

113TH CONGRESS
2^D SESSION

H. R. 3488

AN ACT

To establish the conditions under which the Secretary of Homeland Security may establish preclearance facilities, conduct preclearance operations, and provide customs services outside the United States, 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.**

2 This Act may be cited as the “Peclearance Author-
3 ization Act of 2014”.

4 **SEC. 2. DEFINITION.**

5 In this Act, the term “appropriate congressional com-
6 mittees” means the Committee on Homeland Security and
7 the Committee on Ways and Means of the House of Rep-
8 resentatives and the Committee on Homeland Security
9 and Governmental Affairs and the Committee on Finance
10 of the Senate.

11 **SEC. 3. ESTABLISHMENT OF PRECLEARANCE OPERATIONS.**

12 Pursuant to section 1629 of title 19, United States
13 Code, and subject to section 5, the Secretary of Homeland
14 Security may establish U.S. Customs and Border Protec-
15 tion preclearance operations in a foreign country to—

16 (1) prevent terrorists, instruments of terrorism,
17 and other security threats from entering the United
18 States;

19 (2) prevent inadmissible persons from entering
20 the United States;

21 (3) ensure merchandise destined for the United
22 States complies with applicable laws;

23 (4) ensure the prompt processing of persons eli-
24 gible to travel to the United States; and

1 (5) accomplish such other objectives as the Sec-
2 retary determines necessary to protect the United
3 States.

4 **SEC. 4. NOTIFICATION AND CERTIFICATION TO CONGRESS.**

5 (a) NOTIFICATION.—Not later than 180 days before
6 entering into an agreement with the government of a for-
7 eign country to establish U.S. Customs and Border Pro-
8 tection preclearance operations in such foreign country,
9 the Secretary of Homeland Security shall provide to the
10 appropriate congressional committees the following:

11 (1) A copy of the proposed agreement to estab-
12 lish such preclearance operations, including an iden-
13 tification of the foreign country with which U.S.
14 Customs and Border Protection intends to enter into
15 a preclearance agreement, and the location at which
16 such preclearance operations will be conducted.

17 (2) An estimate of the date on which U.S. Cus-
18 toms and Border Protection intends to establish
19 preclearance operations under such agreement.

20 (3) The anticipated funding sources for
21 preclearance operations under such agreement, and
22 other funding sources considered.

23 (4) An assessment of the impact such
24 preclearance operations will have on legitimate trade

1 and travel, including potential impacts on passengers
2 traveling to the United States.

3 (5) A homeland security threat assessment for
4 the country in which such preclearance operations
5 are to be established.

6 (6) An assessment of the impacts such
7 preclearance operations will have on U.S. Customs
8 and Border Protection domestic port of entry staff-
9 ing.

10 (7) Information on potential economic, competi-
11 tive, and job impacts on United States air carriers
12 associated with establishing such preclearance oper-
13 ations.

14 (8) Information on the anticipated homeland se-
15 curity benefits associated with establishing such
16 preclearance operations.

17 (9) Information on potential security
18 vulnerabilities associated with commencing such
19 preclearance operations, and mitigation plans to ad-
20 dress such potential security vulnerabilities.

21 (10) A U.S. Customs and Border Protection
22 staffing model for such preclearance operations, and
23 plans for how such positions would be filled.

1 (11) Information on the anticipated costs over
2 the next five fiscal years associated with com-
3 mencing such preclearance operations.

4 (12) A copy of the agreement referred to in
5 subsection (a) of section 5.

6 (13) Other factors that the Secretary of Home-
7 land Security determines to be necessary for Con-
8 gress to comprehensively assess the appropriateness
9 of commencing such preclearance operations.

10 (b) CERTIFICATIONS RELATING TO PRECLEARANCE
11 OPERATIONS ESTABLISHED AT AIRPORTS.—In the case of
12 an airport, in addition to the notification requirements
13 under subsection (a), not later than 90 days before enter-
14 ing into an agreement with the government of a foreign
15 country to establish U.S. Customs and Border Protection
16 preclearance operations at an airport in such foreign coun-
17 try, the Secretary of Homeland Security shall provide to
18 the appropriate congressional committees the following:

19 (1) A certification that preclearance operations
20 under such preclearance agreement would provide
21 homeland security benefits to the United States.

22 (2) A certification that preclearance operations
23 within such foreign country will be established under
24 such agreement only if—

1 (A) at least one United States passenger
2 carrier operates at such airport; and

3 (B) the access of all United States pas-
4 senger carriers to such preclearance operations
5 is the same as the access of any non-United
6 States passenger carrier.

7 (3) A certification that the Secretary of Home-
8 land Security has considered alternative options to
9 preclearance operations and has determined that
10 such options are not the most effective means of
11 achieving the objectives specified in section 3.

12 (4) A certification that the establishment of
13 preclearance operations in such foreign country will
14 not significantly increase customs processing times
15 at United States airports.

16 (5) An explanation of other objectives that will
17 be served by the establishment of preclearance oper-
18 ations in such foreign country.

19 (6) A certification that representatives from
20 U.S. Customs and Border Protection consulted pub-
21 lically with interested parties, including providers of
22 commercial air service in the United States, employ-
23 ees of such providers, security experts, and such
24 other parties as the Secretary determines to be ap-

1 appropriate, before entering into such an agreement
2 with such foreign government.

