhancement of the sentence for the offense
24 giving rise to the forfeiture under the obstruction of

1 justice provision of section 3C1.1 of the Federal
2 Sentencing Guidelines.”.

3 **SEC. 4012. ENFORCEMENT OF FOREIGN FORFEITURE JUDG-**
4 **MENTS.**

5 (a) IN GENERAL.—Chapter 163 of title 28, United
6 States Code, is amended by adding at the end the follow-
7 ing:

8 **“§ 2466. Enforcement of foreign forfeiture judgment**

9 “(a) DEFINITIONS.—In this section—

10 “(1) the term ‘foreign nation’ means a country
11 that has become a party to the United Nations Con-
12 vention Against Illicit Traffic in Narcotic Drugs and
13 Psychotropic Substances (hereafter ‘the United Na-
14 tions Convention’) or a foreign jurisdiction with
15 which the United States has a treaty or other formal
16 international agreement in effect providing for mu-
17 tual forfeiture assistance; and

18 “(2) the term ‘value based confiscation judg-
19 ment’ shall mean a final order of a foreign nation
20 compelling a defendant, as a consequence of the
21 criminal conviction of the defendant for an offense
22 described in Article 3, paragraph 1, of the United
23 Nations Convention, to pay a sum of money rep-
24 resenting the proceeds of the offense, or property the
25 value of which corresponds to those proceeds.

1 “(b) REVIEW BY ATTORNEY GENERAL.—

2 “(1) IN GENERAL.—A foreign nation seeking to
3 have its value based confiscation judgment reg-
4 istered and enforced by a United States district
5 court under this section shall first submit to the At-
6 torney General or the designee of the Attorney Gen-
7 eral a request, which shall include—

8 “(A) a summary of the facts of the case
9 and a description of the criminal proceeding
10 that resulted in the value based confiscation
11 judgment;

12 “(B) certified copies of the judgment of
13 conviction and value based confiscation judg-
14 ment;

15 “(C) an affidavit or sworn declaration es-
16 tablishing that the defendant received notice of
17 the proceedings in sufficient time to enable the
18 defendant to defend against the charges and
19 that the value based confiscation judgment ren-
20 dered is in force and is not subject to appeal;

21 “(D) an affidavit or sworn declaration that
22 reasonable efforts have been undertaken to en-
23 force the value based confiscation judgment
24 against the property of the defendant, if any, in
25 the foreign country; and

1 “(E) such additional information and evi-
2 dence as may be required by the Attorney Gen-
3 eral or the designee of the Attorney General.

4 “(2) CERTIFICATION.—The Attorney General
5 or the designee of the Attorney General, in consulta-
6 tion with the Secretary of State or the designee of
7 the Secretary, shall determine whether to certify the
8 request, and such decision shall be final and not
9 subject to either judicial review or review under the
10 Administrative Procedures Act (5 U.S.C. 551 et
11 seq).

12 “(c) JURISDICTION AND VENUE.—

13 “(1) IN GENERAL.—If the Attorney General or
14 the designee of the Attorney General certifies a re-
15 quest under paragraph (b), the foreign nation may
16 file a civil proceeding in United States district court
17 seeking to enforce the foreign value based confisca-
18 tion judgment as if the judgment had been entered
19 by a court in the United States.

20 “(2) RULES GOVERNING PROCEEDINGS.—In a
21 civil proceeding under paragraph (1)—

22 “(A) the foreign nation shall be the plain-
23 tiff and the person against whom the value
24 based confiscation judgment was entered shall
25 be the defendant;

1 “(B) venue shall lie in the district court
2 for the District of Columbia or in any other dis-
3 trict in which the defendant or the property
4 that may be the basis for satisfaction of a judg-
5 ment under this section may be found; and

6 “(C) the district court shall have personal
7 jurisdiction over a defendant residing outside of
8 the United States if the defendant is served
9 with process in accordance with Rule 4 of the
10 Federal Rules of Civil Procedure.

11 “(d) ENTRY AND ENFORCEMENT OF JUDGMENT.—

12 “(1) IN GENERAL.—In any civil action under
13 subsection (c), the district court shall enter such or-
14 ders as may be necessary to enforce the value based
15 confiscation judgment on behalf of the foreign na-
16 tion, if the court determines that—

17 “(A) the value based confiscation judgment
18 was rendered under a system that provides im-
19 partial tribunals or procedures compatible with
20 the requirements of due process of law;

21 “(B) the foreign court had personal juris-
22 diction over the defendant;

23 “(C) the foreign court had jurisdiction over
24 the subject matter;

1 “(D) the defendant in the proceedings in
2 the foreign court received notice of the proceed-
3 ings in sufficient time to enable the defendant
4 to defend;

5 “(E) that judgment was not obtained by
6 fraud.

7 “(2) PROCESS.—Process to enforce a judgment
8 under this section shall be in accordance with Rule
9 69(a) of the Federal Rules of Civil Procedure.

10 “(e) FINALITY OF FOREIGN FINDINGS.—Upon a
11 finding by the district court that the conditions set forth
12 in subsection (d) have been satisfied, the court shall be
13 bound by the findings of facts stated in the foreign judg-
14 ment of conviction and value based confiscation judgment.

15 “(f) CURRENCY CONVERSION.—If a value based con-
16 fiscation judgment requires the payment of a sum of
17 money, the rate of exchange in effect at time the suit to
18 enforce is filed by the foreign nation shall be used in cal-
19 culating the amount stated in the judgment submitted for
20 registration.”.

21 (b) TECHNICAL AND CONFORMING AMENDMENT.—
22 The analysis for chapter 163 of title 28, United States
23 Code, is amended by adding at the end the following:

“2466. Enforcement of foreign forfeiture judgment.”.

1 **SEC. 4013. ADMINISTRATIVE SUMMONS AUTHORITY UNDER**
 2 **THE BANK SECRECY ACT.**

3 Section 5318(b) of title 31, United States Code, is
 4 amended by striking paragraph (1) and inserting the fol-
 5 lowing:

6 “(1) SCOPE OF POWER.—The Secretary of the
 7 Treasury may take any action described in para-
 8 graph (3) or (4) of subsection (a) for the purpose
 9 of—

10 “(A) determining compliance with the rules
 11 of this subchapter or any regulation issued
 12 under this subchapter; or

13 “(B) civil enforcement of violations of this
 14 subchapter, section 21 of the Federal Deposit
 15 Insurance Act, section 411 of the National
 16 Housing Act, or chapter 2 of Public Law 91–
 17 508 (12 U.S.C. 1951 et seq.), or any regulation
 18 issued under any such provision.”.

