

109TH CONGRESS
2^D SESSION

H. R. 4954

AN ACT

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

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

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

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

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

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

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

TITLE I—SECURITY OF UNITED STATES SEAPORTS

Subtitle A—General Provisions

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

Subtitle B—Grant and Training Programs

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

Subtitle C—Miscellaneous Provisions

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

TITLE II—SECURITY OF THE INTERNATIONAL SUPPLY CHAIN

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

Sec. 208. Integrated Container Inspection System Pilot Project.

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

Sec. 301. Establishment of Directorate.

Sec. 302. Study and report on customs revenue functions.

TITLE IV—OFFICE OF DOMESTIC NUCLEAR DETECTION

Sec. 401. Establishment of Office.

Sec. 402. Nuclear and radiological detection systems.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

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

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

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

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

1 (5) In May 2002, the Brookings Institution es-
2 timated that costs associated with United States
3 port closures from a detonated terrorist weapon
4 could add up to \$1 trillion from the resulting eco-
5 nomic slump and changes in our Nation's inability
6 to trade. Anticipated port closures on the west coast
7 of the United States could cost the United States
8 economy \$1 billion per day for the first five days
9 after a terrorist attack.

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

13 (A) Congress passed the Maritime Trans-
14 portation Security Act of 2002 on November
15 14, 2002.

16 (B) The Coast Guard issued a comprehen-
17 sive set of port security regulations on October
18 22, 2003.

19 (C) The International Maritime Organiza-
20 tion adopted the International Ship and Port
21 Facility (ISPS) Code in December 2002.

22 (D) The White House issued Homeland
23 Security Presidential Directive-13 in September
24 2005 which lays out requirements for a com-
25 prehensive maritime security policy.

1 (7) Through both public and private projects,
2 the private sector in the United States and overseas
3 has worked with the Department of Homeland Security
4 to improve the security of the movement of
5 cargo through the international supply chain.

6 (8) Despite these steps, security gaps in the
7 maritime transportation system remain, resulting in
8 high-risk container systems not being checked overseas
9 or domestically and ports that are vulnerable to
10 terrorist attacks similar to the attack on the U.S.S.
11 Cole.

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

21 (10) While it is impossible to completely remove
22 the risk of a terrorist attack, security measures in
23 the supply chain can add certainty and stability to
24 the global economy, raise investor confidence, and
25 facilitate trade. Some counterterrorism costs are in-

1 tegral to the price that must be paid to protect soci-
2 ety. However, counterterrorism measures also
3 present an opportunity to increase the efficiency of
4 the global trade system through international har-
5 monization of such measures. These efficiency gains
6 are maximized when all countries adopt such
7 counterterrorism measures.

8 (11) Increasing transparency in the supply
9 chain will assist in mitigating the impact of a ter-
10 rorist attack by allowing for a targeted shutdown of
11 the international supply chain and expedited restora-
12 tion of commercial traffic.

13 (12) International trade is vital to the Nation's
14 economy and the well-being and livelihood of United
15 States citizens.

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

21 (14) In creating the Department of Homeland
22 Security, Congress clearly mandated in section
23 412(b) of the Homeland Security Act of 2002 (6
24 U.S.C. 212(b)) that the customs revenue functions

1 described in paragraph (2) of such section shall not
2 be diminished.

3 **SEC. 3. DEFINITIONS.**

4 In this Act:

5 (1) APPROPRIATE CONGRESSIONAL COMMIT-
6 TEES.—The term “appropriate congressional com-
7 mittees” has the meaning given the term in section
8 2(2) of the Homeland Security Act of 2002 (6
9 U.S.C. 101(2)).

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

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

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

18 **TITLE I—SECURITY OF UNITED**
19 **STATES SEAPORTS**
20 **Subtitle A—General Provisions**

21 **SEC. 101. DEFINITION OF TRANSPORTATION SECURITY IN-**
22 **CIDENT.**

23 Section 70101(6) of title 46, United States Code, is
24 amended by inserting after “economic disruption” the fol-
25 lowing “(other than economic disruption caused by acts

1 that are unrelated to terrorism and are committed during
2 a labor strike, demonstration, or other type of labor un-
3 rest)”).

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

5 (a) IN GENERAL.—Section 70103(a)(2)(J) of title
6 46, United States Code, is amended—

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

8 and

9 (2) by adding at the end the following new
10 clause:

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

23 “(I) coordination with appropriate Federal,
24 State, and local agencies, the private sector,

1 and appropriate overseas entities in developing
2 such contingency and continuity planning;

3 “(II) coordination with appropriate Fed-
4 eral, State, and local agencies and the private
5 sector on law enforcement actions, inter-modal
6 rerouting plans, and identification and
7 prioritization of goods that may enter the
8 United States; and

9 “(III) designation of appropriate Federal
10 officials to work with port authorities to rees-
11 tablish the flow of cargo by prioritizing ship-
12 ments based on appropriate factors, including
13 factors relating to public health, national secu-
14 rity, and economic need.”.

15 (b) EFFECTIVE DATE.—The Secretary of Homeland
16 Security shall develop the protocols described in section
17 70103(a)(2)(J)(ii) of title 46, United States Code, as
18 added by subsection (a), not later than 180 days after the
19 date of the enactment of this Act.

20 **SEC. 103. REQUIREMENTS RELATING TO MARITIME FACIL-**
21 **ITY SECURITY PLANS.**

22 (a) FACILITY SECURITY PLANS.—Section
23 70103(c)(3) of title 46, United States Code, is amended—

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

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

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

5 “(H) in the case of a security plan for a facil-
6 ity, be resubmitted for approval of each change in
7 the ownership or operator of the facility that may
8 substantially affect the security of the facility.”.

9 (b) FACILITY SECURITY OFFICERS.—Section
10 70103(c) of title 46, United States Code, is amended by
11 adding at the end the following:

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

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

22 (c) FACILITY SECURITY ACCESS.—Section
23 70103(c)(3)(C)(ii) of title 46, United States Code, is
24 amended by adding at the end before the semicolon the
25 following: “, including access by individuals engaged in the

1 surface transportation of intermodal containers in or out
2 of a port facility”.

3 **SEC. 104. UNANNOUNCED INSPECTIONS OF MARITIME FA-**
4 **CILITIES.**

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

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

12 **SEC. 105. VERIFICATION OF INDIVIDUALS WITH ACCESS TO**
13 **SECURE AREAS OF SEAPORTS.**

14 (a) IMPLEMENTATION OF REQUIREMENTS.—Not-
15 withstanding any other provision of law, the Secretary of
16 Homeland Security shall—

17 (1) not later than July 15, 2006, issue a notice
18 of proposed rulemaking for regulations required to
19 implement section 70105 of title 46, United States
20 Code;

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

24 (3) begin issuing transportation security cards
25 to individuals at seaports facilities under subsection

1 (b) of that section in accordance with the schedule
2 contained in subsection (b)(2) of this section.

3 (b) TRANSPORTATION SECURITY CARDS.—

4 (1) MANAGEMENT.—Final regulations issued
5 under subsection (a)(2) shall provide for Federal
6 management of the system for issuing transportation
7 security cards.

8 (2) SCHEDULE FOR ISSUING TRANSPORTATION
9 SECURITY CARDS AT SEAPORTS.—

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

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

20 (C) Not later than November 15, 2008,
21 the Secretary shall issue transportation security
22 cards to individuals at all other seaport facili-
23 ties.

24 (c) INTERIM VERIFICATION OF INDIVIDUALS.—

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

5 (A) complete a comparison of each indi-
6 vidual who has unescorted access to a secure
7 area of a seaport facility (as designated in an
8 approved facility security plan in accordance
9 with section 70103(c) of title 46, United States
10 Code) against terrorist watch lists to determine
11 if the individual poses a threat; and

12 (B) determine whether each such indi-
13 vidual may be denied admission to the United
14 States, or removed from the United States,
15 under the Immigration and Nationality Act (8
16 U.S.C. 1101 et seq.).

17 (2) CONTINUING REQUIREMENT.—In the case
18 of an individual who is given unescorted access to a
19 secure area of a seaport facility after the date on
20 which the Secretary completes the requirements of
21 paragraph (1) and before the date on which the Sec-
22 retary begins issuing transportation security cards
23 at the seaport facility, the Secretary shall conduct a
24 comparison of the individual against terrorist watch

1 lists and determine whether the individual is lawfully
2 present in the United States.

3 (3) INTERIM FINAL REGULATIONS.—In order to
4 carry out this subsection, the Secretary shall issue
5 interim final regulations to require submission to the
6 Secretary of information necessary to carry out the
7 requirements of paragraph (1).

8 (4) PRIVACY REQUIREMENTS.—Terrorist watch
9 list comparisons and immigration records checks
10 under this subsection shall be carried out in accord-
11 ance with the requirements of section 552a of title
12 5, United States Code.

13 (5) RESTRICTIONS ON USE AND MAINTENANCE
14 OF INFORMATION.—

15 (A) RESTRICTION ON DISCLOSURE.—Infor-
16 mation obtained by the Secretary in the course
17 of comparing the individual against terrorist
18 watch lists under this subsection may not be
19 made available to the public, including the indi-
20 vidual's employer.

21 (B) CONFIDENTIALITY; USE.—Any infor-
22 mation constituting grounds for prohibiting the
23 employment of an individual in a position de-
24 scribed in paragraph (1)(A) shall be maintained
25 confidentially by the Secretary and may be used

1 only for making determinations under this sec-
2 tion. The Secretary may share any such infor-
3 mation with appropriate Federal, State, local,
4 and tribal law enforcement agencies.

5 (6) TERRORIST WATCH LISTS DEFINED.—In
6 this subsection, the term “terrorist watch lists”
7 means all available information on known or sus-
8 pected terrorists or terrorist threats.

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

13 (1) the number of matches made in conducting
14 terrorist watch list comparisons, and the number of
15 individuals found to be unlawfully present in the
16 United States, under subsection (c);

17 (2) the corresponding seaport facilities at which
18 the matches and unlawfully present individuals were
19 identified; and

20 (3) the actions taken as a result of the terrorist
21 watchlist comparisons and immigration records
22 checks under subsection (c).

23 (e) TREATMENT OF INDIVIDUALS RECEIVING HAZ-
24 ARDOUS MATERIALS ENDORSEMENTS.—

1 (1) IN GENERAL.—To the extent the Secretary
2 determines that the background records check con-
3 ducted under section 5103a of title 49, United
4 States Code, and the background records check con-
5 ducted under section 70105 of title 46, United
6 States Code, are equivalent, the Secretary shall de-
7 termine that an individual does not pose a risk war-
8 ranting denial of a transportation security card
9 issued under section 70105 of title 46, United States
10 Code, if such individual—

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

14 (B) possesses a current and valid haz-
15 ardous materials endorsement in accordance
16 with section 1572 of title 49, Code of Federal
17 Regulations.

18 (2) LIMITATIONS.—Notwithstanding paragraph
19 (1), the Secretary may deny an individual a trans-
20 portation security card under section 70105 of title
21 46, United States Code, if the Secretary has sub-
22 stantial evidence that the individual poses a risk to
23 national security.

24 (3) REDUCTION IN FEES.—The Secretary shall
25 reduce, to the extent practicable, any fees associated

1 with obtaining a transportation security card under
2 section 70105 of title 46, United States Code, for
3 any individual referred to in paragraph (1).

4 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
5 authorized to be appropriated \$20,000,000 for fiscal year
6 2007 to carry out this section.

7 **SEC. 106. CLARIFICATION ON ELIGIBILITY FOR TRANSPOR-**
8 **TATION SECURITY CARDS.**

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

12 **SEC. 107. ENHANCED CREWMEMBER IDENTIFICATION.**

13 Section 70111 of title 46, United States Code, is
14 amended—

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

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

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

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

24 (b) VOLUNTARY PROGRAM.—The Secretary of Home-
25 land Security may issue regulations to establish a vol-

1 unitary long-range automated vessel tracking system for
2 vessels described in section 70115 of title 46, United
3 States Code, during the period before regulations are
4 issued under subsection (a) of such section.

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

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

9 **“§ 70122. Maritime security command centers**

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

16 “(1) enhance information sharing;

17 “(2) facilitate day-to-day operational coordina-
18 tion; and

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

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

23 “(1) be regionally based and utilize where avail-
24 able the compositional and operational characteris-
25 tics, facilities and information technology systems of

1 current operational centers for port and maritime
2 security and other similar existing facilities and sys-
3 tems;

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

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

12 “(c) PARTICIPATION.—

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

17 “(A) The Coast Guard.

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

19 “(C) U.S. Immigration and Customs En-
20 forcement.

21 “(D) Other appropriate Federal agencies.

22 “(2) STATE AND LOCAL PARTICIPATION.—Ap-
23 propriate State and local law enforcement agencies
24 may participate in the integrated network of mari-

1 time security command centers described in sub-
2 section (a).

