

regulations, the Secretary shall adhere to the parameters applicable to the development of regulations under section 343(a) of the Trade Act of 2002 (19 U.S.C. 2071 note), including provisions relating to consultation, technology, analysis, use of information, confidentiality, and timing requirements.

**(e) System improvements**

The Secretary, acting through the Commissioner, shall—

(1) conduct, through an independent panel, a review of the effectiveness and capabilities of the Automated Targeting System;

(2) consider future iterations of the Automated Targeting System, which would incorporate smart features, such as more complex algorithms and real-time intelligence, instead of relying solely on rule sets that are periodically updated;

(3) ensure that the Automated Targeting System has the capability to electronically compare manifest and other available data for cargo entered into or bound for the United States to detect any significant anomalies between such data and facilitate the resolution of such anomalies;

(4) ensure that the Automated Targeting System has the capability to electronically identify, compile, and compare select data elements for cargo entered into or bound for the United States following a maritime transportation security incident, in order to efficiently identify cargo for increased inspection or expeditious release; and

(5) develop a schedule to address the recommendations of the Comptroller General of the United States, the Inspector General of the Department of the Treasury, and the Inspector General of the Department with respect to the operation of the Automated Targeting System.

**(f) Secure transmission of certain information**

All information required by the Department from supply chain partners shall be transmitted in a secure fashion, as determined by the Secretary, so as to protect the information from unauthorized access.

**(g) Authorization of appropriations**

There are authorized to be appropriated to the United States Customs and Border Protection to carry out the Automated Targeting System for identifying high-risk oceanborne container cargo for inspection—

- (1) \$33,200,000 for fiscal year 2008;
- (2) \$35,700,000 for fiscal year 2009; and
- (3) \$37,485,000 for fiscal year 2010.

(Pub. L. 109-347, title II, §203, Oct. 13, 2006, 120 Stat. 1904.)

REFERENCES IN TEXT

Section 343(a) of the Trade Act of 2002, referred to in subsec. (d), is section 343(a) of title III of div. A of Pub. L. 107-210, which is set out as a note under section 2071 of Title 19, Customs Duties.

**§ 944. Container security standards and procedures**

**(a) Establishment**

**(1) In general**

Not later than 90 days after October 13, 2006, the Secretary shall initiate a rulemaking pro-

ceeding to establish minimum standards and procedures for securing containers in transit to the United States.

**(2) Interim rule**

Not later than 180 days after October 13, 2006, the Secretary shall issue an interim final rule pursuant to the proceeding described in paragraph (1).

**(3) Missed deadline**

If the Secretary is unable to meet the deadline established pursuant to paragraph (2), the Secretary shall submit a letter to the appropriate congressional committees explaining why the Secretary is unable to meet that deadline and describing what must be done before such minimum standards and procedures can be established.

**(4) Deadline for enforcement**

**(A) Enforcement of rule**

Not later than 2 years after the date on which the standards and procedures are established pursuant to paragraph (1), all containers bound for ports of entry in the United States shall meet such standards and procedures.

**(B) Interim requirement**

If the interim final rule described in paragraph (2) is not issued by April 1, 2008, then—

(i) effective not later than October 15, 2008, all containers in transit to the United States shall be required to meet the requirements of International Organization for Standardization Publicly Available Specification 17712 standard for sealing containers; and

(ii) the requirements of this subparagraph shall cease to be effective upon the effective date of the interim final rule issued pursuant to this subsection.

**(b) Review and enhancement**

The Secretary shall regularly review and enhance the standards and procedures established pursuant to subsection (a), as appropriate, based on tests of technologies as they become commercially available to detect container intrusion and the highest consequence threats, particularly weapons of mass destruction.

**(c) International cargo security standards**

The Secretary, in consultation with the Secretary of State, the Secretary of Energy, and other Federal Government officials, as appropriate, and with the Commercial Operations Advisory Committee, the Homeland Security Advisory Committee, and the National Maritime Security Advisory Committee, is encouraged to promote and establish international standards for the security of containers moving through the international supply chain with foreign governments and international organizations, including the International Maritime Organization, the International Organization for Standardization, the International Labor Organization, and the World Customs Organization.