19 **SEC. 4014. ENCOURAGING FINANCIAL INSTITUTIONS TO NO-**
 20 **TIFY LAW ENFORCEMENT AUTHORITIES OF**
 21 **SUSPICIOUS FINANCIAL TRANSACTIONS.**

22 (a) IN GENERAL.—Section 2702(b)(6) of title 18,
 23 United States Code, is amended—

24 (1) by inserting “or supervisory agency” after
 25 “a law enforcement agency”;

1 (2) in subparagraph (A), by striking “; and”
2 and inserting “and appear to pertain to the commis-
3 sion of the crime; or”; and

4 (3) in subparagraph (B), by striking “appear to
5 pertain to the commission of the crime.” and insert-
6 ing “appear to reveal a suspicious transaction rel-
7 evant to a possible violation of law or regulation.”

8 (b) DEFINITIONS.—Section 2711 of title 18, United
9 States Code, is amended—

10 (1) in paragraph (1), by striking “and” at the
11 end;

12 (2) in paragraph (2), by striking the period at
13 the end and inserting “; and”; and

14 (3) by adding at the end the following:

15 “(3) the terms ‘suspicious transaction’ and ‘rel-
16 evant to a possible violation of the law or regulation’
17 shall be interpreted in the same manner as those
18 terms have been interpreted for purposes of section
19 5318(g) of title 31; and

20 “(4) the term ‘supervisory agency’ has the
21 meaning given the term in section 1101(7) of the
22 Right to Financial Privacy Act of 1978.”.

1 **SEC. 4015. EXEMPTING FINANCIAL ENFORCEMENT DATA**
2 **FROM UNNECESSARY DISCLOSURE.**

3 (a) IEEPA.—Section 203 of the International Emer-
4 gency Economic Powers Act (50 U.S.C. 1702(a)) is
5 amended—

6 (1) by redesignating paragraph (3) as para-
7 graph (4); and

8 (2) by inserting after paragraph (2) the follow-
9 ing:

10 “(3) EXEMPTIONS FROM DISCLOSURE.—Infor-
11 mation obtained under this title before or after the
12 enactment of this section may be withheld only to
13 the extent permitted by statute, except that informa-
14 tion submitted, obtained, or considered in connection
15 with any transaction prohibited under this title, in-
16 cluding license applications, licenses or other author-
17 izations, information or evidence obtained in the
18 course of any investigation, and information ob-
19 tained or furnished under this title in connection
20 with international agreements, treaties, or obliga-
21 tions shall be withheld from public disclosure, and
22 shall not be subject to disclosure under section 552
23 of title 5, United States Code, unless the release of
24 the information is determined by the President to be
25 in the national interest.”.

1 (b) TRADING WITH THE ENEMY ACT.—Section 5(b)
2 of the Trading with the Enemy Act of 1917 (50 U.S.C.
3 App. 5(b)) is amended—

4 (1) by redesignating paragraphs (2), (3), and
5 (4) as paragraphs (3), (4), and (5), respectively; and

6 (2) by inserting after paragraph (1) the follow-
7 ing:

8 “(2) EXEMPTIONS FROM DISCLOSURE.—Infor-
9 mation obtained under this title before or after the
10 enactment of this section may be withheld only to
11 the extent permitted by statute, except that informa-
12 tion submitted, obtained, or considered in connection
13 with any transaction prohibited under this title, in-
14 cluding license applications, licenses or other author-
15 izations, information or evidence obtained in the
16 course of any investigation, and information ob-
17 tained or furnished under this title in connection
18 with international agreements, treaties, or obliga-
19 tions shall be withheld from public disclosure, and
20 shall not be subject to disclosure under section 552
21 of title 5, United States Code, unless the release of
22 the information is determined by the President to be
23 in the national interest.”.

1 **SEC. 4016. CRIMINAL AND CIVIL PENALTIES UNDER THE**
2 **INTERNATIONAL EMERGENCY ECONOMIC**
3 **POWERS ACT.**

4 (a) INCREASED CIVIL PENALTY.—Section 206(a) of
5 the International Emergency Economic Powers Act (50
6 U.S.C. 1705(a)), is amended by striking “\$10,000” and
7 inserting “\$50,000”.

8 (b) INCREASED CRIMINAL FINE.—Section 206(b) of
9 the International Emergency Economic Powers Act (50
10 U.S.C. 1705(b)), is amended to read as follows:

11 “(b) Whoever willfully violates any license, order, or
12 regulation issued under this chapter shall be fined not
13 more than \$1,000,000 if an organization (as defined in
14 section 18 of title 18, United States Code), and not more
15 than \$250,000, imprisoned not more than 10 years, or
16 both, if an individual.”

17 **SEC. 4017. ATTEMPTED VIOLATIONS OF THE TRADING WITH**
18 **THE ENEMY ACT.**

19 Section 16 of the Trading with the Enemy Act (50
20 U.S.C. App. 16) is amended—

21 (1) in subsection (a), by inserting “or attempt
22 to violate” after “violate” each time it appears; and

23 (2) in subsection (b)(1), by inserting “or at-
24 tempts to violate” after “violates”.

1 **TITLE V—RESPONDING TO**
2 **EMERGING INTERNATIONAL**
3 **CRIME THREATS**

4 **Subtitle A—Computer and High-**
5 **Tech Crime**

6 **SEC. 5101. ENHANCED AUTHORITY TO INVESTIGATE COM-**
7 **PUTER FRAUD AND ATTACKS ON COMPUTER**
8 **SYSTEMS.**

9 Section 2516(1)(c) of title 18, United States Code,
10 is amended by inserting “, a felony violation of section
11 1030 (relating to computer fraud and attacks on computer
12 systems)” before “section 1992 (relating to wrecking
13 trains)”.

14 **SEC. 5102. JURISDICTION OVER CERTAIN FINANCIAL**
15 **CRIMES COMMITTED ABROAD.**

16 Section 1029 of title 18, United States Code, is
17 amended by adding at the end the following:

18 “(g) **JURISDICTION OVER CERTAIN FINANCIAL**
19 **CRIMES COMMITTED ABROAD.**—Any person who, outside
20 the jurisdiction of the United States, engages in any act
21 that, if committed within the jurisdiction of the United
22 States, would constitute an offense under subsection (a)
23 or (b), shall be subject to the same penalties as if that
24 offense had been committed in the United States, if the
25 act—

1 “(1) involves an access device issued, owned,
2 managed, or controlled by a financial institution, ac-
3 count issuer, credit card system member, or other
4 entity within the jurisdiction of the United States;
5 and

6 “(2) causes, or if completed would have caused,
7 a transfer of funds from or a loss to an entity listed
8 in paragraph (1).”.

9 **Subtitle B—Alien Smuggling**

10 **SEC. 5201. FORFEITURE FOR ALIEN SMUGGLING.**

11 (a) CIVIL FORFEITURE.—Section 274(b) of the Im-
12 migration and Nationality Act (8 U.S.C. 1324(b)) is
13 amended—

14 (1) by striking paragraphs (1) and (2) and in-
15 serting the following:

16 “(1) The following property shall be subject to
17 seizure and forfeiture:

18 “(A) Any conveyance, including any vessel,
19 vehicle, or aircraft, that has been or is being
20 used in the commission of a violation of sub-
21 section (a).