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

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

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

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

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

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

20 “(e) SECURITY CLEARANCES.—The Secretary shall
21 sponsor and expedite individuals participating in a mari-
22 time security command center described in subsection (a)
23 in gaining or maintaining their security clearances.
24 Through the Captain of the Port, the Secretary may iden-
25 tify key individuals who should participate. In addition,

1 the port or other entities may appeal to the Captain of
2 the Port for sponsorship.

3 “(f) SECURITY INCIDENTS.—During a transportation
4 security incident involving the port, the Coast Guard Cap-
5 tain of the Port designated by the Commandant of the
6 Coast Guard in a maritime security command center de-
7 scribed in subsection (a) shall act as the incident com-
8 mander, unless otherwise directed by the President.

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

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

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

“70122. Maritime security command centers.”.

21 (c) IMPLEMENTATION PLAN AND BUDGET ANAL-
22 YSIS.—The Secretary of Homeland Security shall submit
23 to the appropriate congressional committees a plan for the
24 implementation of section 70122 of title 46, United States
25 Code, as added by subsection (a), and a budget analysis

1 for the implementation of such section, including addi-
2 tional cost-sharing arrangements with other Federal de-
3 partments and agencies and other participants involved in
4 the maritime security command centers described in such
5 section, not later than 180 days after the date of the en-
6 actment of this Act.

7 **Subtitle B—Grant and Training** 8 **Programs**

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

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

12 (1) by redesignating the second section 510 (as
13 added by section 7303(d) of Public Law 108–458
14 (118 Stat. 3844)) as section 511; and

15 (2) by adding at the end the following new sec-
16 tion:

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

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

22 “(b) PRIORITIZATION PROCESS.—In awarding grants
23 under this section, the Secretary shall conduct an assess-
24 ment of United States seaports to develop a prioritization

1 for awarding grants authorized under subsection (a) based
2 upon—

3 “(1) the most current risk assessment available
4 from the Department;

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

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

9 “(c) APPLICATION.—

10 “(1) IN GENERAL.—Any entity or facility sub-
11 ject to an Area Maritime Transportation Security
12 Plan required under subsection (b) or (c) of section
13 70103 of title 46, United States Code, may submit
14 an application for a grant under this section, at such
15 time, in such form, and containing such information
16 and assurances as the Secretary may require.

17 “(2) MINIMUM STANDARDS FOR PAYMENT OR
18 REIMBURSEMENT.—Each application submitted
19 under paragraph (1) shall include—

20 “(A) a comprehensive description of—

21 “(i) the purpose of the project for
22 which the applicant seeks a grant under
23 this section and why the applicant needs
24 the grant;

1 “(ii) the applicability of the project to
2 the Area Maritime Transportation Security
3 Plan and other homeland security plans;

4 “(iii) the methodology for coordi-
5 nating the project into the security of the
6 greater port area, as identified in the Area
7 Maritime Transportation Security Plan;

8 “(iv) any existing cooperation or mu-
9 tual aid agreements with other port facili-
10 ties, vessels, organizations, or State, terri-
11 torial, and local governments as such
12 agreements relate to port security; and

13 “(v) a capital budget showing how the
14 applicant intends to allocate and expend
15 the grant funds;

16 “(B) a determination by the Captain of the
17 Port that the project—

18 “(i) addresses or corrects port secu-
19 rity vulnerabilities; and

20 “(ii) helps to ensure compliance with
21 the Area Maritime Transportation Security
22 Plan.

23 “(3) PROCEDURAL SAFEGUARDS.—The Sec-
24 retary, in consultation with the Office of the Inspec-
25 tor General and the Office of Grants and Training,

1 shall issue guidelines to establish appropriate ac-
2 counting, reporting, and review procedures to ensure
3 that—

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

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

8 “(C) grant funds not used for such pur-
9 poses and amounts not obligated or expended
10 are returned.

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

13 “(1) to help implement Area Maritime Trans-
14 portation Security Plans required under section
15 70103(b) of title 46, United States Code, or the ves-
16 sel or facility security plans required under section
17 70103(c) of title 46, United States Code;

18 “(2) to remedy port security vulnerabilities
19 identified through vulnerability assessments ap-
20 proved by the Secretary;

21 “(3) for non-Federal projects contributing to
22 the overall security of a seaport or a system of
23 United States seaports, as determined by the Sec-
24 retary;

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

6 “(A) increases the threat level under the
7 Homeland Security Advisory System to Code
8 Orange or Code Red; or

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

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

18 “(6) to conduct vulnerability assessments ap-
19 proved by the Secretary;

20 “(7) to purchase or upgrade equipment, includ-
21 ing communications equipment that is interoperable
22 with Federal, State, and local agencies and com-
23 puter software, to enhance terrorism preparedness;

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

4 “(9) to establish or enhance mechanisms for
5 sharing terrorism threat information and to ensure
6 that the mechanisms are interoperable with Federal,
7 State, and local agencies;

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

11 “(11) for the protection of critical infrastruc-
12 ture against potential attack by the addition of bar-
13 riers, fences, gates, and other such devices, except
14 that the cost of such measures may not exceed the
15 greater of—

16 “(A) \$1,000,000 per project; or

17 “(B) such greater amount as may be ap-
18 proved by the Secretary, which may not exceed
19 10 percent of the total amount of the grant;

20 “(12) to conduct port-wide exercises to
21 strengthen emergency preparedness of Federal,
22 State, territorial, and local officials responsible for
23 port security, including law enforcement personnel
24 and firefighters and other first responders, in sup-
25 port of the Area Maritime Security Plan; and

1 “(13) for the purpose of enhancing supply-chain
2 security at truck inspection stations in or near high
3 volume seaports in coordination with States and
4 local government.

5 “(e) REIMBURSEMENT OF COSTS.—An applicant for
6 a grant under this section may petition the Secretary for
7 the reimbursement of the cost of any activity relating to
8 prevention (including detection) of, preparedness for, re-
9 sponse to, or recovery from acts of terrorism that is a Fed-
10 eral duty and usually performed by a Federal agency, and
11 that is being performed by a State or local government
12 (or both) under agreement with a Federal agency.

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

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

17 “(2) construct buildings or other physical facili-
18 ties;

19 “(3) acquire land; or

20 “(4) make any State or local government cost-
21 sharing contribution.

22 “(g) MATCHING REQUIREMENT.—

23 “(1) IN GENERAL.—Except as provided in sub-
24 paragraph (A) or (B) of paragraph (2), Federal
25 funds for any eligible project under this section shall

1 not exceed 75 percent of the total cost of such
2 project.

3 “(2) EXCEPTIONS.—

4 “(A) SMALL PROJECTS.—The requirement
5 of paragraph (1) shall not apply with respect to
6 a project with a total cost of not more than
7 \$25,000.

8 “(B) HIGHER LEVEL OF FEDERAL SUP-
9 PORT REQUIRED.—The requirement of para-
10 graph (1) shall not apply with respect to a
11 project if the Secretary determines that the
12 project merits support and cannot be under-
13 taken without a higher rate of Federal support
14 than the rate described in paragraph (1).

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

24 “(h) MULTIPLE PHASE PROJECTS.—

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

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

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

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

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

15 “(j) COORDINATION AND COOPERATION.—The Sec-
16 retary—

17 “(1) shall ensure that all projects that receive
18 grant funding under this section within any area de-
19 fined in an Area Maritime Transportation Security
20 Plan are coordinated with other projects in such
21 area; and

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

1 “(k) REVIEW AND AUDITS.—The Secretary shall re-
2 quire all grantees under this section to maintain such
3 records as the Secretary may require and make such
4 records available for review and audit by the Secretary,
5 the Comptroller General of the United States, or the In-
6 specter General of the Department.

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

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

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

19 “(3) PUBLICATION OF EXPENDITURES.—

20 “(A) IN GENERAL.—Not later than one
21 week after receiving a report under this sub-
22 section, the Secretary shall publish and make
23 publicly available on the Internet website of the
24 Department a description of each expenditure
25 described in the report.

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

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

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

6 “(a) IN GENERAL.—The Secretary, acting through
7 the Assistant Secretary for Grants and Training and in
8 coordination with components of the Department with
9 maritime security expertise, including the Coast Guard,
10 the Transportation Security Administration, and U.S.
11 Customs and Border Protection, shall establish a Port Se-
12 curity Training Program (hereinafter in this section re-
13 ferred to as the ‘Program’) for the purpose of enhancing
14 the capabilities of each of the Nation’s commercial sea-
15 ports to prevent, prepare for, respond to, mitigate against,
16 and recover from threatened or actual acts of terrorism,
17 natural disasters, and other emergencies.

18 “(b) REQUIREMENTS.—The Program shall provide
19 validated training that—

20 “(1) reaches multiple disciplines, including Fed-
21 eral, State, and local government officials, commer-
22 cial seaport personnel and management, and govern-
23 mental and nongovernmental emergency response
24 providers;

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

1 “(3) utilizes multiple training mediums and
2 methods, including—

3 “(A) direct delivery;

4 “(B) train-the-trainer;

5 “(C) computer-based training;

6 “(D) web-based training; and

7 “(E) video teleconferencing;

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

9 “(A) seaport security plans and proce-
10 dures, including how security plans and proce-
11 dures are adjusted when threat levels increase;

12 “(B) seaport security force operations and
13 management;

14 “(C) physical security and access control
15 at seaports;

16 “(D) methods of security for preventing
17 and countering cargo theft;

18 “(E) container security;

19 “(F) recognition and detection of weapons,
20 dangerous substances, and devices;

21 “(G) operation and maintenance of secu-
22 rity equipment and systems;

23 “(H) security threats and patterns;

24 “(I) security incident procedures, including
25 procedures for communicating with govern-

1 mental and nongovernmental emergency re-
2 sponse providers; and

3 “(J) evacuation procedures;

4 “(5) is consistent with, and supports implemen-
5 tation of, the National Incident Management Sys-
6 tem, the National Response Plan, the National In-
7 frastructure Protection Plan, the National Prepared-
8 ness Guidance, the National Preparedness Goal, and
9 other such national initiatives;

10 “(6) is evaluated against clear and consistent
11 performance measures;

12 “(7) addresses security requirements under fa-
13 cility security plans; and

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

19 “(c) NATIONAL VOLUNTARY CONSENSUS STAND-
20 ARDS.—The Secretary shall—

21 “(1) support the development, promulgation,
22 and regular updating as necessary of national vol-
23 untary consensus standards for port security train-
24 ing; and

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

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

5 “(1) work with government training facilities,
6 academic institutions, private organizations, em-
7 ployee organizations, and other entities that provide
8 specialized, state-of-the-art training for govern-
9 mental and nongovernmental emergency responder
10 providers or commercial seaport personnel and man-
11 agement; and

12 “(2) utilize, as appropriate, training courses
13 provided by community colleges, public safety acad-
14 emies, State and private universities, and other fa-
15 cilities.

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

19 “(1) a geographic and substantive cross section
20 of governmental and nongovernmental emergency re-
21 sponse providers; and

22 “(2) commercial seaport personnel and manage-
23 ment.

24 “(f) COMMERCIAL SEAPORT PERSONNEL DE-
25 FINED.—For purposes of this section, the term ‘commer-

1 cial seaport personnel’ means any person engaged in an
2 activity relating to the loading or unloading of cargo, the
3 movement or tracking of cargo, the maintenance and re-
4 pair of intermodal equipment, the operation of cargo-re-
5 lated equipment (whether or not integral to the vessel),
6 and the handling of mooring lines on the dock when a ves-
7 sel is made fast or let go, in the United States or the
8 coastal waters thereof.”.

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

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

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

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

18 (2) by redesignating subparagraphs (F) and
19 (G) as subparagraphs (G) and (H), respectively; and

20 (3) by inserting after subparagraph (E) the fol-
21 lowing new subparagraph:

22 “(F) provide a strategy and timeline for con-
23 ducting training and periodic unannounced drills for
24 persons on the vessel or at the facility to be carried
25 out under the plan to deter, to the maximum extent

1 practicable, a transportation security incident or a
2 substantial threat of such a transportation security
3 incident;”.

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

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

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

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

23 “(b) REQUIREMENTS.—The Secretary, acting
24 through the Assistant Secretary for Grants and Training
25 and in coordination with components of the Department

1 with maritime security expertise, including the Coast
2 Guard, the Transportation Security Administration, and
3 U.S. Customs and Border Protection, shall ensure that the
4 Program—

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

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

9 “(A) scaled and tailored to the needs of
10 each port;

11 “(B) live in the case of the most at-risk
12 ports;

13 “(C) as realistic as practicable and based
14 on current risk assessments, including credible
15 threats, vulnerabilities, and consequences;

16 “(D) consistent with the National Incident
17 Management System, the National Response
18 Plan, the National Infrastructure Protection
19 Plan, the National Preparedness Guidance, the
20 National Preparedness Goal, and other such na-
21 tional initiatives;

22 “(E) evaluated against clear and consistent
23 performance measures;

24 “(F) assessed to learn best practices,
25 which shall be shared with appropriate Federal,

1 State, and local officials, seaport personnel and
2 management; governmental and nongovern-
3 mental emergency response providers, and the
4 private sector; and

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

7 “(3) assists State and local governments and
8 commercial seaports in designing, implementing, and
9 evaluating exercises that—

10 “(A) conform to the requirements of para-
11 graph (2); and

12 “(B) are consistent with any applicable
13 Area Maritime Transportation Security Plan
14 and State or Urban Area Homeland Security
15 Plan.