3 (7) A report detailing the basis for the certifi-
4 cations referred to in paragraphs (1) through (6).

5 (c) MODIFICATION OF EXISTING AGREEMENTS.—
6 Not later than 30 days before substantially modifying a
7 preclearance agreement with the government of a foreign
8 country in effect as of the date of the enactment of this
9 Act, the Secretary of Homeland Security shall provide to
10 the appropriate congressional committees a copy of the
11 proposed agreement, as modified, and the justification for
12 such modification.

13 (d) REMEDIATION PLAN.—

14 (1) IN GENERAL.—The Commissioner of U.S.
15 Customs and Border Protection shall monthly meas-
16 ure the average customs processing time to enter the
17 25 United States airports that support the highest
18 volume of international travel (as determined by
19 available Federal passenger data) and provide to the
20 appropriate congressional committees such measure-
21 ments.

22 (2) ASSESSMENT.—Based on the measurements
23 described in paragraph (1), the Commissioner of
24 U.S. Customs and Border Protection shall quarterly
25 assess whether the average customs processing time

1 referred to in such paragraph significantly exceeds
2 the average customs processing time to enter the
3 United States through a preclearance operation.

4 (3) SUBMISSION.—Based on the assessment
5 conducted under paragraph (2), if the Commissioner
6 of U.S. Customs and Border Protection determines
7 that the average customs processing time referred to
8 in paragraph (1) significantly exceeds the average
9 customs processing time to enter the United States
10 through a preclearance operation described in para-
11 graph (2), the Commissioner shall, not later than 60
12 days after making such determination, provide to
13 the appropriate congressional committees a remedi-
14 ation plan for reducing such average customs proc-
15 essing time referred to in paragraph (1).

16 (4) IMPLEMENTATION.—Not later than 30 days
17 after submitting the remediation plan referred to in
18 paragraph (3), the Commissioner of United States
19 Customs and Border Protection shall implement
20 those portions of such plan that can be carried out
21 using existing resources, excluding the transfer of
22 personnel.

23 (5) SUSPENSION.—If the Commissioner of U.S.
24 Customs and Border Protection does not submit the
25 remediation plan referred to in paragraph (3) within

1 60 days in accordance with such paragraph, the
2 Commissioner may not, until such time as such re-
3 mediation plan is submitted, conduct any negotia-
4 tions relating to preclearance operations at an air-
5 port in any country or commence any such
6 preclearance operations.

7 (6) **STAKEHOLDER RECOMMENDATIONS.**—The
8 remediation plan described in paragraph (3) shall
9 consider recommendations solicited from relevant
10 stakeholders.

11 (e) **CLASSIFIED REPORT.**—The assessment required
12 pursuant to subsection (a)(5) and the report required pur-
13 suant to subsection (b)(7) may be submitted in classified
14 form if the Secretary of Homeland Security determines
15 that such is appropriate.

16 **SEC. 5. AVIATION SECURITY SCREENING AT**
17 **PRECLEARANCE AIRPORTS.**

18 (a) **AVIATION SECURITY STANDARDS AGREEMENT.**—
19 Prior to the commencement of preclearance operations at
20 an airport in a foreign country under this Act, the Admin-
21 istrator of the Transportation Security Administration
22 shall enter into an agreement with the government of such
23 foreign country that delineates and requires the adoption
24 of aviation security screening standards that are deter-

1 mined by the Administrator to be comparable to those of
2 the United States.

3 (b) AVIATION SECURITY RESCREENING.—If the Ad-
4 ministrator of the Transportation Security Administration
5 determines that the government of a foreign country has
6 not maintained security standards and protocols com-
7 parable to those of the United States at airports at which
8 preclearance operations have been established in accord-
9 ance with an agreement entered into pursuant to sub-
10 section (a), the Administrator shall require the rescreening
11 in the United States by the Transportation Security Ad-
12 ministration of passengers and their property before such
13 passengers may deplane into sterile areas of airports in
14 the United States.

15 (c) SELECTEES.—Any passenger who is determined
16 to be a selectee based on a check against a terrorist watch
17 list and arrives on a flight originating from a foreign air-
18 port at which preclearance operations have been estab-
19 lished in accordance with an agreement entered into pur-
20 suant to subsection (a), shall be required to undergo secu-
21 rity rescreening by the Transportation Security Adminis-
22 tration before being permitted to board a domestic flight
23 in the United States.

1 **SEC. 6. LOST AND STOLEN PASSPORTS.**

2 The Secretary of Homeland Security may not enter
3 into or renew an agreement with the government of a for-
4 eign country to establish or maintain U.S. Customs and
5 Border Protection preclearance operations at an airport
6 in such foreign country unless such government certifies—

7 (1) that it routinely submits information about
8 lost and stolen passports of its citizens and nationals
9 to INTERPOL’s Stolen and Lost Travel Document
10 database; or

11 (2) makes available to the United States Gov-
12 ernment such information through another com-
13 parable means of reporting.

14 **SEC. 7. EFFECTIVE DATE.**

15 Except for subsection (c) of section 4, this Act shall
16 apply only to the establishment of preclearance operations
17 in a foreign country in which no preclearance operations
18 have been established as of the date of the enactment of
19 this Act.

Passed the House of Representatives July 8, 2014.

Attest:

Clerk.

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