22 “(B) Any property, real or personal—

23 “(i) that constitutes, or is derived
24 from or is traceable to the proceeds ob-

1 tained directly or indirectly from the com-
2 mission of a violation of subsection (a); or
3 “(ii) that is used to facilitate, or is in-
4 tended to be used to facilitate, the commis-
5 sion of a violation of subsection (a).

6 “(2) Any property subject to forfeiture to the
7 United States under this section may be seized by
8 the Attorney General in the manner set forth in sec-
9 tion 981(b) of title 18, United States Code.”; and
10 (2) in paragraphs (4) and (5), by striking “a
11 conveyance” and “conveyance” each place it appears
12 and inserting “property”.

13 (b) CRIMINAL FORFEITURE.—Section 274 of the Im-
14 migration and Nationality Act (8 U.S.C. 1324) is amend-
15 ed—

16 (1) by redesignating subsections (c) and (d) as
17 subsections (e) and (f), respectively; and

18 (2) by inserting after subsection (b) the follow-
19 ing:

20 “(c) CRIMINAL FORFEITURE.—

21 “(1) Any person convicted of a violation of sub-
22 section (a) shall forfeit to the United States, irre-
23 spective of any provision of State law—

1 “(A) any conveyance, including any vessel,
2 vehicle, or aircraft used in the commission of a
3 violation of subsection (a); and

4 “(B) any property real or personal—

5 “(i) that constitutes, or is derived
6 from or is traceable to the proceeds ob-
7 tained directly or indirectly from the com-
8 mission of a violation of subsection (a); or

9 “(ii) that is used to facilitate, or is in-
10 tended to be used to facilitate, the commis-
11 sion of a violation of subsection (a).

12 “(2) The court, in imposing sentence on a per-
13 son described in paragraph, shall order that the per-
14 son forfeit to the United States all property de-
15 scribed in this subsection.

16 “(3) The criminal forfeiture of property under
17 this subsection, including any seizure and disposition
18 of the property and any related administrative or ju-
19 dicial proceeding, shall be governed by the provisions
20 of section 413 of the Comprehensive Drug Abuse
21 Prevention and Control Act of 1970 (21 U.S.C.
22 853), except for subsection 413(d) which shall not
23 apply to forfeitures under this subsection.”.

1 **Subtitle C—Trafficking in**
2 **Chemicals Used To Produce Drugs**

3 **SEC. 5301. IMPORT AND EXPORT OF CHEMICALS USED TO**
4 **PRODUCE ILLICIT DRUGS.**

5 (a) NOTIFICATION PRIOR TO TRANSACTION.— Sec-
6 tion 1018 of the Controlled Substances Import and Export
7 Act (21 U.S.C. 971) is amended—

8 (1) by striking subsection (a) and inserting the
9 following:

10 “(a) NOTIFICATION PRIOR TO TRANSACTION.—Each
11 person who proposes to engage in a transaction involving
12 the importation or exportation of a listed chemical that
13 requires advance notification pursuant to the regulations
14 of the Attorney General or the importation or exportation
15 of a tableting machine, or an encapsulating machine shall
16 notify the Attorney General of the importation or expor-
17 tation not later than 15 days before the transaction is to
18 take place in such form and supplying such information
19 as the Attorney General shall require by regulation. In the
20 case of an importation for transfer or transshipment pur-
21 suant to section 1004, such notice shall be made as pro-
22 vided in that section.”;

23 (2) in subsection (c)(1)—

24 (A) by striking “(other than a regulated
25 transaction to which the requirement of sub-

1 section (a) does not apply by reason of sub-
2 section (b))”;

3 (B) by inserting “, a tableting machine, or
4 an encapsulating machine” after “a listed
5 chemical”; and

6 (C) by inserting “, tableting machine, or
7 encapsulating machine” after “the chemical”;
8 and

9 (3) in subsection (e)—

10 (A) by redesignating paragraphs (2) and
11 (3) as paragraphs (4) and (5), respectively; and

12 (B) by inserting after paragraph (1) the
13 following:

14 “(2) The Attorney General may by regulation
15 require that the 15-day notification requirement of
16 subsection (a) apply to all imports of a listed chemi-
17 cal, regardless of the status of certain importers of
18 that listed chemical as regular importers, if the At-
19 torney General finds that such notification is nec-
20 essary to support effective chemical diversion control
21 programs or is required by treaty or other inter-
22 national agreement to which the United States is a
23 party.

24 “(3) The Attorney General may require that
25 the notification requirement of subsection (a) for

1 certain importations or exportations, including those
2 subject to section 1004, include additional informa-
3 tion to enable a determination to be made that the
4 listed chemical being imported or exported will be
5 used for a legitimate purpose or at the time the in-
6 formation is needed to satisfy requirements of the
7 importing or exporting country. The Attorney Gen-
8 eral shall provide notice of these additional require-
9 ments specifically identifying the listed chemicals
10 and countries involved.”.

11 (b) SHIPMENT OF CONTROLLED SUBSTANCES.—Sec-
12 tion 1004 of the Controlled Substances Import and Export
13 Act (21 U.S.C. 954) is amended to read as follows:

14 **“SEC. 1004. TRANSSHIPMENT AND IN-TRANSIT SHIPMENT**
15 **OF CONTROLLED SUBSTANCES.**

16 “(a) IN GENERAL.—Notwithstanding sections 952,
17 953, 957, and 971, and subject to this section—

18 “(1) a controlled substance in schedule I may
19 be imported into the United States for trans-
20 shipment to another country or for transference or
21 transshipment from 1 vessel, vehicle, or aircraft to
22 another vessel, vehicle, or aircraft within the United
23 States for immediate exportation, only if—

24 “(A) evidence is furnished that enables the
25 Attorney General to determine that the sub-

1 stance being so imported, transferred, or trans-
2 shipped will be used for scientific, medical, or
3 other legitimate purposes in the country of des-
4 tination; and

5 “(B) the substance is imported, trans-
6 ferred, or transshipped with the prior written
7 approval of the Attorney General (which shall
8 be granted or denied not later than 21 days
9 after the date on which the request is made)
10 based on a determination that the requirements
11 of this section and the applicable subsections of
12 sections 952 and 953 have been satisfied; and

13 “(2) a controlled substance in schedule II, III,
14 or IV or a listed chemical may be imported, trans-
15 ferred, or transshipped only if—

16 “(A) evidence is furnished that enables the
17 Attorney General to determine that the sub-
18 stance or chemical being imported, transferred,
19 or transshipped will be used for scientific, medi-
20 cal, or other legitimate purposes in the country
21 of destination; and

22 “(B) advance notification (in such form
23 and containing such information as the Attor-
24 ney General may require by regulation) is given
25 to the Attorney General not later than 15 days

1 prior to the exportation of the substance or
2 chemical from the foreign port of embarkation
3 (the notification period for imports other than
4 for transfer or transshipment pursuant to sec-
5 tion 1002 or 1018 is not affected by this sub-
6 section).