16 “(c) REMEDIAL ACTION MANAGEMENT SYSTEM.—
17 The Secretary, acting through the Assistant Secretary for
18 Grants and Training, shall establish a Remedial Action
19 Management System to—

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

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

1 “(3) monitor the implementation of lessons
2 learned and best practices by participants in the
3 Program; and

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

6 “(d) GRANT PROGRAM FACTOR.—In evaluating and
7 prioritizing applications for Federal financial assistance
8 under section 512, the Secretary shall give additional con-
9 sideration to those applicants that have conducted port se-
10 curity exercises under this section.

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

14 “(1) a geographic and substantive cross section
15 of governmental and nongovernmental emergency re-
16 sponse providers; and

17 “(2) commercial seaport personnel and manage-
18 ment.

19 “(f) COMMERCIAL SEAPORT PERSONNEL DE-
20 FINED.—For purposes of this section, the term ‘commer-
21 cial seaport personnel’ means any person engaged in an
22 activity relating to the loading or unloading of cargo, the
23 movement or tracking of cargo, the maintenance and re-
24 pair of intermodal equipment, the operation of cargo-re-
25 lated equipment (whether or not integral to the vessel),

1 and the handling of mooring lines on the dock when a ves-
 2 sel is made fast or let go, in the United States or the
 3 coastal waters thereof.”.

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

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

9 **Subtitle C—Miscellaneous**
 10 **Provisions**

11 **SEC. 121. INCREASE IN PORT OF ENTRY INSPECTION OFFI-**
 12 **CERS.**

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

18 (b) AUTHORIZATION OF APPROPRIATIONS.—There
 19 are authorized to be appropriated to the Secretary to carry
 20 out subsection (a) the following amounts for the following
 21 fiscal years:

- 22 (1) \$20,000,000 for fiscal year 2007.
 23 (2) \$40,000,000 for fiscal year 2008.
 24 (3) \$60,000,000 for fiscal year 2009.
 25 (4) \$80,000,000 for fiscal year 2010.

1 (5) \$100,000,000 for fiscal year 2011.

2 (6) \$120,000,000 for fiscal year 2012.

3 **SEC. 123. BORDER PATROL UNIT FOR UNITED STATES VIR-**
4 **GIN ISLANDS.**

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

9 **SEC. 124. REPORT ON OWNERSHIP AND OPERATION OF**
10 **UNITED STATES SEAPORTS.**

11 Not later than 180 days after the date of the enact-
12 ment of this Act, the Secretary of Homeland Security shall
13 submit to the appropriate congressional committees a re-
14 port that contains—

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

18 (2) any other information that the Secretary
19 determines to be appropriate.

20 **SEC. 125. REPORT ON SECURITY OPERATIONS AT CERTAIN**
21 **UNITED STATES SEAPORTS.**

22 (a) **STUDY.**—The Secretary of Homeland Security
23 shall conduct a study on the adequacy of security oper-
24 ations at the ten United States seaports that load and un-
25 load the largest amount of containers.

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

5 **SEC. 126. REPORT ON ARRIVAL AND DEPARTURE MANI-**
6 **FESTS FOR CERTAIN COMMERCIAL VESSELS**
7 **IN THE UNITED STATES VIRGIN ISLANDS.**

8 Not later than 90 days after the date of the enact-
9 ment of this Act, the Secretary of Homeland Security shall
10 submit to the appropriate congressional committees a re-
11 port on the impact of implementing the requirements of
12 section 231 of the Immigration and Nationality Act (8
13 U.S.C. 1221) (relating to providing United States border
14 officers with arrival and departure manifests) with respect
15 to commercial vessels that are fewer than 300 gross tons
16 and operate exclusively between the territorial waters of
17 the United States Virgin Islands and the territorial waters
18 of the British Virgin Islands.

19 **SEC. 127. CENTER OF EXCELLENCE FOR MARITIME DOMAIN**
20 **AWARENESS.**

21 (a) ESTABLISHMENT.—The Secretary of the Home-
22 land Security shall establish a university-based Center for
23 Excellence for Maritime Domain Awareness following the
24 merit-review processes and procedures that have been es-

1 tablished by the Secretary for selecting university program
2 centers of excellence.

3 (b) DUTIES.—The Center shall—

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

8 (2) recognize the extensive previous and ongo-
9 ing work and existing competence in the field of
10 maritime domain awareness at numerous academic
11 and research institutions, such as the Naval Post-
12 graduate School;

13 (3) leverage existing knowledge and continue
14 development of a broad base of expertise within aca-
15 demia and industry in maritime domain awareness;
16 and

17 (4) provide educational, technical, and analyt-
18 ical assistance to Federal agencies with responsibil-
19 ities for maritime domain awareness, including the
20 Coast Guard, to focus on the need for interoper-
21 ability, information sharing, and common informa-
22 tion technology standards and architecture.

1 **SEC. 128. REPORT ON SECURITY AND TRADE AT UNITED**
2 **STATES LAND PORTS.**

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

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

11 **TITLE II—SECURITY OF THE**
12 **INTERNATIONAL SUPPLY CHAIN**

13 **SEC. 201. SECURITY OF THE INTERNATIONAL SUPPLY**
14 **CHAIN.**

15 (a) IN GENERAL.—The Homeland Security Act of
16 2002 (6 U.S.C. 101 et seq.) is amended by adding at the
17 end the following new title:

18 **“TITLE XVIII—SECURITY OF THE**
19 **INTERNATIONAL SUPPLY CHAIN**

20 **“Subtitle A—General Provisions**

21 **“SEC. 1801. STRATEGIC PLAN TO ENHANCE THE SECURITY**
22 **OF THE INTERNATIONAL SUPPLY CHAIN.**

23 “(a) STRATEGIC PLAN.—The Secretary, in consulta-
24 tion with appropriate Federal, State, local, and tribal gov-
25 ernment agencies and private sector stakeholders respon-
26 sible for security matters that affect or relate to the move-

1 ment of containers through the international supply chain,
2 shall develop and implement, and update as appropriate,
3 a strategic plan to enhance the security of the inter-
4 national supply chain.

5 “(b) REQUIREMENTS.—The strategic plan required
6 under subsection (a) shall—

7 “(1) describe the roles, responsibilities, and au-
8 thorities of Federal, State, local, and tribal govern-
9 ment agencies and private sector stakeholders that
10 relate to the security of the movement of containers
11 through the international supply chain;

12 “(2) identify and address gaps and unnecessary
13 overlaps in the roles, responsibilities, or authorities
14 described in paragraph (1);

15 “(3) identify and make recommendations re-
16 garding legislative, regulatory, and organizational
17 changes necessary to improve coordination among
18 the entities or to enhance the security of the inter-
19 national supply chain;

20 “(4) provide measurable goals, including objec-
21 tives, mechanisms, and a schedule, for furthering the
22 security of commercial operations from point of ori-
23 gin to point of destination;

24 “(5) build on available resources and consider
25 costs and benefits;

1 “(6) provide incentives for additional voluntary
2 measures to enhance cargo security, as determined
3 by the Secretary;

4 “(7) consider the impact of supply chain secu-
5 rity requirements on small and medium size compa-
6 nies;

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

10 “(9) identify a framework for prudent and
11 measured response in the event of a transportation
12 security incident involving the international supply
13 chain;

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

18 “(11) consider the linkages between supply
19 chain security and security programs within other
20 systems of movement, including travel security and
21 terrorism finance programs; and

22 “(12) expand upon and relate to existing strate-
23 gies and plans, including the National Strategy for
24 Maritime Security and the eight supporting plans of

1 the Strategy, as required by Homeland Security
2 Presidential Directive-13 (September 2005).

3 “(c) UTILIZATION OF ADVISORY COMMITTEES.—As
4 part of the consultations described in subsection (a), the
5 Secretary shall, to the extent practicable, utilize the
6 Homeland Security Advisory Committee, the National
7 Maritime Security Advisory Committee, and the Commer-
8 cial Operations Advisory Committee to review, as nec-
9 essary, the draft strategic plan and any subsequent up-
10 dates to the strategic plan.

11 “(d) INTERNATIONAL STANDARDS AND PRAC-
12 TICES.—In furtherance of the strategic plan required
13 under subsection (a), the Secretary is encouraged to con-
14 sider proposed or established standards and practices of
15 foreign governments and international organizations, in-
16 cluding the International Maritime Organization, the
17 World Customs Organization, the International Labor Or-
18 ganization, and the International Organization for Stand-
19 ardization, as appropriate, to establish standards and best
20 practices for the security of containers moving through the
21 international supply chain.

22 “(e) REPORT.—

23 “(1) INITIAL REPORT.—The Secretary shall
24 submit to the appropriate congressional committees

1 a report that contains the strategic plan required by
2 subsection (a).

3 “(2) FINAL REPORT.—Not later than three
4 years after the date on which the strategic plan is
5 submitted under paragraph (1), the Secretary shall
6 submit to the appropriate congressional committees
7 a report that contains an update of the strategic
8 plan.

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

12 **“SEC. 1802. TRANSMISSION OF ADDITIONAL DATA ELE-**
13 **MENTS FOR IMPROVED HIGH RISK TAR-**
14 **GETING.**

15 “(a) REQUIREMENT.—The Secretary shall require
16 transmission to the Department, through an electronic
17 data interchange system, of additional data elements for
18 improved high risk targeting, including appropriate secu-
19 rity elements of entry data, as determined by the Sec-
20 retary, to be provided as advanced information with re-
21 spect to cargo destined for importation into the United
22 States prior to loading of such cargo on vessels at foreign
23 seaports.

24 “(b) REGULATIONS.—The Secretary shall promul-
25 gate regulations to carry out this section. In promulgating

1 such regulations, the Secretary shall adhere to the param-
2 eters applicable to the development of regulations under
3 section 343(a) of the Trade Act of 2002 (19 U.S.C. 2071
4 note), including provisions relating to consultation, tech-
5 nology, analysis, use of information, confidentiality, and
6 timing requirements.

7 **“SEC. 1803. PLAN TO IMPROVE THE AUTOMATED TAR-**
8 **GETING SYSTEM.**

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

13 “(b) CONTENTS.—

14 “(1) TREATMENT OF RECOMMENDATIONS.—
15 The Secretary shall include in the plan required
16 under subsection (a) a schedule to address the rec-
17 ommendations of the Comptroller General of the
18 United States, the Inspector General of the Depart-
19 ment of the Treasury, and the Inspector General of
20 the Department of Homeland Security with respect
21 to the operation of the Automated Targeting Sys-
22 tem.

23 “(2) INFORMATION SUBMISSIONS.—In devel-
24 oping the plan required under subsection (a), the

1 Secretary shall consider the cost, benefit, and feasi-
2 bility of—

3 “(A) requiring additional nonmanifest doc-
4 umentation for each container;

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

7 “(C) adjusting the time period allowed by
8 law for submission of entry data for vessel or
9 cargo; and

10 “(D) such other actions the Secretary con-
11 siders beneficial for improving the information
12 relied upon for the Automated Targeting Sys-
13 tem and any other targeting systems in fur-
14 thering the security and integrity of the inter-
15 national supply chain.

16 “(3) OUTSIDE REVIEW.—The Secretary shall
17 conduct, through an independent panel, a review of
18 the Automated Targeting System. The results of
19 this review shall be included in the plan required
20 under subsection (a).

21 “(4) SMART SYSTEM.—The Secretary shall con-
22 sider future iterations of the Automated Targeting
23 System, which would incorporate smart features,
24 such as more complex algorithms and real-time intel-
25 ligence, instead of relying solely on rule sets that are

1 periodically updated. The Secretary shall also con-
2 sider how the Automated Targeting System could be
3 improved through linkages with targeting systems in
4 existence on the date of the enactment of the Secu-
5 rity and Accountability For Every Port Act for trav-
6 el security and terrorism finance programs.

7 “(c) NEW OR EXPANDED INFORMATION SUBMIS-
8 SIONS.—In considering any new or expanded information
9 submission requirements, the Secretary shall consult with
10 stakeholders and identify the need for such information,
11 provide safeguards that ensure confidentiality with respect
12 to such information, and identify appropriate timing of the
13 submission of such information, in the plan required under
14 subsection (a).

15 “(d) SECURE TRANSMISSION OF CERTAIN INFORMA-
16 TION.—All information required by the Department from
17 supply chain partners shall be transmitted in a secure
18 fashion, as determined by the Secretary, so as to protect
19 the information from unauthorized access.

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

1 **“SEC. 1804. CONTAINER STANDARDS AND VERIFICATION**
2 **PROCEDURES.**

3 “(a) ESTABLISHMENT.—

4 “(1) IN GENERAL.—The Secretary shall estab-
5 lish minimum standards and verification procedures
6 for securing containers in transit to the United
7 States relating to the sealing of containers.

