

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3488

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IN THE SENATE OF THE UNITED STATES

JULY 9, 2014

Received; read twice and referred to the Committee on Homeland Security and  
Governmental Affairs

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## 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:

KAREN L. HAAS,

*Clerk.*