

- (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 proceeding 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 departments 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.

**(h) Staffing**

The Secretary shall develop a human capital management plan to determine adequate staffing levels in the United States and in foreign seaports including, as appropriate, the remote location of personnel in countries in which foreign seaports are designated under the Container Security Initiative.

**(i) Annual discussions**

The Secretary, in coordination with the appropriate Federal officials, shall hold annual discussions with foreign governments of countries in which foreign seaports designated under the Container Security Initiative are located regarding best practices, technical assistance, training needs, and technological developments that will assist in ensuring the efficient and secure movement of international cargo.

**(j) Lesser risk port**

The Secretary, acting through the Commissioner, may treat cargo loaded in a foreign seaport designated under the Container Security Initiative as presenting a lesser risk than similar cargo loaded in a foreign seaport that is not designated under the Container Security Initiative, for the purpose of clearing such cargo into the United States.

**(k) Prohibition****(1) In general**

The Secretary shall issue a "do not load" order, using existing authorities, to prevent the onload of any cargo loaded at a port designated under CSI that has been identified as high risk, including by the Automated Targeting System, unless the cargo is determined to no longer be high risk through—

(A) a scan of the cargo with nonintrusive imaging equipment and radiation detection equipment;

(B) a search of the cargo; or

(C) additional information received by the Department.

**(2) Rule of construction**

Nothing in this subsection shall be construed to interfere with the ability of the Secretary to deny entry of any cargo into the United States.

**(l) Report****(1) In general**

Not later than September 30, 2007, the Secretary, acting through the Commissioner, shall, in consultation with other appropriate government officials and the Commercial Op-

erations Advisory Committee, submit a report to the appropriate congressional committees on the effectiveness of, and the need for any improvements to, the Container Security Initiative. The report shall include—

(A) a description of the technical assistance delivered to, as well as needed at, each designated seaport;

(B) a description of the human capital management plan at each designated seaport;

(C) a summary of the requests made by the United States to foreign governments to conduct physical or nonintrusive inspections of cargo at designated seaports, and whether each such request was granted or denied by the foreign government;

(D) an assessment of the effectiveness of screening, scanning, and inspection protocols and technologies utilized at designated seaports and the effect on the flow of commerce at such seaports, as well as any recommendations for improving the effectiveness of screening, scanning, and inspection protocols and technologies utilized at designated seaports;

(E) a description and assessment of the outcome of any security incident involving a foreign seaport designated under the Container Security Initiative;

(F) the rationale for the continuance of each port designated under CSI;

(G) a description of the potential for remote targeting to decrease the number of personnel who are deployed at foreign ports under CSI; and

(H) a summary and assessment of the aggregate number and extent of trade compliance lapses at each seaport designated under the Container Security Initiative.

#### (2) Updated report

Not later than September 30, 2010, the Secretary, acting through the Commissioner, shall, in consultation with other appropriate government officials and the Commercial Operations Advisory Committee, submit an updated report to the appropriate congressional committees on the effectiveness of, and the need for any improvements to, the Container Security Initiative. The updated report shall address each of the elements required to be included in the report provided for under paragraph (1).

#### (m) Authorization of appropriations

There are authorized to be appropriated to the United States Customs and Border Protection to carry out the provisions of this section—

- (1) \$144,000,000 for fiscal year 2008;
- (2) \$146,000,000 for fiscal year 2009; and
- (3) \$153,300,000 for fiscal year 2010.

(Pub. L. 109-347, title II, §205, Oct. 13, 2006, 120 Stat. 1906.)

#### INTERNATIONAL PORT AND FACILITY INSPECTION COORDINATION

Pub. L. 111-281, title VIII, §825, Oct. 15, 2010, 124 Stat. 3004, as amended by Pub. L. 114-120, title III, §320, Feb. 8, 2016, 130 Stat. 66, provided that:

“(a) COORDINATION.—The Secretary of Homeland Security shall, to the extent practicable, conduct the as-

sessments required by the following provisions of law concurrently, or develop a process by which the assessments are coordinated between the Coast Guard and Customs and Border Protection:

“(1) Section 205 of the SAFE Port Act (6 U.S.C. 945).

“(2) Section 213 of that Act (6 U.S.C. 964 [963]).

“(3) Section 70108 of title 46, United States Code.

“(b) LIMITATION.—Nothing in subsection (a) shall be construed to affect or diminish the Secretary’s authority or discretion—

“(1) to conduct an assessment of a foreign port at any time;

“(2) to compel the Secretary to conduct an assessment of a foreign port so as to ensure that 2 or more assessments are conducted concurrently; or

“(3) to cancel an assessment of a foreign port if the Secretary is unable to conduct 2 or more assessments concurrently.

“(c) MULTIPLE ASSESSMENT REPORT.—The Secretary shall provide written notice to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Homeland Security of the House of Representatives whenever the Secretary conducts 2 or more assessments of the same port within a 3-year period.”

#### PART B—CUSTOMS–TRADE PARTNERSHIP AGAINST TERRORISM

### § 961. Establishment

#### (a) Establishment

The Secretary, acting through the Commissioner, is authorized to establish a voluntary government-private sector program (to be known as the “Customs–Trade Partnership Against Terrorism” or “C–TPAT”) to strengthen and improve the overall security of the international supply chain and United States border security, and to facilitate the movement of secure cargo through the international supply chain, by providing benefits to participants meeting or exceeding the program requirements. Participants in C–TPAT shall include Tier 1 participants, Tier 2 participants, and Tier 3 participants.

#### (b) Minimum security requirements

The Secretary, acting through the Commissioner, shall review the minimum security requirements of C–TPAT at least once every year and update such requirements as necessary.

(Pub. L. 109-347, title II, §211, Oct. 13, 2006, 120 Stat. 1909.)

### § 962. Eligible entities

Importers, customs brokers, forwarders, air, sea, land carriers, contract logistics providers, and other entities in the international supply chain and intermodal transportation system are eligible to apply to voluntarily enter into partnerships with the Department under C–TPAT.

(Pub. L. 109-347, title II, §212, Oct. 13, 2006, 120 Stat. 1909.)

### § 963. Minimum requirements

An applicant seeking to participate in C–TPAT shall—

(1) demonstrate a history of moving cargo in the international supply chain;

(2) conduct an assessment of its supply chain based upon security criteria established by the Secretary, acting through the Commissioner, including—