8 “(2) DEADLINE FOR ENFORCEMENT.—Not
9 later than two years after the date on which the
10 standards and procedures are established pursuant
11 to paragraph (1), all containers bound for ports of
12 entry in the United States shall meet such standards
13 and procedures.

14 “(b) REVIEW AND ENHANCEMENT.—The Secretary
15 shall regularly—

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

18 “(2) enhance the security standards and proce-
19 dures, as appropriate, based on tests of technologies
20 as they become commercially available to detect con-
21 tainer intrusion and the highest consequence threats,
22 particularly weapons of mass destruction.

23 “(c) INTERNATIONAL CARGO SECURITY STAND-
24 ARDS.—The Secretary, in consultation with the Secretary
25 of State, is encouraged to promote and establish inter-
26 national standards for the security of containers moving

1 through the international supply chain with foreign gov-
2 ernments and international organizations, including the
3 International Maritime Organization and the World Cus-
4 toms Organization.

5 “(d) INTERNATIONAL TRADE AND OTHER OBLIGA-
6 TIONS.—In carrying out this section, the Secretary shall
7 consult with appropriate Federal departments and agen-
8 cies and private sector stakeholders and ensure that ac-
9 tions under this section do not violate international trade
10 obligations or other international obligations of the United
11 States.

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

13 “(a) AUTHORIZATION.—The Secretary is authorized
14 to establish and implement a program (to be known as
15 the ‘Container Security Initiative’ or ‘CSI’) to identify and
16 examine maritime containers that pose a risk for terrorism
17 at foreign ports before the containers are shipped to the
18 United States.

19 “(b) ASSESSMENT.—Before the Secretary designates
20 any foreign port under CSI, the Secretary, in consultation
21 with other Federal officials, as appropriate, shall conduct
22 an assessment of the port, including—

23 “(1) the level of risk for the potential com-
24 promise of containers by terrorists or terrorist weap-
25 ons;

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

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

6 “(4) the commitment of the host nation to co-
7 operating with the Department in sharing critical
8 data and risk management information and to main-
9 tain programs to ensure employee integrity; and

10 “(5) the potential for validation of security
11 practices by the Department.

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

15 “(d) INSPECTIONS.—

16 “(1) REQUIREMENTS AND PROCEDURES.—The
17 Secretary shall—

18 “(A) establish technical capability criteria
19 and standard operating procedures for the use
20 of nonintrusive inspection and nuclear and radi-
21 ological detection systems in conjunction with
22 CSI;

23 “(B) require each port designated under
24 CSI to operate nonintrusive inspection and nu-
25 clear and radiological detection systems in ac-

1 cordance with the technical capability criteria
2 and standard operating procedures established
3 under subparagraph (A); and

4 “(C) continually monitor the technologies,
5 processes, and techniques used to inspect cargo
6 at ports designated under CSI.

7 “(2) CONSISTENCY OF STANDARDS AND PROCE-
8 DURES.—The Secretary shall ensure that the tech-
9 nical capability criteria and standard operating pro-
10 cedures established under paragraph (1)(A) are con-
11 sistent with such standards and procedures of any
12 other department or agency of the Federal govern-
13 ment with respect to deployment of nuclear and ra-
14 diological detection systems outside the United
15 States.

16 “(3) FOREIGN ASSISTANCE.—

17 “(A) IN GENERAL.—The Secretary, in con-
18 sultation with the Secretary of State, the Sec-
19 retary of Energy, and the heads of other Fed-
20 eral agencies, shall identify foreign assistance
21 programs that could facilitate the implementa-
22 tion of cargo security antiterrorism measures at
23 ports designated under CSI and foreign ports
24 not designated under CSI that lack effective
25 antiterrorism measures.

1 “(B) ACQUISITION.—The Secretary is au-
2 thorized to loan or otherwise assist in the de-
3 ployment of nonintrusive inspection or nuclear
4 and radiological detection systems for cargo
5 containers at each designated CSI port under
6 such terms and conditions as the Secretary de-
7 termines to be appropriate and to provide train-
8 ing for foreign personnel involved in CSI.

9 “(e) PROHIBITION.—

10 “(1) IN GENERAL.—The Secretary shall issue a
11 ‘do not load’ order to each port designated under
12 CSI to prevent the onload of any cargo that has
13 been identified as higher risk by the Automated Tar-
14 geting System unless the cargo—

15 “(A) is scanned with a non intrusive im-
16 agery device and nuclear or radiological detec-
17 tion equipment;

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

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

23 “(2) RULE OF CONSTRUCTION.—Nothing in
24 this subsection shall be construed to interfere with

1 the ability of the Secretary to deny entry of any
2 cargo into the United States.

3 “(f) REPORT.—The Secretary shall submit to the ap-
4 propriate congressional committees not later than March
5 1 of each year a report on the status of CSI, including—

6 “(1) a description of the security improvements
7 gained through CSI;

8 “(2) the rationale for the continuance of each
9 port designated under CSI;

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

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

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

19 **“SEC. 1806. INFORMATION SHARING RELATING TO SUPPLY**
20 **CHAIN SECURITY COOPERATION.**

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

22 “(1) to establish continuing liaison and to pro-
23 vide for supply chain security cooperation between
24 Department and the private sector; and

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

5 “(b) SECURE SYSTEM.—The Secretary shall develop
6 a secure electronic data interchange system to collect from
7 and share appropriate risk information related to securing
8 the supply chain with the private sector entities deter-
9 mined appropriate by the Secretary.

10 “(c) CONSULTATION.—In developing the system
11 under subsection (b), the Secretary shall consult with the
12 Commercial Operations Advisory Committee and a broad
13 range of public and private sector entities likely to utilize
14 the system, including importers, exporters, carriers, cus-
15 toms brokers, and freight forwarders, among other par-
16 ties.

17 “(d) PROCEDURES.—The Secretary shall establish
18 uniform procedures for the receipt, care, and storage of
19 supply chain security information that is voluntarily sub-
20 mitted to the Department through the system developed
21 under subsection (b).

22 “(e) LIMITATIONS.—The voluntary information col-
23 lected through the system developed under subsection (b)
24 shall be used exclusively for ensuring security and shall
25 not be used for determining entry or for any other com-

1 mercial enforcement purpose. The voluntary information
2 submitted to the Department through the system devel-
3 oped under subsection (b) shall not be construed to con-
4 stitute compliance with any requirement to submit such
5 information to a Federal agency under any other provision
6 of law.

7 “(f) PARTICIPANTS.—The Secretary shall develop
8 protocols for determining appropriate private sector per-
9 sonnel who shall have access to the system developed
10 under subsection (b). Such personnel shall include des-
11 ignated security officers within companies that are deter-
12 mined to be low risk through participation in the Customs-
13 Trade Partnership Against Terrorism program established
14 pursuant to subtitle B of this title.

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

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

22 “(2) shall not, without the written consent of
23 the person or entity submitting such information, be
24 used directly by the Department or a third party, in

1 any civil action arising under Federal or State law
2 if such information is submitted in good faith; and

3 “(3) shall not, without the written consent of
4 the person or entity submitting such information, be
5 used or disclosed by any officer or employee of the
6 United States for purposes other than the purposes
7 of this section, except—

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

10 “(B) when disclosure of the information
11 would be—

12 “(i) to either House of Congress, or to
13 the extent of matter within its jurisdiction,
14 any committee or subcommittee thereof,
15 any joint committee thereof or sub-
16 committee of any such joint committee; or

17 “(ii) to the Comptroller General, or
18 any authorized representative of the Comp-
19 troller General, in the course of the per-
20 formance of the duties of the Comptroller
21 General.

22 “(h) INDEPENDENTLY OBTAINED INFORMATION.—
23 Nothing in this section shall be construed to limit or other-
24 wise affect the ability of a Federal, State, or local, govern-
25 ment entity, under applicable law, to obtain supply chain

1 security information, including any information lawfully
2 and properly disclosed generally or broadly to the public
3 and to use such information in any manner permitted by
4 law.

5 “(i) PENALTIES.—Whoever, being an officer or em-
6 ployee of the United States or of any department or agen-
7 cy thereof, knowingly publishes, divulges, discloses, or
8 makes known in any manner or to any extent not author-
9 ized by law, any supply chain security information pro-
10 tected in this section from disclosure, shall be fined under
11 title 18, United States Code, imprisoned not more than
12 1 year, or both, and shall be removed from office or em-
13 ployment.

14 “(j) AUTHORITY TO ISSUE WARNINGS.—The Sec-
15 retary may provide advisories, alerts, and warnings to rel-
16 evant companies, targeted sectors, other governmental en-
17 tities, or the general public regarding potential risks to
18 the supply chain as appropriate. In issuing a warning, the
19 Secretary shall take appropriate actions to protect from
20 disclosure—

21 “(1) the source of any voluntarily submitted
22 supply chain security information that forms the
23 basis for the warning; and

24 “(2) information that is proprietary, business
25 sensitive, relates specifically to the submitting per-

1 son or entity, or is otherwise not appropriately in
2 the public domain.

3 **“Subtitle B—Customs-Trade Part-**
4 **nership Against Terrorism (C-**
5 **TPAT)**

6 **“SEC. 1811. ESTABLISHMENT.**

7 “(a) ESTABLISHMENT.—The Secretary is authorized
8 to establish a voluntary program (to be known as the ‘Cus-
9 toms-Trade Partnership Against Terrorism’ or ‘C-
10 TPAT’) to strengthen and improve the overall security of
11 the international supply chain and United States border
12 security.

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

17 **“SEC. 1812. ELIGIBLE ENTITIES.**

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

23 **“SEC. 1813. MINIMUM REQUIREMENTS.**

24 “An applicant seeking to participate in C-TPAT
25 shall—

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

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

6 “(A) business partner requirements;

7 “(B) container security;

8 “(C) physical security and access controls;

9 “(D) personnel security;

10 “(E) procedural security;

11 “(F) security training and threat aware-
12 ness; and

13 “(G) information technology security;

14 “(3) implement and maintain security measures
15 and supply chain security practices meeting security
16 criteria; and

17 “(4) meet all other requirements established by
18 the Secretary.

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

20 “(a) BENEFITS.—The Secretary may offer limited
21 benefits to C-TPAT participants whose security measures
22 and supply chain security practices have been certified in
23 accordance with the guidelines established pursuant to
24 subsection (b).

1 “(b) GUIDELINES.—The Secretary shall update
2 guidelines for certifying a C-TPAT participant’s security
3 measures and supply chain security practices under this
4 section.

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

6 “(a) IN GENERAL.—Not later than one year after a
7 C-TPAT participant has been certified under section
8 1814, the Secretary shall validate, directly or through
9 third party entities certified in accordance with section
10 1817, the security measures and supply chain security
11 practices of that participant. Such validation shall include
12 assessments at appropriate foreign locations utilized by
13 the participant as part of the supply chain.

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

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

21 “(2) suspend or expel the participant from C-
22 TPAT.

23 “(c) RIGHT OF APPEAL.—A C-TPAT participant de-
24 scribed in subsection (b) may file an appeal with the Sec-
25 retary of the Commissioner’s decision under subsection

1 (b)(1) to deny benefits under C-TPAT or under sub-
2 section (b)(2) to suspend or expel the participant from C-
3 TPAT.

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

7 “(1) reduced examinations; and

8 “(2) priority processing for searches.

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

10 “(a) IN GENERAL.—The Secretary shall establish a
11 third tier of C-TPAT that offers additional benefits to C-
12 TPAT participants that demonstrate a sustained commit-
13 ment beyond the minimum criteria for participation in C-
14 TPAT.

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

18 “(1) cargo is loaded on a vessel with a vessel
19 security plan approved under section 70103(c) of
20 title 46, United States Code, or on a vessel with a
21 valid International Ship Security Certificate as pro-
22 vided for under part 104 of title 33, Code of Federal
23 Regulations;

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

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

6 “(c) BENEFITS.—The Secretary, in consultation with
7 the Commercial Operations Advisory Committee and the
8 National Maritime Security Advisory Committee, may pro-
9 vide benefits to C-TPAT participants under this section,
10 which may include—

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

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

17 “(3) preference to vessels;

18 “(4) further reduced examinations;

19 “(5) priority processing for examinations;

20 “(6) further reduced scores in the Automated
21 Targeting System; and

22 “(7) streamlined billing of any customs duties
23 or fees.

24 “(d) DEFINITION.—In this section, the term ‘con-
25 tainer security device’ means a mechanical or electronic

1 device designed to, at a minimum, positively identify con-
2 tainers and detect and record unauthorized intrusion of
3 containers. Such devices shall have false alarm rates that
4 have been demonstrated to be below one percent.

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

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

11 “(b) FALSE OR MISLEADING INFORMATION.—If a C-
12 TPAT participant intentionally provides false or mis-
13 leading information to the Secretary or a third party enti-
14 ty during the validation process of the participant under
15 this subtitle, the Commissioner of U.S. Customs and Bor-
16 der Protection shall suspend or expel the participant from
17 C-TPAT for a period of not less than five years.

