

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 3488  
OFFERED BY MR. MCCAUL OF TEXAS**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Preclearance 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;

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

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

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

7           (5) accomplish such other objectives as the Sec-  
8           retary determines necessary to protect the United  
9           States.

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

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

17           (1) A copy of the proposed agreement to estab-  
18           lish such preclearance operations, including an iden-  
19           tification of the foreign country with which U.S.  
20           Customs and Border Protection intends to enter into  
21           a preclearance agreement, and the location at which  
22           such preclearance operations will be conducted.

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

1           (3) The anticipated funding sources for  
2           preclearance operations under such agreement, and  
3           other funding sources considered.

4           (4) An assessment of the impact such  
5           preclearance operations will have on legitimate trade  
6           and travel, including potential impacts on passengers  
7           traveling to the United States.

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

11          (6) An assessment of the impacts such  
12          preclearance operations will have on U.S. Customs  
13          and Border Protection domestic port of entry staff-  
14          ing.

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

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

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

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

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

6           (12) 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.—Not later than 90 days before  
11         entering into an agreement with the government of a for-  
12         eign country to establish U.S. Customs and Border Pro-  
13         tection preclearance operations in such foreign country,  
14         the Secretary of Homeland Security shall provide to the  
15         appropriate congressional committees the following:

16                 (1) A certification that preclearance operations  
17                 under such preclearance agreement would provide  
18                 homeland security benefits to the United States.

19                 (2) In the case of an airport, a certification  
20                 that preclearance operations at any airport within  
21                 such foreign country will be established under such  
22                 agreement only if—

23                         (A) at least one United States passenger  
24                         carrier operates at such airport; and

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

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

10 (4) In the case of an airport, a certification  
11 that the establishment of preclearance operations in  
12 such foreign country will not significantly increase  
13 customs processing times at United States airports.

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

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

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

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

11          (d) REMEDIATION PLAN.—

12           (1) IN GENERAL.—In the case of an airport, if  
13           the average customs processing time (as measured  
14           by U.S. Customs and Border Protection) to enter  
15           the 25 United States airports that support the high-  
16           est volume of international travel (as determined by  
17           available Federal passenger data) significantly ex-  
18           ceeds the average customs processing time to enter  
19           the United States through a preclearance operation,  
20           the Secretary of Homeland Security shall provide to  
21           the appropriate congressional committees a remedi-  
22           ation plan for reducing, within 90 days, the average  
23           customs processing times at such 25 airports.

24           (2) STAKEHOLDER RECOMMENDATIONS.—The  
25           remediation plan referred to in paragraph (1) shall

1 consider recommendations solicited from relevant  
2 stakeholders.

3 (e) CLASSIFIED REPORT.—The assessment required  
4 pursuant to subsection (a)(3) and the report required pur-  
5 suant to subsection (b)(8) may be submitted in classified  
6 form if the Secretary of Homeland Security determines  
7 that such is appropriate.

8 **SEC. 5. AVIATION SECURITY SCREENING AT**  
9 **PRECLEARANCE AIRPORTS.**

10 (a) AVIATION SECURITY STANDARDS AGREEMENT.—  
11 Prior to the commencement of preclearance operations at  
12 an airport in a foreign country under this Act, the Admin-  
13 istrator of the Transportation Security Administration  
14 shall enter into an agreement with the government of such  
15 foreign country that delineates and requires the adoption  
16 of aviation security screening standards that are deter-  
17 mined by the Administrator to be comparable to those of  
18 the United States.

19 (b) AVIATION SECURITY RESCREENING.—If the Ad-  
20 ministrator of the Transportation Security Administration  
21 determines that the government of a foreign country has  
22 not maintained security standards and protocols com-  
23 parable to those of the United States at airports at which  
24 preclearance operations have been established in accord-  
25 ance with an agreement entered into pursuant to sub-

1 section (a), the Administrator shall require the rescreening  
2 in the United States by the Transportation Security Ad-  
3 ministration of passengers and their property before such  
4 passengers may deplane into sterile areas of airports in  
5 the United States.

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

7 The Secretary of Homeland Security may not enter  
8 into or renew an agreement with the government of a for-  
9 eign country to establish or maintain U.S. Customs and  
10 Border Protection preclearance operations in such foreign  
11 country unless such government certifies—

12 (1) that it routinely submits information about  
13 lost and stolen passports of its citizens and nationals  
14 to INTERPOL's Stolen and Lost Travel Document  
15 database; or

16 (2) makes available to the United States Gov-  
17 ernment such information through another com-  
18 parable means of reporting.

19 **SEC. 7. EFFECTIVE DATE.**

20 Except for subsection (e) of section 4, this Act shall  
21 apply only to the establishment of preclearance operations  
22 in a foreign country in which no preclearance operations  
23 have been established as of the date of the enactment of  
24 this Act.