7 “(b) APPLICABILITY OF OTHER LAW.—

8 “(1) SECTIONS 1002 AND 1003.—Any importa-
9 tion, transfer, or transshipment described in sub-
10 section (a) of a controlled substance shall be subject
11 to the applicable provisions of sections 1002 and
12 1003. The importation, transfer, transshipment, or
13 exportation of any controlled substance may be sus-
14 pended on the ground that the controlled substance
15 may be diverted to other than scientific, medical or
16 other legitimate purposes.

17 “(2) SECTION 1018.—Any importation, transfer,
18 or transshipment described in subsection (a) of a
19 listed chemical shall be subject to all the require-
20 ments of section 1018, except that in no case shall
21 the 15 day advance notification requirement be
22 waived. The importation, transfer, transshipment, or
23 exportation of a listed chemical may be suspended
24 on the ground that the chemical may be diverted to

1 the clandestine manufacture of a controlled sub-
2 stance.

3 “(3) SUSPENSION.—

4 “(A) IN GENERAL.—Subject to subpara-
5 graph (B), the importation, transfer, or trans-
6 shipment of a controlled substance or listed
7 chemical may be suspended if any requirement
8 of subsection (a) is not satisfied.

9 “(B) WITHDRAWAL.—The Attorney Gen-
10 eral may withdraw a suspension order issued
11 under this paragraph if—

12 “(i) the requirements of subsection (a)
13 are ultimately satisfied; and

14 “(ii) no grounds exist under para-
15 graphs (1) or (2) of this subsection to sus-
16 pend the shipment.

17 “(c) SUSPENSION OF EXPORTATION.—The suspen-
18 sion of any exportation of a controlled substance or listed
19 chemical shall be subject to the procedures and require-
20 ments established in section 1018(c).

21 “(d) PLACING UNDER SEAL.—

22 “(1) IN GENERAL.—The Attorney General may
23 place under seal any shipment of a controlled sub-
24 stance or listed chemical that—

1 “(A) has been imported or is subject to the
2 jurisdiction of the United States; and

3 “(B) is subject to a suspension order sus-
4 pending the importation, transfer, trans-
5 shipment, or exportation of the controlled sub-
6 stance or listed chemical.

7 “(2) PROHIBITION ON DISPOSITION.—No dis-
8 position may be made of any controlled substance or
9 listed chemical under seal subject to paragraph (1)
10 until the suspension order becomes final.

11 “(3) ORDER OF SALE.—Notwithstanding para-
12 graphs (1) and (2), a court, upon application, may
13 at any time order the sale of a perishable controlled
14 substance or listed chemical. Any such order shall
15 require the deposit of the proceeds of the sale with
16 the court.

17 “(4) DISPOSAL.—Upon a suspension order be-
18 coming final under this subsection, the shipment, at
19 the discretion of the Attorney General and subject to
20 such conditions as the Attorney General may im-
21 pose, may be disposed of as follows:

22 “(A) The titleholder may be allowed to re-
23 turn the shipment to any of the facilities of the
24 original exporter in the country of exportation.

1 “(B) The shipment may be exported, sub-
2 ject to the requirements of section 1003 or
3 1018, as appropriate, to a new consignee.

4 “(5) SURRENDER.—The shipment may be sur-
5 rendered to the Attorney General for appropriate
6 disposition and all costs associated with this disposi-
7 tion shall be the responsibility of the titleholder. If
8 there are any proceeds from the disposition, the pro-
9 ceeds shall be applied to the repayment of the costs
10 and any excess proceeds shall be returned to the ti-
11 tleholder.

12 “(6) FORFEITURE.—If sufficient cause exists,
13 the shipment of controlled substances or listed
14 chemicals (or proceeds of sale deposited in court)
15 may be forfeited to the United States pursuant to
16 section 511 of title II and may be disposed of in ac-
17 cordance with that section.

18 “(e) EFFECT ON OTHER LAW.—Nothing in this sec-
19 tion may be used by any party to defend against a forfeit-
20 ure action against a shipment of controlled substances or
21 listed chemicals initiated by the United States or by any
22 State. This section does not affect the liability of any party
23 for storage and transportation costs incurred by the Gov-
24 ernment as a result of the suspension of a shipment.”.

1 (c) PENALTIES.—Section 1010(d) of the Controlled
2 Substances Import and Export Act (21 U.S.C. 960(d)) is
3 amended—

4 (1) by redesignating paragraphs (5) through
5 (7) as paragraphs (6) through (8), respectively;

6 (2) in paragraph (6), as redesignated, by strik-
7 ing “1018(e)(2) or (3)” and inserting “1018(e)(4)
8 or (5)”;

9 (3) in paragraph (7), as redesignated, by insert-
10 ing “or violates section 1004,” after “1007 or 1018
11 of this title”; and

12 (4) by inserting after paragraph (4) the follow-
13 ing:

14 “(5) imports or exports a listed chemical, with
15 the intent to evade the reporting or recordkeeping
16 requirements of section 1018 applicable to such im-
17 portation or exportation by—

18 “(A) falsely representing to the Attorney
19 General that the importation or exportation is
20 not subject to the 15-day advance notification
21 required by section 1018(a) or to any reporting
22 requirements established by the Attorney Gen-
23 eral pursuant to paragraph (1), (2), or (3) of
24 section 1018(e); or

1 “(B) misrepresenting the actual country of
2 final destination of the listed chemical, or the
3 actual listed chemical being imported or ex-
4 ported;”.

5 (d) INJUNCTIONS.—Section 1011 of the Controlled
6 Substances Import and Export Act (21 U.S.C. 961) is
7 amended to read as follows:

8 **“SEC. 1011. INJUNCTIONS.**

9 “In addition to any other applicable penalty, any per-
10 son convicted of a felony violation of this title or title II
11 relating to the receipt, distribution, manufacture, importa-
12 tion or exportation of a listed chemical may be enjoined
13 from engaging in any transaction involving a listed chemi-
14 cal for not more than 10 years.”.

15 **Subtitle D—Arms Trafficking**

16 **SEC. 5401. ENHANCED TOOLS TO INVESTIGATE ILLICIT**
17 **ARMS TRAFFICKING.**

18 Section 40(h) of the Arms Export Control Act (22
19 U.S.C. 2780(h)) is amended to read as follows:

20 “(h) EXEMPTIONS FOR TRANSACTIONS SUBJECT TO
21 NATIONAL SECURITY ACT REPORTING REQUIREMENTS
22 OR ARISING OUT OF A CRIMINAL INVESTIGATION.—The
23 prohibitions contained in this section do not apply with
24 respect to any transaction—

1 “(1) subject to reporting requirements under
2 title V of the National Security Act of 1947 (50
3 U.S.C. 413 et seq.); or

4 “(2) arising out of an investigation by a Fed-
5 eral law enforcement agency concerning possible
6 criminal violations of United States law.”.