**(d) International trade and other obligations**

In carrying out this section, the Secretary shall consult with appropriate Federal depart-

ments and agencies and private sector stakeholders and ensure that actions under this section do not violate international trade obligations or other international obligations of the United States.

(Pub. L. 109-347, title II, §204, Oct. 13, 2006, 120 Stat. 1905; Pub. L. 110-53, title XVII, §1701(b), Aug. 3, 2007, 121 Stat. 491.)

#### AMENDMENTS

2007—Subsec. (a)(4). Pub. L. 110-53, which directed amendment of par. (4) by substituting “(1) Deadline for enforcement” and subpar. (A) designation and heading for “(1) Deadline for enforcement”, was executed by inserting the subpar. (A) designation and heading before “Not later than” and making no change in the par. designation or heading, to reflect the probable intent of Congress.

Subsec. (a)(4)(B). Pub. L. 110-53, §1701(b)(2), added subpar. (B).

### § 945. Container Security Initiative

#### (a) Establishment

The Secretary, acting through the Commissioner, shall establish and implement a program (referred to in this section as the “Container Security Initiative” or “CSI”) to identify and examine or search maritime containers that pose a security risk before loading such containers in a foreign port for shipment to the United States, either directly or through a foreign port.

#### (b) Assessment

The Secretary, acting through the Commissioner, may designate foreign seaports to participate in the Container Security Initiative after the Secretary has assessed the costs, benefits, and other factors associated with such designation, including—

(1) the level of risk for the potential compromise of containers by terrorists, or other threats as determined by the Secretary;

(2) the volume of cargo being imported to the United States directly from, or being transshipped through, the foreign seaport;

(3) the results of the Coast Guard assessments conducted pursuant to section 70108 of title 46;

(4) the commitment of the government of the country in which the foreign seaport is located to cooperating with the Department in sharing critical data and risk management information and to maintain programs to ensure employee integrity; and

(5) the potential for validation of security practices at the foreign seaport by the Department.

#### (c) Notification

The Secretary shall notify the appropriate congressional committees of the designation of a foreign port under the Container Security Initiative or the revocation of such a designation before notifying the public of such designation or revocation.

#### (d) Negotiations

The Secretary, in cooperation with the Secretary of State and in consultation with the United States Trade Representative, may enter into negotiations with the government of each foreign nation in which a seaport is designated

under the Container Security Initiative to ensure full compliance with the requirements under the Container Security Initiative.

#### (e) Overseas inspections

##### (1) Requirements and procedures

The Secretary shall—

(A) establish minimum technical capability criteria and standard operating procedures for the use of nonintrusive inspection and nuclear and radiological detection systems in conjunction with CSI;

(B) require each port designated under CSI to operate nonintrusive inspection and nuclear and radiological detection systems in accordance with the technical capability criteria and standard operating procedures established under subparagraph (A);

(C) continually monitor the technologies, processes, and techniques used to inspect cargo at ports designated under CSI to ensure adherence to such criteria and the use of such procedures; and

(D) consult with the Secretary of Energy in establishing the minimum technical capability criteria and standard operating procedures established under subparagraph (A) pertaining to radiation detection technologies to promote consistency in detection systems at foreign ports designated under CSI.

##### (2) Constraints

The criteria and procedures established under paragraph (1)(A)—

(A) shall be consistent, as practicable, with relevant standards and procedures utilized by other Federal departments or agencies, or developed by international bodies if the United States consents to such standards and procedures;

(B) shall not apply to activities conducted under the Megaports Initiative of the Department of Energy; and

(C) shall not be designed to endorse the product or technology of any specific company or to conflict with the sovereignty of a country in which a foreign seaport designated under the Container Security Initiative is located.

#### (f) Savings provision

The authority of the Secretary under this section shall not affect any authority or duplicate any efforts or responsibilities of the Federal Government with respect to the deployment of radiation detection equipment outside of the United States.

#### (g) Coordination

The Secretary shall—

(1) coordinate with the Secretary of Energy, as necessary, to provide radiation detection equipment required to support the Container Security Initiative through the Department of Energy’s Second Line of Defense Program and Megaports Initiative; or

(2) work with the private sector or host governments, when possible, to obtain radiation detection equipment that meets the Department’s and the Department of Energy’s technical specifications for such equipment.