18 “(c) RIGHT OF APPEAL.—A C-TPAT participant de-
19 scribed in subsection (a) may file an appeal with the Sec-
20 retary of the Secretary’s decision under subsection (a) to
21 deny benefits under this subtitle. A C-TPAT participant
22 described in subsection (b) may file an appeal with the
23 Secretary of the Commissioner’s decision under subsection
24 (b) to suspend or expel the participant from C-TPAT.

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

2 “(a) IN GENERAL.—In conducting the pilot program
3 under subsection (f), and if the Secretary determines to
4 expand the use of third party entities to conduct valida-
5 tions of C-TPAT participants upon completion of the pilot
6 program under subsection (f), the Secretary shall—

7 “(1) develop, document, and update, as nec-
8 essary, minimum standard operating procedures and
9 requirements applicable to such entities for the con-
10 duct of such validations; and

11 “(2) meet all requirements under subtitle G of
12 the title VIII of this Act to review and designate
13 such minimum standard operating procedures as a
14 qualified anti-terrorism technology for purposes of
15 such subtitle.

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

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

22 “(A) demonstrates to the satisfaction of
23 the Secretary the ability to perform validations
24 in accordance with standard operating proce-
25 dures and requirements (or updates thereto)
26 designated as a qualified anti-terrorism tech-

1 nology by the Secretary under subsection (a);
2 and

3 “(B) agrees—

4 “(I) to perform validations in accord-
5 ance with such standard operating proce-
6 dures and requirements (or updates there-
7 to); and

8 “(ii) to maintain liability insurance
9 coverage at policy limits and in accordance
10 with conditions to be established by the
11 Secretary pursuant to section 864 of this
12 Act; and

13 “(C) signs an agreement to protect all pro-
14 prietary information of C-TPAT participants
15 with respect to which the entity will conduct
16 validations.

17 “(2) LITIGATION AND RISK MANAGEMENT PRO-
18 TECTIONS.—A third party entity that maintains li-
19 ability insurance coverage at policy limits and in ac-
20 cordance with conditions to be established by the
21 Secretary pursuant to section 864 of this Act and
22 receives a certificate of conformance under para-
23 graph (1) shall receive all applicable litigation and
24 risk management protections under sections 863 and
25 864 of this Act.

1 “(3) RECIPROCAL WAIVER OF CLAIMS.—A re-
2 ciprocal waiver of claims shall be deemed to have
3 been entered into between a third party entity that
4 receives a certificate of conformance under para-
5 graph (1) and its contractors, subcontractors, sup-
6 pliers, vendors, customers, and contractors and sub-
7 contractors of customers involved in the use or oper-
8 ation of the validation services of the third party en-
9 tity.

10 “(c) INFORMATION FOR ESTABLISHING LIMITS OF
11 LIABILITY INSURANCE.—A third party entity seeking a
12 certificate of conformance under subsection (b)(1) shall
13 provide to the Secretary necessary information for estab-
14 lishing the limits of liability insurance required to be main-
15 tained by the entity under section 864(a) of this Act.

16 “(d) ADDITIONAL REQUIREMENTS.—The Secretary
17 shall ensure that—

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

19 “(A) has no beneficial interest in or any
20 direct or indirect control over the C-TPAT par-
21 ticipant that is contracting for the validation
22 services; and

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

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

5 “(e) MONITORING.—

6 “(1) IN GENERAL.—The Secretary shall regu-
7 larly monitor and inspect the operations of a third
8 party entity conducting validations under this sub-
9 title to ensure that the entity is meeting the min-
10 imum standard operating procedures and require-
11 ments for the validation of C-TPAT participants es-
12 tablished under subsection (a) and all other applica-
13 ble requirements for validation services under this
14 subtitle.

15 “(2) REVOCATION.—If the Secretary finds that
16 a third party entity is not meeting the minimum
17 standard operating procedures and requirements, the
18 Secretary shall—

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

21 “(B) review any validations conducted by
22 the entity.

23 “(f) PILOT PROGRAM.—

24 “(1) IN GENERAL.—The Secretary shall carry
25 out a pilot program to test the feasibility, costs, and

1 benefits of utilizing third party entities to conduct
2 validations of C-TPAT participants. In conducting
3 the pilot program, the Secretary shall comply with
4 all applicable requirements of this section with re-
5 spect to eligibility of third party entities to conduct
6 validations of C-TPAT participants.

7 “(2) REPORT.—Not later than 30 days after
8 the completion of the pilot program conducted pur-
9 suant to paragraph (1), the Secretary shall submit
10 to the appropriate congressional committees a report
11 that contains—

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

13 “(B) the determination of the Secretary
14 whether or not to expand the use of third party
15 entities to conduct validations of C-TPAT par-
16 ticipants.

17 **“SEC. 1819. REVALIDATION.**

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

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

23 “The Secretary may consider the potential for par-
24 ticipation in C-TPAT by importers of non-containerized

1 cargoes that otherwise meet the requirements under this
2 subtitle.

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

4 “There are authorized to be appropriated
5 \$75,000,000 for each of the fiscal years 2007 through
6 2012 to carry out this subtitle.

7 **“Subtitle C—Miscellaneous**
8 **Provisions**

9 **“SEC. 1831. RESEARCH, DEVELOPMENT, TEST, AND EVALUA-**
10 **TION EFFORTS IN FURTHERANCE OF MARI-**
11 **TIME AND CARGO SECURITY.**

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

13 “(1) direct research, development, test, and
14 evaluation efforts in furtherance of maritime and
15 cargo security;

16 “(2) encourage the ingenuity of the private sec-
17 tor in developing and testing technologies and proc-
18 ess innovations in furtherance of these objectives;
19 and

20 “(3) evaluate such technologies.

21 “(b) COORDINATION.—The Secretary, in coordina-
22 tion with the Undersecretary for Science and Technology,
23 the Director of the Domestic Nuclear Detection Office of
24 the Department, and the heads of other appropriate of-
25 fices or entities of the Department, shall ensure that—

1 “(1) research, development, test, and evaluation
2 efforts funded by the Department in furtherance of
3 maritime and cargo security are coordinated to avoid
4 duplication of efforts; and

5 “(2) the results of such efforts are shared
6 throughout the Department and other Federal,
7 State, and local agencies, as appropriate.

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

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

11 “(1) integrate nonintrusive imaging inspection
12 and nuclear and radiological detection systems with
13 automatic identification methods for containers, ves-
14 sels, and vehicles;

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

18 “(3) create a data sharing network capable of
19 transmitting data required by entities participating
20 in the international supply chain from every inter-
21 modal transfer point to the National Targeting Cen-
22 ter of the Department; and

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

1 “(b) SUPPLY CHAIN SECURITY FOR SPECIAL CON-
2 TAINER AND NONCONTAINERIZED CARGO.—In providing
3 grants under subsection (a), the Secretary shall establish
4 demonstration projects that further the security of the
5 international supply chain, including refrigerated con-
6 tainers, and noncontainerized cargo, including roll-on/roll-
7 off, break-bulk, liquid, and dry bulk cargo, through real-
8 time, continuous tracking technology for special or high-
9 risk container cargo that poses unusual potential for
10 human or environmental harm.

11 “(c) COMPETITIVE SELECTION PROCESS.—The Sec-
12 retary shall select recipients of grants under subsection
13 (a) through a competitive process on the basis of the fol-
14 lowing criteria:

15 “(1) The extent to which the applicant can
16 demonstrate that personnel, laboratory, and organi-
17 zational resources will be available to the applicant
18 to carry out the activities authorized under this sec-
19 tion.

20 “(2) The applicant’s capability to provide lead-
21 ership in making national and regional contributions
22 to the solution of maritime and cargo security
23 issues.

24 “(3) The extent to which the applicant’s pro-
25 grams, projects, and activities under the grant will

1 address highest risk priorities as determined by the
2 Secretary.

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

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

8 “(d) ADMINISTRATIVE PROVISIONS.—

9 “(1) PROHIBITION ON DUPLICATION OF EF-
10 FORT.—Before providing any grant under subsection
11 (a), the Secretary shall coordinate with other Fed-
12 eral departments and agencies to ensure the grant
13 will not duplicate work already being carried out
14 with Federal funding.

15 “(2) ACCOUNTING, REPORTING, AND REVIEW
16 PROCEDURES.—The Secretary shall establish ac-
17 counting, reporting, and review procedures to ensure
18 that—

19 “(A) amounts made available under a
20 grant provided under subsection (a)—

21 “(i) are used for the purpose for
22 which such amounts were made available;
23 and

24 “(ii) are properly accounted for; and

1 “(B) amounts not used for such purpose
2 and amounts not expended are recovered.

3 “(3) RECORDKEEPING.—The recipient of a
4 grant under subsection (a) shall keep all records re-
5 lated to expenditures and obligations of amounts
6 provided under the grant and make such records
7 available upon request to the Secretary for audit and
8 examination.

9 “(4) REVIEW.—The Secretary shall annually
10 review the programs, projects, and activities carried
11 out using amounts made available under grants pro-
12 vided under subsection (a) to ensure that obligations
13 and expenditures of such amounts are consistent
14 with the purposes for which such amounts are made
15 available.

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

20 “(f) DEFINITION.—In this section, the term ‘Oper-
21 ation Safe Commerce’ means the research, development,
22 test, and evaluation grant program that brings together
23 private sector shareholders, port officials, and Federal,
24 State, and local representatives to analyze existing secu-
25 rity procedures for cargo and develop new security proto-

1 cols that have the potential to increase the security of
2 cargo shipments by monitoring the movement and integ-
3 rity of cargo through the international supply chain.

4 “(g) AUTHORIZATION OF APPROPRIATIONS.—

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

9 “(2) EFFECTIVE DATE.—Paragraph (1) shall
10 be effective beginning on the date on which the Sec-
11 retary submits to the appropriate congressional com-
12 mittees a report on the implementation and results
13 of grants provided under Operation Safe Commerce
14 before the date of the enactment of the Security and
15 Accountability For Every Port Act.

16 **“SEC. 1833. DEFINITIONS.**

17 “In this title, the following definitions apply:

18 “(1) AUTOMATED TARGETING SYSTEM.—The
19 term ‘Automated Targeting System’ means the
20 rules-based system incorporating intelligence mate-
21 rial and import transaction history, established by
22 U.S. Customs and Border Protection to target high
23 risk shipments of cargo.

24 “(2) EXAMINATION.—The term ‘examination’
25 means a physical inspection or the imaging and radi-

1 ation screening of a conveyance using non-intrusive
2 inspection (NII) technology, for the presence of con-
3 traband.

4 “(3) INSPECTION.—The term ‘inspection’
5 means the comprehensive process used by U.S. Cus-
6 toms and Border Protection for assessing goods en-
7 tering the United States to appraise them for duty
8 purposes, to detect the presence of restricted or pro-
9 hibited items, and to ensure compliance with all ap-
10 applicable laws. This process may include screening,
11 conducting an examination, or conducting a search.

12 “(4) INTERNATIONAL SUPPLY CHAIN.—The
13 term ‘international supply chain’ means the end-to-
14 end process for shipping goods from a point of ori-
15 gin overseas to and from the United States.

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

21 “(6) SCREENING.—The term ‘screening’ means
22 a visual or automated review of information about
23 goods, including manifest or entry documentation
24 accompanying a shipment being imported into the

1 United States, to determine or assess the threat of
2 such cargo.

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

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

“TITLE XVIII—SECURITY OF THE INTERNATIONAL SUPPLY
CHAIN

“Subtitle A—General Provisions

- “Sec. 1801. Strategic plan to enhance the security of the international supply chain.
- “Sec. 1802. Transmission of additional data elements for improved high risk targeting.
- “Sec. 1803. Plan to improve the Automated Targeting System.
- “Sec. 1804. Container standards and verification procedures.
- “Sec. 1805. Container Security Initiative (CSI).
- “Sec. 1806. Information sharing relating to supply chain security cooperation.

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

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

“Subtitle C—Miscellaneous Provisions

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

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

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

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

12 (3) develop and implement the plan to improve
13 the Automated Targeting System under section
14 1803(a) of the Homeland Security Act of 2002, as
15 added by subsection (a), not later than 180 days
16 after the date of the enactment of this Act;

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

22 (5) begin exercising authority to issue a “do not
23 load” order to each port designated under CSI pur-
24 suant to section 1805(e) of the Homeland Security
25 Act of 2002, as added by subsection (a), not later

1 than 180 days after the date of the enactment of
2 this Act;

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

8 (7) update guidelines for certifying a C-TPAT
9 participant's security measures and supply chain se-
10 curity practices under section 1814(b) of the Home-
11 land Security Act of 2002, as added by subsection
12 (a), not later than 180 days after the date of the en-
13 actment of this Act;

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

20 (9) provide appropriate benefits described in
21 subsection (d) of section 1816 of the Homeland Se-
22 curity Act of 2002, as added by subsection (a), to
23 C-TPAT participants under section 1816 of such
24 Act beginning not later than two years after the
25 date of the enactment of this Act; and

1 subsection (a), determine if more capable, commercially
2 available technology exists, and whether such technology—

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

5 (2) is capable of being deployed and operated at
6 ports overseas;

7 (3) is capable of integrating, where necessary,
8 with existing systems;

9 (4) does not significantly impact trade capacity
10 and flow of cargo at foreign or United States ports;
11 and

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

15 (c) CONTINGENT IMPLEMENTATION.—If the Sec-
16 retary determines the available technology meets the cri-
17 teria outlined in subsection (b), the Secretary, in coopera-
18 tion with the Secretary of State, shall within 180 days
19 of such determination, seek to secure the cooperation of
20 foreign governments to initiate and maximize the use of
21 such technology at foreign ports to scan all cargo possible.