7 **SEC. 5402. BACKGROUND CHECKS FOR PURCHASES OF EX-**
8 **PLOSIVES.**

9 (a) IN GENERAL.—Section 842 of title 18, United
10 States Code, is amended by adding at the end the follow-
11 ing:

12 “(p) BACKGROUND CHECKS FOR PURCHASES OF EX-
13 PLOSIVES.—

14 “(1) Beginning 6 months after the later of the
15 date on which the national instant criminal back-
16 ground check system is established under section
17 103 of Public Law 103–159 (107 Stat. 1541), or
18 the date of enactment of this subsection, a licensed
19 importer, licensed manufacturer, or licensed dealer
20 shall not transfer explosive materials to any other
21 person who is not a licensee or permittee under this
22 chapter unless—

23 “(A) licensee contacts the national instant
24 criminal background check system established

1 under section 103(d) of the Brady Handgun Vi-
2 olence Prevention Act;

3 “(B)(i) the system provides the licensee
4 with a unique identification number; or

5 “(ii) 3 business days (meaning a day on
6 which State offices are open) have elapsed since
7 the licensee contacted the system, and the sys-
8 tem has not notified the licensee that the re-
9 ceipt of explosive materials by such other per-
10 son would violate subsection (i); and

11 “(C) the transferor has verified the iden-
12 tity of the transferee by examining a valid iden-
13 tification document (as defined in section
14 1028(d)(1)) of the transferee containing a pho-
15 tograph of the transferee.

16 “(2) If receipt of explosive materials would not
17 violate subsection (i) or any applicable State law, the
18 system shall—

19 “(A) assign a unique identification number
20 to the transfer; and

21 “(B) provide the licensee with the number.

22 “(3) Paragraph (1) does not apply to the trans-
23 fer of explosive materials between a licensee and an-
24 other person if—

1 “(A)(i) the other person has presented to
2 the licensee a State permit that—

3 “(I) allows the other person to possess
4 or acquire explosive materials; and

5 “(II) was issued not more than 5
6 years earlier by the State in which the
7 transfer is to take place; and

8 “(ii) the law of the State provides
9 that such a permit is to be issued only
10 after an authorized government official has
11 verified that the information available to
12 that official does not indicate that posses-
13 sion of explosive materials by the other
14 person would be in violation of law; or

15 “(B) on application of the transferor, the
16 Secretary has certified that compliance with
17 paragraph (1) is impracticable because—

18 “(i) the ratio of the number of law en-
19 forcement officers of the State in which
20 the transfer is to occur to the number of
21 square miles of land area of the State does
22 not exceed 0.0025;

23 “(ii) the business premises of the li-
24 censee at which the transfer is to occur are
25 extremely remote in relation to the chief

1 law enforcement officer (as defined in sub-
2 section (p)(8)); and

3 “(iii) there is an absence of tele-
4 communications facilities in the geographi-
5 cal area in which the business premises are
6 located.

7 “(4) If the national instant criminal back-
8 ground check system notifies the licensee that the
9 information available to the system does not dem-
10 onstrate that the receipt of explosive materials by
11 the other person would violate subsection (i) or any
12 applicable State law, and the licensee transfers ex-
13 plosive materials to the other person, the licensee
14 shall include in the record of the transfer the unique
15 identification number provided by the system with
16 respect to the transfer.

17 “(5) If the licensee knowingly transfers explo-
18 sive materials to the other person and knowingly
19 fails to comply with paragraph (1) with respect to
20 the transfer and, at the time the other person most
21 recently proposed the transfer, the national instant
22 criminal background check system was operating
23 and information was available to the system dem-
24 onstrating that receipt of explosive materials by the
25 other person would violate subsection (i) or any ap-

1 plicable State law, the Secretary may, after notice
2 and opportunity for a hearing, suspend for not more
3 than 6 months or revoke any license issued to the
4 licensee under section 843 and may impose on the
5 licensee a civil fine of not more than \$5,000.

6 “(6) A local government or an employee of the
7 Federal Government or any State or local govern-
8 ment responsible for providing information to the
9 national instant criminal background check system
10 shall not be liable in an action at law for damages—

11 “(A) for failure to prevent the sale or
12 transfer of explosive materials to a person
13 whose receipt or possession of the explosive ma-
14 terials is unlawful under this section; or

15 “(B) for preventing such a sale or transfer
16 to a person who may lawfully receive or possess
17 explosive materials.”.

18 (b) WRITTEN REASONS PROVIDED ON REQUEST.—
19 If the national instant criminal background check system
20 determines that an individual is ineligible to receive explo-
21 sive materials and the individual requests the system to
22 provide the reasons for the determination, the system shall
23 provide those reasons to the individual, in writing, not
24 later than 5 business days after the date on which the
25 request is made.

1 (c) CORRECTION OF ERRONEOUS SYSTEM INFORMA-
2 TION.—

3 (1) REQUEST FOR REASON.—If the national in-
4 stant criminal background check system informs an
5 individual contacting the system that receipt of ex-
6 plosive materials by a prospective transferee would
7 violate subsection (i) of section 842 of title 18,
8 United States Code, or State law, the prospective
9 transferee may request the Attorney General to pro-
10 vide the prospective transferee with the reason for
11 the violation.

12 (2) RESPONSE TO REQUEST.—Upon receipt of
13 a request under paragraph (1), the Attorney General
14 shall immediately comply with the request.

15 (3) INFORMATION TO CORRECT RECORDS.—The
16 prospective transferee may submit to the Attorney
17 General information to correct, clarify, or supple-
18 ment records of the system with respect to the pro-
19 spective transferee.

20 (4) CORRECTING RECORDS.—After receipt of
21 information under paragraph (3), the Attorney Gen-
22 eral shall immediately consider the information, in-
23 vestigate the matter further, and correct all erro-
24 neous Federal records relating to the prospective
25 transferee and give notice of the error to any Fed-

1 eral department or agency or any State that was the
2 source of the erroneous records.

3 (d) REMEDY FOR ERRONEOUS DENIAL.—

4 (1) IN GENERAL.—Chapter 40 of title 18,
5 United States Code, is amended by inserting after
6 section 843 the following:

7 **“§ 843A. Remedy for erroneous denial of explosive**
8 **materials**

9 “(a) IN GENERAL.—Any person denied explosive ma-
10 terials pursuant to section 842(p)—

11 “(1) due to the provision of erroneous informa-
12 tion relating to the person by any State or political
13 subdivision thereof, or by the national instant crimi-
14 nal background check system established under sec-
15 tion 103 of the Brady Handgun Violence Prevention
16 Act; or

17 “(2) who was not prohibited from receipt of ex-
18 plosive materials pursuant to section 842(i),
19 may bring an action against the State or political subdivi-
20 sion responsible for denying the transfer, or against the
21 United States, as the case may be, for an order directing
22 that the erroneous information be corrected or that the
23 transfer be approved, as the case may be.