22 (d) INTERNATIONAL COOPERATION.—If the Sec-
23 retary determines that a proposed technology meets the
24 requirements of subsection (b), but cannot be implemented
25 as a result of a foreign government’s refusal to cooperate

1 in the phased deployment, the Secretary may refuse to ac-
2 cept containerized cargo from that port.

3 (e) REPORT.—The Secretary shall submit to the ap-
4 propriate congressional committees on an annual basis a
5 report on the evaluation performed under subsections (a)
6 and (b), the status of any implementation initiated in ac-
7 cordance with subsection (c), and a detailed assessment
8 of the level of cooperation of foreign governments, as well
9 as any actions taken by the Secretary under subsection
10 (d).

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

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

16 (a) ESTABLISHMENT.—The President shall establish
17 and implement the International Trade Data System, a
18 single, uniform data system for the electronic collection,
19 dissemination, and sharing of import and export informa-
20 tion, to increase the efficiency of data submission and the
21 security of such data related to border security, trade, and
22 public health and safety of international cargoes.

23 (b) PRIVATE SECTOR CONSULTATION.—The Presi-
24 dent shall consult with private sector stakeholders in de-
25 veloping uniform data submission requirements, proce-

1 dures, and schedules under the system established pursu-
2 ant to subsection (a).

3 (c) REPORT.—Not later than 120 days after the date
4 of the enactment of this Act, the President shall transmit
5 to the appropriate congressional committees a report on
6 the schedule for full implementation of the system estab-
7 lished pursuant to subsection (a).

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

12 **SEC. 204. FOREIGN PORT ASSESSMENTS.**

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

15 “(d) PERIODIC REASSESSMENT.—The Secretary, act-
16 ing through the Commandant of the Coast Guard, shall
17 reassess the effectiveness of antiterrorism measures main-
18 tained at ports as described under subsection (a) and of
19 procedures described in subsection (b) not less than every
20 3 years.”.

21 **SEC. 205. PILOT PROGRAM TO IMPROVE THE SECURITY OF**
22 **EMPTY CONTAINERS.**

23 (a) IN GENERAL.—The Secretary of Homeland Secu-
24 rity shall conduct a one-year pilot program to evaluate and
25 improve the security of empty containers at United States

1 seaports to ensure the safe and secure delivery of cargo
2 and to prevent potential acts of terrorism involving such
3 containers. The pilot program shall include the use of vis-
4 ual searches of empty containers at United States sea-
5 ports.

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

10 (1) the results of pilot program; and

11 (2) the determination of the Secretary whether
12 or not to expand the pilot program.

13 **SEC. 206. STUDY AND REPORT ON ADVANCED IMAGERY**
14 **PILOT PROGRAMS.**

15 (a) STUDY.—

16 (1) IN GENERAL.—The Secretary of Homeland
17 Security, in consultation with the Commissioner of
18 U.S. Customs and Border Protection, shall conduct
19 a study of the merits of current container inspection
20 pilot programs which include nuclear or radiological
21 detection, non-intrusive imagery, and density scan-
22 ning capabilities.

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

1 (A) an evaluation of the cost, personnel,
2 and infrastructure required to operate the pilot
3 programs, as well as the cost, personnel, and
4 infrastructure required to move the pilot pro-
5 grams into full-scale deployment to screen all
6 cargo imported from foreign ports;

7 (B) an evaluation of the cost, personnel,
8 and infrastructure required by U.S. Customs
9 and Border Protection to validate the data gen-
10 erated from the pilot programs;

11 (C) a summary of best practices and tech-
12 nological advances of the pilot programs that
13 could be integrated into the Container Security
14 Initiative and other container security pro-
15 grams; and

16 (D) an assessment of the impact of tech-
17 nology or processes utilized in the pilot pro-
18 grams on improving cargo operations and secu-
19 rity.

20 (b) REPORT.—Not later than 60 days after the date
21 of the enactment of this Act, the Secretary shall submit
22 to the appropriate congressional committees a report that
23 contains—

24 (1) the results of the study required under sub-
25 section (a); and

1 (2) recommendations to improve container secu-
2 rity programs within the Department of Homeland
3 Security.

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

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

9 (b) REPORT.—Not later than 180 days after the date
10 of the enactment of this Act, the Secretary shall submit
11 to the appropriate congressional committees a report that
12 contains—

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

15 (2) recommendations to improve and strengthen
16 the activities of NTC.

17 **SEC. 208. INTEGRATED CONTAINER INSPECTION SYSTEM**
18 **PILOT PROJECT.**

19 Not later than 180 days after the date of the enact-
20 ment of this Act, the Secretary of Homeland Security shall
21 conduct a pilot project at an overseas port similar to the
22 Integrated Container Inspection System being tested at
23 the port in Hong Kong.

1 **TITLE III—DIRECTORATE FOR**
2 **POLICY, PLANNING, AND**
3 **INTERNATIONAL AFFAIRS**

4 **SEC. 301. ESTABLISHMENT OF DIRECTORATE.**

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

7 (1) by redesignating title VI as title XIX, and
8 moving such title so as to appear after title XVIII,
9 as added by section 201;

10 (2) by striking the heading for such title and
11 inserting the following:

12 **“TITLE XIX—MISCELLANEOUS**
13 **PROVISIONS”.**

14 (3) by redesignating section 601 as section
15 1901; and

16 (4) by inserting after title V the following new
17 title:

18 **“TITLE VI—POLICY, PLANNING,**
19 **AND INTERNATIONAL AFFAIRS**

20 **“SEC. 601. DIRECTORATE FOR POLICY, PLANNING, AND**
21 **INTERNATIONAL AFFAIRS.**

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

25 “(b) UNDER SECRETARY FOR POLICY.—

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

4 “(2) QUALIFICATIONS.—No individual shall be
5 appointed Under Secretary for Policy under para-
6 graph (1) unless the individual has, by education
7 and experience, demonstrated knowledge, ability,
8 and skill in the fields of policy and strategic plan-
9 ning.

10 “(c) RESPONSIBILITIES OF UNDER SECRETARY.—

11 “(1) POLICY RESPONSIBILITIES.—Subject to
12 the direction and control of the Secretary, the policy
13 responsibilities of the Under Secretary for Policy
14 shall be as follows:

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

17 “(B) To provide overall direction and su-
18 pervision of policy development for the pro-
19 grams, offices, and activities of the Depart-
20 ment.

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

23 “(D) To analyze, evaluate, and review the
24 completed, ongoing, and proposed programs of
25 the Department to ensure they are compatible

1 with the statutory and regulatory responsibil-
2 ities of the Department and with the Sec-
3 retary's priorities, strategic plans, and policies.

4 “(E) To ensure that the budget of the De-
5 partment (including the development of future
6 year budgets and interaction with the Office of
7 Management and Budget and with Congress) is
8 compatible with the statutory and regulatory re-
9 sponsibilities of the Department and with the
10 Secretary's priorities, strategic plans, and poli-
11 cies.

12 “(F) To represent the Department in any
13 development of policy that requires the Depart-
14 ment to consult with another Federal agency,
15 the Office of the President, a foreign govern-
16 ment, or any other governmental or private sec-
17 tor entity.

18 “(G) To supervise and oversee policy devel-
19 opment undertaken by the component agencies
20 and offices of the Department.

21 “(H) To provide for the coordination and
22 maintenance of the trade and customs revenue
23 functions of the Department.

24 “(2) STRATEGIC PLANNING RESPONSIBIL-
25 ITIES.—Subject to the direction and control of the

1 Secretary, the strategic planning responsibilities of
2 the Under Secretary for Policy shall be as follows:

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

5 “(B) To prepare national and Department
6 strategies, as appropriate.

7 “(C) To conduct net assessments of issues
8 facing the Department.

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

13 “(A) To promote the exchange of informa-
14 tion and the sharing of best practices and tech-
15 nology relating to homeland security with na-
16 tions friendly to the United States, including—

17 “(i) the exchange of information on
18 research and development on homeland se-
19 curity technologies;

20 “(ii) joint training exercises of first
21 responders in coordination with the Assist-
22 ant Secretary for Grants and Training;
23 and

1 “(iii) exchanging expertise and infor-
2 mation on terrorism prevention, response,
3 and crisis management.

4 “(B) To identify any homeland security-re-
5 lated area in which the United States and other
6 nations and appropriate international organiza-
7 tions could collaborate to improve capabilities
8 and to encourage the exchange of information
9 or sharing of best practices and technology re-
10 lating to that area.

11 “(C) To plan and participate in inter-
12 national conferences, exchange programs (in-
13 cluding the exchange of scientists, engineers,
14 and other experts), and other training activities
15 with friendly nations.

16 “(D) To manage international activities
17 within the Department in coordination with
18 other Federal officials with responsibility for
19 counterterrorism matters.

20 “(E) To oversee the activities of Depart-
21 ment personnel operating in other countries or
22 traveling to other countries.

23 “(F) To represent the Department in
24 international negotiations, working groups, and
25 standards-setting bodies.

1 “(4) PRIVATE SECTOR.—

2 “(A) To create and foster strategic com-
3 munications with the private sector to enhance
4 the primary mission of the Department to pro-
5 tect the United States.

6 “(B) To advise the Secretary on the im-
7 pact on the private sector of the policies, regu-
8 lations, processes, and actions of the Depart-
9 ment.

10 “(C) To create and manage private sector
11 advisory councils composed of representatives of
12 industries and associations designated by the
13 Secretary—

14 “(i) to advise the Secretary on private
15 sector products, applications, and solutions
16 as they relate to homeland security chal-
17 lenges; and

18 “(ii) to advise the Secretary on home-
19 land security policies, regulations, proc-
20 esses, and actions that affect the partici-
21 pating industries and associations.

22 “(D) To promote existing public-private
23 partnerships and develop new public-private
24 partnerships to provide for collaboration and

1 mutual support to address homeland security
2 challenges.

3 “(E) To identify private sector resources
4 and capabilities that could be effective in
5 supplementing functions of the Department and
6 State and local governments to prevent or re-
7 spond to acts of terrorism.

8 “(F) To coordinate among the Depart-
9 ment’s operating entities and with the Assistant
10 Secretary for Trade Development of the De-
11 partment of Commerce on issues related to the
12 travel and tourism industries.

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

15 “(A) ensure that the trade and customs
16 revenue functions of the Department are coordi-
17 nated within the Department and with other
18 Federal departments and agencies, and that the
19 impact on legitimate trade is taken into account
20 in any action impacting these functions; and

21 “(B) monitor and report to Congress on
22 the Department’s mandate to ensure that the
23 trade and customs revenue functions of the De-
24 partment are not diminished, including how
25 spending, operations, and personnel related to

1 these functions have kept pace with the level of
2 trade entering the United States.

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

4 “(a) ESTABLISHMENT.—There is established within
5 the Directorate of Policy, Planning, and International Af-
6 fairs an Office of International Affairs. The Office shall
7 be headed by an Assistant Secretary, who shall be ap-
8 pointed by the Secretary.

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

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

16 “(A) Exchange of information on research
17 and development on homeland security tech-
18 nologies.

19 “(B) Joint training exercises of first re-
20 sponders.

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

23 “(2) To identify areas for homeland security in-
24 formation and training exchange where the United
25 States has a demonstrated weakness and another

1 friendly nation or nations have a demonstrated ex-
2 pertise.

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

5 “(4) To manage international activities within
6 the Department in coordination with other Federal
7 officials with responsibility for counter-terrorism
8 matters.

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

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

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

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

18 “(A) a Secure Border Initiative Program
19 Office; and

20 “(B) a Screening Coordination and Oper-
21 ations Office.

22 “(3) The Office of the Private Sector, which
23 shall be administered by an Assistant Secretary for
24 the Private Sector.

25 “(4) The Victim Assistance Officer.

1 “(5) The Tribal Security Officer.

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

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

5 “(1) IN GENERAL.—There shall be in the Di-
6 rectorate for Policy, Planning, and International Af-
7 fairs a Director of Cargo Security Policy (herein-
8 after in this subsection referred to as the ‘Director’),
9 who shall be subject to the direction and control of
10 the Under Secretary for Policy.

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

12 “(A) advise the Assistant Secretary for
13 Policy regarding all aspects of Department pro-
14 grams relating to cargo security;

15 “(B) develop Department-wide policies re-
16 garding cargo security; and

17 “(C) coordinate the cargo security policies
18 and programs of the Department with other
19 Federal departments and agencies, including by
20 working with officials of the Department of En-
21 ergy and the Department of State, as appro-
22 priate, in negotiating international agreements
23 relating to cargo security.

24 “(c) DIRECTOR OF TRADE POLICY.—

1 “(1) IN GENERAL.—There shall be in the Di-
2 rectorate for Policy, Planning, and International Af-
3 fairs a Director of Trade Policy (hereinafter in this
4 subsection referred to as the ‘Director’), who shall
5 be subject to the direction and control of the Under
6 Secretary for Policy.

7 “(2) RESPONSIBILITIES.—The Director shall—
8 “(A) advise the Assistant Secretary for
9 Policy regarding all aspects of Department pro-
10 grams relating to the trade and customs rev-
11 enue functions of the Department;

12 “(B) develop Department-wide policies re-
13 garding trade and customs revenue functions
14 and trade facilitation; and

15 “(C) coordinate the trade and customs rev-
16 enue-related programs of the Department with
17 other Federal departments and agencies.

18 **“SEC. 604. CONSULTATION ON TRADE AND CUSTOMS REV-**
19 **ENUE FUNCTIONS.**

20 “(a) IN GENERAL.—The Secretary and the Under
21 Secretary for Policy shall consult with representatives of
22 the business community involved in international trade, in-
23 cluding seeking the advice and recommendations of the
24 Commercial Operations Advisory Committee (COAC), on
25 Department policies and actions that have a significant

1 impact on international trade and customs revenue func-
2 tions.

3 “(b) COAC CONSULTATION AND NOTIFICATION.—

4 “(1) IN GENERAL.—Subject to paragraph (2),
5 the Secretary shall seek the advice and recommenda-
6 tions of COAC on any proposed Department policies,
7 initiatives, actions, or organizational reforms that
8 will have a major impact on trade and customs rev-
9 enue functions not later than 45 days prior to the
10 finalization of the policies, initiatives, actions, or or-
11 ganizational reforms.

12 “(2) EXCEPTION.—If the Secretary determines
13 that it is important to the national security interest
14 of the United States to finalize any proposed De-
15 partment policies, initiatives, actions, or organiza-
16 tional reforms prior to the provision of advice and
17 recommendations described in paragraph (1), the
18 Secretary shall—

19 “(A) seek the advice and recommendations
20 of COAC on the policies, initiatives, actions, or
21 organizational reforms not later than 30 days
22 after the date on which the policies, initiatives,
23 actions, or organizational reforms are finalized;
24 and

1 “(B) to the extent appropriate, modify the
2 policies, initiatives, actions, or organizational
3 reforms based upon the advice and rec-
4 ommendations of COAC.

5 “(c) CONGRESSIONAL CONSULTATION AND NOTIFI-
6 CATION.—

7 “(1) IN GENERAL.—Subject to paragraph (2),
8 the Secretary shall consult with and provide any rec-
9 ommendations of COAC received under subsection
10 (b) to the appropriate congressional committees not
11 later than 30 days prior to the finalization of any
12 Department policies, initiatives, actions or organiza-
13 tional reforms that will have a major impact on
14 trade and customs revenue functions.

15 “(2) EXCEPTION.—If the Secretary determines
16 that it is important to the national security interest
17 of the United States to finalize any Department
18 policies, initiatives, actions, or organizational re-
19 forms prior to the consultation described in para-
20 graph (1), the Secretary shall—

21 “(A) consult with and provide any rec-
22 ommendations of COAC received under sub-
23 section (b) to the appropriate congressional
24 committees not later than 45 days after the

1 date on which the policies, initiative, actions, or
 2 organizational reforms are finalized; and

3 “(B) to the extent appropriate, modify the
 4 policies, initiatives, actions, or organizational
 5 reforms based upon the consultations with the
 6 appropriate congressional committees.”.

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

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

12 (1) by striking the item relating to section 879;

13 (2) by striking the items relating to title VI and
 14 inserting the following:

“TITLE VI—POLICY, PLANNING, AND INTERNATIONAL AFFAIRS

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

“Sec. 602. Office of International Affairs.

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

15 and

16 (3) by inserting after the items relating to title
 17 XVIII the following:

“TITLE XIX—MISCELLANEOUS PROVISIONS

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

18 **SEC. 302. STUDY AND REPORT ON CUSTOMS REVENUE**
 19 **FUNCTIONS.**

20 (a) STUDY.—

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

7 (2) ANALYSIS.—The study shall include an
8 analysis of—

9 (A) the extent to which the customs rev-
10 enue functions carried out by the former U.S.
11 Customs Service have been consolidated with
12 other functions of the Department (including
13 the assignment of non-customs revenue func-
14 tions to personnel responsible for customs rev-
15 enue collection), discontinued, or diminished fol-
16 lowing the transfer of the U.S. Customs Service
17 to the Department;

18 (B) the extent to which staffing levels or
19 resources attributable to customs revenue func-
20 tions have decreased since the transfer of the
21 U.S. Customs Service to the Department; and

22 (C) the extent to which the management
23 structure created by the Department ensures
24 effective trade facilitation and customs revenue
25 collection.

1 (b) REPORT.—Not later than 180 days after the date
 2 of the enactment of this Act, the Comptroller General shall
 3 submit to the appropriate congressional committees a re-
 4 port on the results of study conducted under subsection
 5 (a).

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

10 **TITLE IV—OFFICE OF DOMESTIC** 11 **NUCLEAR DETECTION**

12 **SEC. 401. ESTABLISHMENT OF OFFICE.**

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

16 **“TITLE XX—OFFICE OF DOMES-** 17 **TIC NUCLEAR DETECTION**

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

19 “(a) IN GENERAL.—There shall be in the Depart-
 20 ment of Homeland Security a Domestic Nuclear Detection
 21 Office.

22 “(b) PURPOSE.—The purpose of the Office shall be
 23 to protect against the unauthorized importation, posses-
 24 sion, storage, transportation, development, or use of a nu-

1 clear explosive device, fissile material, or radiological ma-
2 terial against the United States.

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

7 “(d) LIMITATION.—This title shall not be construed
8 to affect the performance, by directorates and agencies of
9 the Department other than the Office, of functions that
10 are not related to detection and prevention of nuclear and
11 radiological terrorism.

12 **“SEC. 2002. FUNCTIONS OF DIRECTOR OF THE DOMESTIC**
13 **NUCLEAR DETECTION OFFICE, GENERALLY.**

14 “(a) IN GENERAL.—The Secretary shall vest in the
15 Director the primary responsibility in the Department
16 for—

17 “(1) administering all nuclear and radiological
18 detection and prevention functions and assets of the
19 Department, including those functions vested in the
20 Department before the enactment of the Security
21 and Accountability For Every Port Act; and

22 “(2) for coordinating such administration with
23 nuclear and radiological detection and prevention ac-
24 tivities of other Federal departments and agencies.

1 “(b) TRANSFER OF FUNCTIONS.—The Secretary
2 shall transfer to the Director the authority to administer,
3 or supervise the administration of, all functions, per-
4 sonnel, assets, and liabilities of all Department programs
5 and projects relating to nuclear and radiological detection
6 research, development, testing, and evaluation, and nu-
7 clear and radiological detection system acquisition and de-
8 ployment, including with respect to functions and assets
9 transferred by section 303(1)(B), (C), and (E) and func-
10 tions, assets, and personnel transferred pursuant to sec-
11 tion 2010(c).

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

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

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

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

20 “(2) implement Department components of the
21 strategy in the United States; and

22 “(3) coordinate Department and Federal inter-
23 agency efforts to deploy the elements of the global
24 nuclear detection architecture outside the United
25 States.

1 “(c) RELATIONSHIP TO OTHER DEPARTMENTS AND
2 AGENCIES.—The authority of the Director under this sec-
3 tion shall not affect an authority or responsibility of any
4 other department or agency of the Federal Government
5 with respect to the deployment of nuclear and radiological
6 detection systems under any program administered by
7 that department or agency.

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

9 “(a) IN GENERAL.—The Director shall carry out a
10 research and development program to achieve trans-
11 formational and evolutionary improvements in detection
12 capabilities for shielded and unshielded nuclear explosive
13 devices and radiological dispersion devices.

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

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

23 “(d) COORDINATION WITH OTHER FEDERAL PRO-
24 GRAMS.—The Director shall coordinate implementation of
25 the program with other Federal agencies performing simi-

1 lar research and development in order to accelerate the
2 development of effective technologies, promote technology
3 sharing, and to avoid duplication, including through the
4 use of the interagency coordination council established
5 under section 2013.

6 **“SEC. 2005. SYSTEM ASSESSMENTS.**

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

10 “(b) PERFORMANCE METRICS.—The Director shall
11 establish performance metrics for evaluating the effective-
12 ness of individual detectors and detection systems in de-
13 tecting nuclear explosive devices or fissile or radiological
14 material—

15 “(1) under realistic operational and environ-
16 mental conditions; and

17 “(2) against realistic adversary tactics and
18 countermeasures.

19 “(c) PROVISION OF TESTING SERVICES.—

20 “(1) IN GENERAL.—The Director may, under
21 the program, make available testing services to de-
22 velopers of detection technologies. The results of the
23 tests performed with services made available under
24 this subsection shall be confidential and may not be
25 disclosed to individuals or entities outside of the

1 Federal Government without the consent of the de-
2 veloper for whom the tests are performed.

3 “(2) FEES.—The Director may charge fees, as
4 appropriate, for performance of services under this
5 subsection.

6 “(d) SYSTEM ASSESSMENTS.—

7 “(1) IN GENERAL.—The Director shall periodi-
8 cally perform system-wide assessments of the global
9 nuclear detection architecture to identify
10 vulnerabilities and to gauge overall system perform-
11 ance against nuclear and radiological threats.

12 “(2) INCLUDED ACTIVITIES.—The assessments
13 shall include—

14 “(A) red teaming activities to identify
15 vulnerabilities and possible modes of attack and
16 concealment methods; and

17 “(B) net assessments to determine archi-
18 tecture performance against adversary tactics
19 and concealment methods.

20 “(3) USE.—The Director shall use the assess-
21 ments to guide deployment of the global nuclear de-
22 tection architecture and the research and develop-
23 ment activities of the Office.

1 **“SEC. 2006. TECHNOLOGY ACQUISITION, DEPLOYMENT,**
2 **SUPPORT, AND TRAINING.**

3 “(a) ACQUISITION STRATEGY.—

4 “(1) IN GENERAL.—The Director shall develop
5 and, subject to the availability of appropriations,
6 execute a strategy for the acquisition and deploy-
7 ment of detection systems in order to implement the
8 Department components of the global nuclear detec-
9 tion architecture developed under section 2003.

10 “(2) USE OF AVAILABLE CONTRACTING PROCE-
11 DURES.—The Director shall make use of all con-
12 tracting procedures available to the Secretary to im-
13 plement the acquisition strategy.

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

1 anti-terrorism technologies that qualify for such pro-
2 tection.

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

7 “(c) OPERATIONAL SUPPORT AND PROTOCOLS.—

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

12 “(2) OPERATIONAL PROTOCOLS.—The Director
13 shall develop operational protocols for detection tech-
14 nology acquired and deployed to implement the ac-
15 quisition strategy, including procedures for alarm
16 resolution and notification of appropriate response
17 agencies in the event that illicit nuclear, radioactive,
18 or fissile materials are detected by such a product or
19 service.

20 “(3) TECHNICAL REACHBACK.—The Director
21 will ensure that the expertise necessary to accurately
22 interpret detection data is made available in a timely
23 manner for all technology deployed to implement the
24 global nuclear detection architecture.

1 “(d) TRAINING.—The Director shall develop and dis-
2 tribute training materials and provide training to all end-
3 users of technology acquired by the Director under the ac-
4 quisition strategy.

5 “(e) SOLICITATION OF END-USER INPUT.—In devel-
6 oping requirements for the research and development pro-
7 gram of section 2004 and requirements for the acquisition
8 of detection systems to implement the strategy in sub-
9 section (a), the Director shall solicit input from end-users
10 of such systems.

11 “(f) STATE AND LOCAL SUPPORT.—Upon request,
12 the Director shall provide guidance regarding radiation
13 detection technology acquisitions to be made by State, ter-
14 ritorial, tribal and local governments and emergency re-
15 sponse providers.

16 **“SEC. 2007. SITUATIONAL AWARENESS.**

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

18 “(1) shall continuously monitor detection infor-
19 mation received from foreign and domestic detection
20 systems to maintain for the Department a situa-
21 tional awareness of all nuclear threats;

22 “(2) shall gather and archive—

23 “(A) detection data measurements taken of
24 benign activities in the normal flows of com-
25 merce; and

1 “(B) alarm data, including false alarms
2 and nuisance alarms.

3 “(b) INFORMATION SHARING.—The Director shall
4 coordinate with other governmental agencies to ensure
5 that the detection of unauthorized nuclear explosive de-
6 vices, fissile material, or radiological material is promptly
7 reported to all appropriate Federal response agencies in-
8 cluding the Attorney General, the Director of the Federal
9 Bureau of Investigation, the Secretary of Defense, and the
10 Secretary of Energy.