1 **TITLE VI—PROMOTING GLOBAL**
2 **COOPERATION IN THE FIGHT**
3 **AGAINST INTERNATIONAL**
4 **CRIME**

5 **SEC. 6001. SHARING PROCEEDS OF JOINT FORFEITURE OP-**
6 **ERATIONS WITH COOPERATING FOREIGN**
7 **AGENCIES.**

8 (a) IN GENERAL.—Section 981(i)(1) of title 18,
9 United States Code, is amended by striking “this chapter”
10 and inserting “any provision of Federal law”.

11 (b) CONFORMING AMENDMENT.—Section 511(e)(1)
12 of the Controlled Substances Act (21 U.S.C. 881(e)(1))
13 is amended—

14 (1) in subparagraph (C), by adding “or” at the
15 end;

16 (2) in subparagraph (D), by striking “; or” and
17 inserting a period; and

18 (3) by striking subparagraph (E).

19 **SEC. 6002. STREAMLINED PROCEDURES FOR EXECUTION**
20 **OF MLAT REQUESTS.**

21 (a) IN GENERAL.—Chapter 117 of title 28, United
22 States Code, is amended by adding at the end the follow-
23 ing:

24 **“§ 1790. Assistance to foreign authorities**

25 **“(a) IN GENERAL.—**

1 “(1) PRESENTATION OF REQUESTS.—The At-
2 torney General may present a request made by a
3 foreign government for assistance with respect to a
4 foreign investigation, prosecution, or proceeding re-
5 garding a criminal matter pursuant to a treaty, con-
6 vention, or executive agreement for mutual legal as-
7 sistance between the United States and that govern-
8 ment or in accordance with section 1782, the execu-
9 tion of which requires or appears to require the use
10 of compulsory measures in more than 1 judicial dis-
11 trict, to a judge or judge magistrate of—

12 “(A) any 1 of the districts in which per-
13 sons who may be required to appear to testify
14 or produce evidence or information reside or are
15 found, or in which evidence or information to be
16 produced is located; or

17 “(B) the United States District Court for
18 the District of Columbia.

19 “(2) AUTHORITY OF COURT.—A judge or judge
20 magistrate to whom a request for assistance is pre-
21 sented under paragraph (1) shall have the authority
22 to issue those orders necessary to execute the re-
23 quest including orders appointing a person to direct
24 the taking of testimony or statements and the pro-
25 duction of evidence or information, of whatever na-

1 ture and in whatever form, in execution of the re-
2 quest.

3 “(b) AUTHORITY OF APPOINTED PERSONS.—A per-
4 son appointed under subsection (a)(2) shall have the au-
5 thority to—

6 “(1) issue orders for the taking of testimony or
7 statements and the production of evidence or infor-
8 mation, which orders may be served at any place
9 within the United States;

10 “(2) administer any necessary oath; and

11 “(3) take testimony or statements and receive
12 evidence and information.

13 “(c) PERSONS ORDERED TO APPEAR.—A person or-
14 dered pursuant to subsection (b)(1) to appear outside the
15 district in which that person resides or is found may, not
16 later than 10 days after receipt of the order—

17 “(1) file with the judge or judge magistrate who
18 authorized execution of the request a motion to ap-
19 pear in the district in which that person resides or
20 is found or in which the evidence or information is
21 located; or

22 “(2) provide written notice, requesting appear-
23 ance in the district in which the person resides or
24 is found or in which the evidence or information is
25 located, to the person issuing the order to appear,

1 who shall advise the judge or judge magistrate au-
 2 thorizing execution.

3 “(d) TRANSFER OF REQUESTS.—

4 “(1) IN GENERAL.—The judge or judge mag-
 5 istrate may transfer a request under subsection (c),
 6 or that portion requiring the appearance of that per-
 7 son, to the other district if—

8 “(A) the inconvenience to the person is
 9 substantial; and

10 “(B) the transfer is unlikely to adversely
 11 affect the effective or timely execution of the re-
 12 quest or a portion thereof.

13 “(2) EXECUTION.—Upon transfer, the judge or
 14 judge magistrate to whom the request or a portion
 15 thereof is transferred shall complete its execution in
 16 accordance with subsections (a) and (b).”.

17 (b) TECHNICAL AND CONFORMING AMENDMENT.—

18 The analysis for chapter 117 of title 28, United States
 19 Code, is amended by adding at the end the following:

“1790. Assistance to foreign authorities.”.

20 **SEC. 6003. TEMPORARY TRANSFER OF INCARCERATED WIT-**
 21 **NESSES.**

22 (a) IN GENERAL.—Section 3508 of title 18, United
 23 States Code, is amended—

24 (1) by striking the section heading and insert-
 25 ing the following:

1 **“§ 3508. Temporary transfer of witnesses in custody”;**

2 (2) by striking subsections (b) and (c) and in-
3 sserting the following:

4 “(b) TRANSFER AUTHORITY.—

5 “(1) IN GENERAL.—If the testimony of a per-
6 son who is serving a sentence, in pretrial detention,
7 or otherwise being held in custody in the United
8 States, is needed in a foreign criminal proceeding,
9 the Attorney General shall have the authority to—

10 “(A) temporarily transfer that person to
11 the foreign country for the purpose of giving
12 the testimony;

13 “(B) transport that person from the
14 United States in custody;

15 “(C) make appropriate arrangements for
16 custody for that person while outside the
17 United States; and

18 “(D) return that person in custody to the
19 United States from the foreign country.

20 “(2) PERSONS HELD FOR STATE LAW VIOLA-
21 TIONS.—If the person is being held in custody for a
22 violation of State law, the Attorney General may ex-
23 ercise the authority described in this subsection if
24 the appropriate State authorities give their consent.

25 “(c) RETURN OF PERSONS TRANSFERRED.—

1 “(1) IN GENERAL.—If the transfer to or from
2 the United States of a person in custody for the pur-
3 pose of giving testimony is provided for by treaty or
4 convention, by this section, or both, that person shall
5 be returned to the United States, or to the foreign
6 country from which the person is transferred.

7 “(2) LIMITATION.—In no event shall the return
8 of a person under this subsection require any re-
9 quest for extradition or extradition proceedings, or
10 require that person to be subject to deportation or
11 exclusion proceedings under the laws of the United
12 States, or the foreign country from which the person
13 is transferred.

14 “(d) APPLICABILITY OF INTERNATIONAL AGREE-
15 MENTS.—If there is an international agreement between
16 the United States and the foreign country in which a wit-
17 ness is being held in custody or to which the witness will
18 be transferred from the United States, that provides for
19 the transfer, custody, and return of those witnesses, the
20 terms and conditions of that international agreement shall
21 apply. If there is no such international agreement, the At-
22 torney General may exercise the authority described in
23 subsections (a) and (b) if both the foreign country and
24 the witness give their consent.