11 “(c) INCIDENT RESOLUTION.—The Director shall as-
12 sess nuclear threats communicated by Federal, State, trib-
13 al, or local officials and provide adequate technical
14 reachback capability for swift and effective incident resolu-
15 tion.

16 “(d) SECURITY.—The Director shall—

17 “(1) develop and implement security standards
18 and protocols for the control and protection of all
19 classified or sensitive information in possession of
20 the Office; and

21 “(2) ensure that relevant personnel of the Of-
22 fice have the required security clearances to properly
23 handle such information.

1 **“SEC. 2008. FORENSIC ANALYSIS.**

2 “The Director shall perform all research, develop-
3 ment, and acquisition activities of the Department per-
4 taining to forensic analysis and attribution of nuclear and
5 radiological attacks.

6 **“SEC. 2009. THREAT INFORMATION.**

7 “(a) **THREAT ASSESSMENTS.**—The Director shall
8 utilize classified and unclassified nuclear and radiological
9 threat assessments in designing the global nuclear detec-
10 tion architecture under section 2003, prioritizing detection
11 system deployments, and testing and optimizing system
12 performance of that architecture, including assessments
13 of—

14 “(1) smuggling routes;

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

17 “(3) relevant terrorist tradecraft and conceal-
18 ment methods;

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

21 “(b) **ACCESS TO INFORMATION.**—The Secretary shall
22 provide the Director access to all information relating to
23 nuclear and radiological threats, including reports, assess-
24 ments, analyses, and unevaluated intelligence, that is nec-
25 essary to successfully design, deploy, and support the op-

1 eration of an effective global detection architecture under
2 section 1903.

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

8 “(d) ANALYTICAL EXPERTISE.—For the purposes of
9 performing any of the assessments required under sub-
10 section (a), the Director, subject to the availability of ap-
11 propriations, may hire professional personnel who are ana-
12 lysts with experience in performing nuclear and radio-
13 logical threat assessments.

14 “(e) COLLECTION REQUESTS.—The Director shall
15 recommend to the Secretary consultation that should
16 occur pursuant to section 201(d)(10) regarding intel-
17 ligence collection to design, deploy, and support the oper-
18 ation of the global detection architecture under section
19 2003.

20 **“SEC. 2010. ADMINISTRATIVE AUTHORITIES.**

21 “(a) HIRING.—In hiring personnel for the Office, the
22 Secretary shall have hiring and management authorities
23 described in section 1101 of the Strom Thurmond Na-
24 tional Defense Authorization Act for Fiscal Year 1999 (5
25 U.S.C. 3104 note; Public Law 105–261). The term of ap-

1 pointments for employees under subsection (c)(1) of that
2 section may not exceed 5 years before granting any exten-
3 sion under subsection (c)(2) of that section.

4 “(b) **DETAIL OF PERSONNEL.**—In order to assist the
5 Director in discharging the Director’s responsibilities, per-
6 sonnel of other Federal agencies may be detailed to the
7 Office for the performance of analytic functions and re-
8 lated duties.

9 “(c) **TRANSFER OF SCIENCE AND TECHNOLOGY**
10 **FUNCTIONS, PERSONNEL, AND ASSETS.**—

11 “(1) **TRANSFER REQUIRED.**—Except as pro-
12 vided in paragraph (2), the Secretary shall transfer
13 to the Director the functions, assets, and personnel
14 of the Department relating to radiological and nu-
15 clear countermeasures, including forensics of con-
16 taminated evidence and attack attribution.

17 “(2) **EXCEPTIONS.**—The Secretary shall not
18 transfer under paragraph (1) functions, assets, and
19 personnel relating to consequence management and
20 recovery.

21 “(3) **ELIMINATION OF DUPLICATION OF EF-**
22 **FORT.**—The Secretary shall ensure that to the ex-
23 tent there are complementary functions vested in the
24 Directorate of Science and Technology and the Of-
25 fice with respect to radiological and nuclear counter-

1 measures, the Under Secretary for Science and
2 Technology and the Director coordinate the pro-
3 grams they administer to eliminate duplication and
4 increase integration opportunities, particularly with
5 respect to technology development and test and eval-
6 uation.

7 **“SEC. 2011. REPORT REQUIREMENT.**

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

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

12 “(2) The status of implementation of such ar-
13 chitecture.

14 “(3) The schedule for future detection system
15 deployments under such architecture.

16 “(4) The research and development program of
17 the Office.

18 “(5) A summary of actions taken by the Office
19 during the reporting period to counter nuclear and
20 radiological threats.

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

22 “(a) ESTABLISHMENT.—Pursuant to section 871 of
23 this Act, the Secretary shall establish within the Office
24 an Advisory Council on Nuclear Detection, which shall re-

1 port to the Director (in this section referred to as the ‘Ad-
2 visory Council’).

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

5 “(1) advise the Director on recommendations
6 for the global nuclear detection architecture devel-
7 oped under section 2003(a);

8 “(2) identify research areas for development of
9 next-generation and transformational nuclear and
10 radiological detection technologies; and

11 “(3) and have such additional responsibilities as
12 the Director may assign in furtherance of the De-
13 partment’s homeland security mission with respect
14 to enhancing domestic and international nuclear and
15 radiological detection capabilities.

16 “(c) MEMBERSHIP.—The Advisory Council shall con-
17 sist of 5 members appointed by the Director, who shall—

18 “(1) be individuals who have an eminent knowl-
19 edge and technical expertise related to nuclear and
20 radiological detection research and development and
21 radiation detection;

22 “(2) be selected solely on the basis of their es-
23 tablished record of distinguished service; and

1 “(3) not be employees of the Federal Govern-
2 ment, other than employees of National Labora-
3 tories.

4 “(d) CONFLICT OF INTEREST RULES.—The Advisory
5 Council shall establish rules for determining when one of
6 its members has a conflict of interest in a matter being
7 considered by the Advisory Council, and the appropriate
8 course of action to address such conflicts of interest.

9 **“SEC. 2013. INTERAGENCY COORDINATION COUNCIL.**

10 “The President—

11 “(1) shall establish an interagency coordination
12 council to facilitate interagency cooperation for pur-
13 poses of implementing this title;

14 “(2) shall appoint the Secretary to chair the
15 interagency coordination council; and

16 “(3) may appoint the Attorney General, the
17 Secretary of Energy, the Secretary of State, the Sec-
18 retary of Defense, and the heads of other appro-
19 priate Federal agencies to designate members to
20 serve on such council.

21 **“SEC. 2014. AUTHORIZATION OF APPROPRIATIONS.**

22 ““There is authorized to be appropriated to carry out
23 this title—

24 “(1) \$536,000,000 for fiscal year 2007; and

1 “(2) such sums as may be necessary for each
2 subsequent fiscal year.

3 **“SEC. 2015. DEFINITIONS.**

4 “In this title:

5 “(1) The term ‘Director’ means the Director of
6 the Domestic Nuclear Detection Office.

7 “(2) The term ‘fissile materials’ means mate-
8 rials capable of sustaining a nuclear chain reaction.

9 “(3) The term ‘global nuclear detection archi-
10 tecture’ means a multi-layered system of detectors
11 deployed internationally and domestically to detect
12 and interdict nuclear and radiological materials in-
13 tended for illicit use.

14 “(4) The term ‘nuclear and radiological detec-
15 tion system’ means any technology that is capable of
16 detecting or identifying nuclear and radiological ma-
17 terial or explosive devices.

18 “(5) The term ‘Office’ means the Domestic Nu-
19 clear Detection Office.

20 “(6) The term ‘radiological material’ means
21 material that emits nuclear radiation.

22 “(7) The term ‘nuclear explosive device’ means
23 an explosive device capable of producing a nuclear
24 yield.

1 “(8) The term ‘technical reachback’ means
2 technical expert support provided to operational end
3 users for data interpretation and alarm resolution.

4 “(9) The term ‘transformational’ means that, if
5 successful, will produce dramatic technological im-
6 provements over existing capabilities in the areas of
7 performance, cost, or ease of use.”.

8 (b) CONFORMING AMENDMENTS.—

9 (1) Section 103(d) of the Homeland Security
10 Act of 2002 (6 U.S.C. 113(d)) is amended by adding
11 at the end the following:

12 “(5) A Director of the Domestic Nuclear Detec-
13 tion Office.”.

14 (2) Section 302 of such Act (6 U.S.C. 182) is
15 amended—

16 (A) in paragraph (2) by striking “radio-
17 logical, nuclear,”; and

18 (B) in paragraph (5)(A) by striking “radi-
19 ological, nuclear,”.

20 (3) Section 305 of such Act (6 U.S.C. 185) is
21 amended by inserting “and the Director of the Do-
22 mestic Nuclear Detection Office” after “Tech-
23 nology”.

24 (4) Section 308 of such Act (6 U.S.C. 188) is
25 amended in each of subsections (a) and (b)(1) by in-

1 Office of the Department, shall submit to the appropriate
2 congressional committees a strategy for the deployment of
3 nuclear and radiological detection systems at all remaining
4 United States seaports.

5 (c) CONTENTS.—The strategy submitted under sub-
6 section (b) shall include—

7 (1) a risk-based prioritization of United States
8 seaports at which nuclear and radiological detection
9 systems will be deployed;

10 (2) a proposed timeline of when nuclear and ra-
11 diological detection systems will be deployed at each
12 of the seaports identified under paragraph (1);

13 (3) the type of systems to be used at each of
14 the seaports identified under paragraph (1);

15 (4) standard operating procedures for exam-
16 ining containers with such systems;

17 (5) the Department policy for using nuclear
18 and radiological detection systems;

19 (6) a classified annex that details plans for cov-
20 ert testing; and

21 (7) a classified annex that outlines the risk-
22 based prioritization of seaports used under para-
23 graph (1).

24 (d) SAFETY PLAN.—Not later than 180 days after
25 the date of the enactment of this Act, the Secretary shall

1 submit to the appropriate congressional committees a plan
2 that—

3 (1) details the health and safety impacts of nu-
4 clear and radiological detection systems; and

5 (2) describes the policy of U.S. Customs and
6 Border Protection for using nuclear and radiological
7 detection systems.

8 (e) PILOT PROGRAM.—

9 (1) IN GENERAL.—Not later than January 1,
10 2007, the Secretary, acting through the Director of
11 the Domestic Nuclear Detection Office of the De-
12 partment, shall initiate a pilot program to deploy
13 and test the operational performance of next-genera-
14 tion radiation portal monitors at one or more United
15 States seaports with a high-volume of containerized
16 cargo.

17 (2) REPORT.—Not later than March 31, 2007,
18 the Secretary shall submit to the appropriate con-
19 gressional committees a report that contains—

20 (A) a description of the next-generation ra-
21 diation portal monitors deployed at United
22 States seaports under the pilot program;

23 (B) a description of the operational charac-
24 teristics of the pilot program at selected United
25 States seaports; and

1 (C) an evaluation of the operational per-
2 formance of the next-generation radiation portal
3 monitors, including nuisance alarm rates, and a
4 description of the standards used in such eval-
5 uation.

6 (f) DEPLOYMENT OF NEXT-GENERATION RADIATION
7 PORTAL MONITORS.—

8 (1) IN GENERAL.—If the Secretary, acting
9 through the Director of the Domestic Nuclear De-
10 tection Office of the Department, determines that
11 the operational performance of the next-generation
12 radiation portal monitors under the pilot program
13 carried out under subsection (e) has met the stand-
14 ards described subsection (e)(2)(C), the Secretary
15 shall deploy next-generation radiation portal mon-
16 itors, in fixed or other configurations, at all United
17 States seaports with a high-volume of containerized
18 cargo to improve cargo screening capabilities at such
19 seaports not later than September 30, 2007.

20 (2) CONGRESSIONAL NOTIFICATION.—If any de-
21 ployment of next-generation radiation portal mon-
22 itors is deemed by the Secretary to be operationally
23 infeasible or would result in ineffective, inefficient,
24 or otherwise wasteful use of resources, the Secretary

1 shall notify the appropriate congressional committees
2 and recommend alternative actions.

3 (g) ENHANCING OVERSEAS DETECTION CAPABILI-
4 TIES.—The Secretary, acting through the Director of the
5 Domestic Nuclear Detection Office of the Department,
6 shall work with appropriate Federal departments and
7 agencies to coordinate the installation of nuclear and radi-
8 ological detection systems at foreign seaports.

9 (h) DEFINITIONS.—In this section:

10 (1) NEXT-GENERATION RADIATION PORTAL
11 MONITORS.—The term “next-generation radiation
12 portal monitors” means non-intrusive, containerized
13 cargo examination technologies that possess radio-
14 nuclide isotope identification capabilities.

15 (2) NUCLEAR AND RADIOLOGICAL DETECTION
16 SYSTEM.—The term “nuclear and radiological detec-
17 tion system” means any technology that is capable
18 of detecting or identifying nuclear and radiological
19 material or explosive devices.

Passed the House of Representatives May 4, 2006.

Attest:

Clerk.