25 “(e) RIGHTS OF PERSONS TRANSFERRED.—

1 “(1) Notwithstanding any other provision of
2 law, a person held in custody in a foreign country
3 who is transferred to the United States pursuant to
4 this section for the purpose of giving testimony—

5 “(A) shall not by reason of that transfer,
6 during the period that person is present in the
7 United States pursuant to that transfer, be en-
8 titled to apply for or obtain any right or remedy
9 under the Immigration and Nationality Act, in-
10 cluding the right to apply for or be granted asy-
11 lum or withholding of deportation or any right
12 to remain in the United States under any other
13 law; and

14 “(B) may be summarily removed from the
15 United States upon order of the Attorney Gen-
16 eral.

17 “(2) RULE OF CONSTRUCTION.—Nothing in
18 this subsection may be construed to create any sub-
19 stantive or procedural right or benefit to remain in
20 the United States that is legally enforceable in a
21 court of law of the United States or of a State by
22 any party against the United States or its agencies
23 or officers.

24 “(f) CONSISTENCY WITH INTERNATIONAL OBLIGA-
25 TIONS.—The Attorney General shall not take any action

1 under this section to transfer or return a person to a for-
2 eign country unless the Attorney General determines, after
3 consultation with the Secretary of State, that transfer or
4 return would be consistent with the international obliga-
5 tions of the United States. A determination by the Attor-
6 ney General under this subsection shall not be subject to
7 judicial review by any court.”.

8 (b) TECHNICAL AND CONFORMING AMENDMENT.—
9 The analysis for chapter 223 of title 18, United States
10 Code, is amended by striking the item relating to section
11 3508 and inserting the following:

“3508. Temporary transfer of witnesses in custody.”.

12 **SEC. 6004. TRAINING OF FOREIGN LAW ENFORCEMENT**
13 **AGENCIES.**

14 Section 660(b) of the Foreign Assistance Act of 1961
15 (22 U.S.C. 2420(b)) is amended—

16 (1) in paragraph (4), by striking “or” at the
17 end;

18 (2) in paragraph (6), by striking the period at
19 the end and inserting “; or”; and

20 (3) by adding at the end the following:

21 “(7) with respect to assistance, including train-
22 ing, provided for antiterrorism purposes.”.

1 **SEC. 6005. DISCRETIONARY AUTHORITY TO USE FORFEIT-**
2 **URE PROCEEDS.**

3 Section 524(c)(1) of title 28, United States Code, is
4 amended by—

5 (1) redesignating subparagraph (I) beginning
6 with “after all” as subparagraph (J);

7 (2) in subparagraph (J) as redesignated, strik-
8 ing the period and inserting “, and”; and

9 (3) adding at the end the following:

10 “(J) at the discretion of the Attorney Gen-
11 eral, payments to return forfeited property re-
12 patriated to the United States by a foreign gov-
13 ernment or others acting at the direction of a
14 foreign government, and interest earned on the
15 property, if—

16 “(i) a final foreign judgment entered
17 against a foreign government or those act-
18 ing at its direction, which foreign judgment
19 was based on the measures, such as sei-
20 zure and repatriation of property, that re-
21 sulted in deposit of the funds into the
22 Fund;

23 “(ii) the foreign judgment was entered
24 and presented to the Attorney General not
25 later than 5 years after the date on which

1 the property was repatriated to the United
2 States;

3 “(iii) the foreign government or those
4 acting at its direction vigorously defended
5 its actions under its own laws; and

6 “(iv) the amount of the disbursement
7 does not exceed the amount of funds de-
8 posited to the Fund, plus interest earned
9 on those funds pursuant to section
10 524(c)(5), less any awards and equitable
11 shares paid by the Fund to the foreign
12 government or those acting at its direction
13 in connection with a particular case.”.

14 **TITLE VII—STREAMLINING THE**
15 **INVESTIGATION AND PROS-**
16 **ECUTION OF INTERNATIONAL**
17 **CRIMES IN UNITED STATES**
18 **COURTS**

19 **SEC. 7001. REIMBURSEMENT OF STATE AND LOCAL LAW**
20 **ENFORCEMENT AGENCIES IN INTER-**
21 **NATIONAL CRIME CASES.**

22 The Attorney General may obligate, as necessary ex-
23 penses, from any appropriate appropriation account avail-
24 able to the Department of Justice in fiscal year 1998 or
25 any fiscal year thereafter, the cost of reimbursement to

1 State or local law enforcement agencies for translation
2 services and related expenses, including transportation ex-
3 penses, in cases involving extradition or requests for mu-
4 tual legal assistance from foreign governments.

5 **SEC. 7002. FACILITATING THE ADMISSION OF FOREIGN**
6 **RECORDS IN UNITED STATES COURTS.**

7 (a) IN GENERAL.—Chapter 163 of title 28, United
8 States Code, is amended by adding at the end the follow-
9 ing:

10 **“§ 2466. Foreign records**

11 “(a) DEFINITIONS.—In this section:

12 “(1) BUSINESS.—The term ‘business’ includes
13 business, institution, association, profession, occupa-
14 tion, and calling of every kind whether or not con-
15 ducted for profit.

16 “(2) FOREIGN CERTIFICATION.—The term ‘for-
17 eign certification’ means a written declaration made
18 and signed in a foreign country by the custodian of
19 a record of regularly conducted activity or another
20 qualified person, that if falsely made, would subject
21 the maker to criminal penalty under the law of that
22 country.

23 “(3) FOREIGN RECORD OF REGULARLY CON-
24 DUCTED ACTIVITY.—The term ‘foreign record of reg-
25 ularly conducted activity’ means a memorandum, re-

1 port, record, or data compilation, in any form, of
2 acts, events, conditions, opinions, or diagnoses,
3 maintained in a foreign country.

4 “(4) OFFICIAL REQUEST.—The term ‘official
5 request’ means a letter rogatory, a request under an
6 agreement, treaty or convention, or any other re-
7 quest for information or evidence made by a court
8 of the United States or an authority of the United
9 States having law enforcement responsibility, to a
10 court or other authority of a foreign country.

11 “(b) FOREIGN RECORDS.—In a civil proceeding in a
12 court of the United States, including civil forfeiture pro-
13 ceedings and proceedings in the United States Claims
14 Court and the United States Tax Court, unless the source
15 of information or the method or circumstances of prepara-
16 tion indicate lack of trustworthiness, a foreign record of
17 regularly conducted activity, or copy of the record, ob-
18 tained pursuant to an official request, shall not be ex-
19 cluded as evidence by the hearsay rule if the foreign cer-
20 tification is obtained pursuant to subsection (c).

21 “(c) FOREIGN CERTIFICATION.—A foreign certifi-
22 cation meeting the requirements of this subsection is a for-
23 eign certification, obtained pursuant to an official request,
24 that adequately identifies the foreign record and attests
25 that—

1 “(1) the record was made, at or near the time
2 of the occurrence of the matters set forth, by (or
3 from information transmitted by) a person with
4 knowledge of those matters;

5 “(2) the record was kept in the course of a reg-
6 ularly conducted business activity;

7 “(3) the business activity made or kept such a
8 record as a regular practice; and

9 “(4) if the record is not the original, the record
10 is a duplicate of the original.

11 “(d) AUTHENTICATION.—A foreign certification
12 under this section shall authenticate the record or dupli-
13 cate.

14 “(e) CONSIDERATION OF MOTION.—

15 “(1) NOTICE.—As soon as practicable after a
16 responsive pleading has been filed, a party intending
17 to offer in evidence under this section a foreign
18 record of regularly conducted activity shall provide
19 written notice of that intention to each other party.

20 “(2) OPPOSING MOTION.—A motion opposing
21 admission in evidence of the record under paragraph
22 (1) shall be made by the opposing party and deter-
23 mined by the court before trial. Failure by a party
24 to file that motion before trial shall constitute a
25 waiver of objection to the record or duplicate, but

1 the court for cause shown may grant relief from the
2 waiver.”.

3 (b) **TECHNICAL AND CONFORMING AMENDMENT.**—

4 The analysis for chapter 163 of title 28, United States
5 Code, is amended by adding at the end the following:

“2466. Foreign records.”.

6 **SEC. 7003. SAFE CONDUCT FOR FOREIGN WITNESSES TES-**
7 **TIFYING IN UNITED STATES COURTS.**

8 (a) **IN GENERAL.**—Chapter 305 of title 18, United
9 States Code, is amended by adding at the end the follow-
10 ing:

11 **“§ 4088. Safe conduct for witnesses temporarily in the**
12 **United States**

13 “(a) **DEFINITIONS.**—In this section:

14 “(1) **FEDERAL LAW ENFORCEMENT OFFICER.**—
15 The term ‘Federal law enforcement officer’ has the
16 meaning given the term in section 115.

17 “(2) **MAGISTRATE JUDGE.**—The term ‘mag-
18 istrate judge’ has the meaning given the term in
19 Rule 54 of the Federal Rules of Criminal Procedure.

20 “(3) **STATE.**—The term ‘State’ means a State
21 of the United States, the District of Columbia, and
22 any commonwealth, territory, or possession of the
23 United States.

24 “(b) **SAFE CONDUCT.**—The Attorney General may
25 determine that, if a person located outside the United

1 States is requested by a magistrate judge or Federal law
2 enforcement officer to appear and provide testimony or
3 answer questions in the United States in connection with
4 any Federal or State criminal matter, the person shall not
5 be subject to service of process, or be detained or subjected
6 to any restriction of personal liberty, by reason of any acts
7 or convictions that preceded the departure of that person
8 from the foreign jurisdiction.

9 “(c) TERMS AND CONDITIONS.—

10 “(1) IN GENERAL.—The Attorney General may
11 specify in any grant of safe conduct the appropriate
12 duration and conditions of the grant.

13 “(2) TIME PERIOD.—Absent contrary direction
14 by the Attorney General, the safe conduct provided
15 for by this section shall expire not later the earlier
16 of—

17 “(A) the date on which the person leaves
18 the United States; or

19 “(B) 7 days after the earlier of—

20 “(i) the date on which the person
21 completes the testimony of that person or
22 the answers of that person to the ques-
23 tions; or

24 “(ii) the date on which the requesting
25 magistrate judge or Federal law enforce-

1 ment officer has notified either the person
2 or the appropriate authorities in the for-
3 eign jurisdiction that the presence of that
4 person in the United States is no longer
5 required.

6 “(3) IMMIGRATION STATUS AND REMOVAL.—
7 Absent contrary direction by the Attorney General,
8 persons granted safe conduct—

9 “(A) shall not be entitled to apply for or
10 obtain any light or remedy under the Immigra-
11 tion and Nationality Act, for so long as they are
12 present in the United States pursuant to those
13 grants; and

14 “(B) may be summarily removed from the
15 United States at the expiration of the safe con-
16 duct period upon order of the Attorney General,
17 and those orders shall not be subject to admin-
18 istrative or judicial review.

19 “(d) JUDICIAL REVIEW.—A determination by the At-
20 torney General to grant, deny, or condition safe conduct
21 under this section shall not be subject to judicial review.

22 “(e) TREATY PROVISIONS.—To the extent the provi-
23 sions of an applicable mutual legal assistance treaty are
24 inconsistent with this section, the treaty provisions shall
25 apply.”.

1 (b) TECHNICAL AND CONFORMING AMENDMENT.—

2 The analysis for chapter 305 of title 18, United States
3 Code, is amended by adding at the end the following:

“4088. Safe conduct for witnesses temporarily in the United States.”.

4 **SEC. 7004. PROHIBITING FUGITIVES FROM BENEFITING**
5 **FROM TIME SERVED ABROAD.**

6 Section 3585 of title 18, United States Code, is
7 amended by adding at the end the following:

8 “(c) EXCLUSION FOR TIME SERVED ABROAD.—Not-
9 withstanding subsection (b), a defendant shall receive no
10 credit for any time spent in official detention in a foreign
11 country if—

12 “(1) the defendant fled from, or remained out-
13 side of, the United States to avoid prosecution or
14 imprisonment;

15 “(2) the United States officially requested the
16 return of the defendant to the United States for
17 prosecution or imprisonment; and

18 “(3) the defendant is in custody in the foreign
19 country pending surrender to the United States for
20 prosecution or imprisonment.”.

21 **SEC. 7005. SUSPENSION OF STATUTE OF LIMITATIONS FOR**
22 **COLLECTION OF EVIDENCE LOCATED**
23 **ABROAD.**

24 Section 3292(b) of title 18, United States Code, is
25 amended to read as follows:

1 “(b) PERIOD OF SUSPENSION.—Except as provided
2 in subsection (c), a period of suspension under this section
3 shall begin on the date on which the official request is
4 made and end on the date on which, the foreign court or
5 authority having taken final action on the request and
6 having transmitted the decision or results to the United
7 States, the decision or results are delivered to the request-
8 ing United States authority.”.

9 **SEC. 7006. CLARIFICATION OF DISCRETIONARY NATURE OF**
10 **PAYMENTS TO INFORMANTS.**

11 Section 619(a)(2) of the Tariff Act of 1930 (19
12 U.S.C. 1619(a)(2)) is amended, in the flush matter follow-
13 ing subparagraph (B), by inserting “(or a designee of the
14 Secretary), in the sole discretion of the Secretary (or des-
15 ignee), ” after “the Secretary”.

○