

114TH CONGRESS
1ST SESSION

H. R. 998

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.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2015

Mr. MEEHAN (for himself, Mrs. MILLER of Michigan, Mr. COSTELLO of Pennsylvania, Mr. LANCE, Mr. ROGERS of Alabama, and Mr. McCAUL) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Preclearance Author-
5 ization Act of 2015”.

1 **SEC. 2. DEFINITION.**

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

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

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

13 (1) prevent terrorists, instruments of terrorism,
14 and other security threats from entering the United
15 States;

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

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

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

22 (5) accomplish such other objectives as the Sec-
23 retary determines necessary to protect the United
24 States.

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

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

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

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

17 (3) The anticipated funding sources for
18 preclearance operations under such agreement, and
19 other funding sources considered.

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

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

1 (6) An assessment of the impacts such
2 preclearance operations will have on U.S. Customs
3 and Border Protection domestic port of entry staff-
4 ing.

5 (7) Information on potential economic, competi-
6 tive, and job impacts on United States air carriers
7 associated with establishing such preclearance oper-
8 ations.

9 (8) Information on the anticipated homeland se-
10 curity benefits associated with establishing such
11 preclearance operations.

12 (9) Information on potential security
13 vulnerabilities associated with commencing such
14 preclearance operations, and mitigation plans to ad-
15 dress such potential security vulnerabilities.

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

19 (11) Information on the anticipated costs over
20 the next five fiscal years associated with com-
21 mencing such preclearance operations.

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

24 (13) Other factors that the Secretary of Home-
25 land Security determines to be necessary for Con-

1 gress to comprehensively assess the appropriateness
2 of commencing such preclearance operations.

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

12 (1) A certification that preclearance operations
13 under such preclearance agreement would provide
14 homeland security benefits to the United States.

15 (2) A certification that preclearance operations
16 within such foreign country will be established under
17 such agreement only if—

18 (A) at least one United States passenger
19 carrier operates at such airport; and

20 (B) the access of all United States pas-
21 senger carriers to such preclearance operations
22 is the same as the access of any non-United
23 States passenger carrier.

24 (3) A certification that the Secretary of Home-
25 land Security has considered alternative options to

1 preclearance operations and has determined that
2 such options are not the most effective means of
3 achieving the objectives specified in section 3.

4 (4) A certification that the establishment of
5 preclearance operations in such foreign country will
6 not significantly increase customs processing times
7 at United States airports.

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

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

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

21 (c) MODIFICATION OF EXISTING AGREEMENTS.—
22 Not later than 30 days before substantially modifying a
23 preclearance agreement with the government of a foreign
24 country in effect as of the date of the enactment of this
25 Act, the Secretary of Homeland Security shall provide to

1 the appropriate congressional committees a copy of the
2 proposed agreement, as modified, and the justification for
3 such modification.

4 (d) REMEDIATION PLAN.—

5 (1) IN GENERAL.—The Commissioner of U.S.
6 Customs and Border Protection shall monthly meas-
7 ure the average customs processing time to enter the
8 25 United States airports that support the highest
9 volume of international travel (as determined by
10 available Federal passenger data) and provide to the
11 appropriate congressional committees such measure-
12 ments.

13 (2) ASSESSMENT.—Based on the measurements
14 described in paragraph (1), the Commissioner of
15 U.S. Customs and Border Protection shall quarterly
16 assess whether the average customs processing time
17 referred to in such paragraph significantly exceeds
18 the average customs processing time to enter the
19 United States through a preclearance operation.

20 (3) SUBMISSION.—Based on the assessment
21 conducted under paragraph (2), if the Commissioner
22 of U.S. Customs and Border Protection determines
23 that the average customs processing time referred to
24 in paragraph (1) significantly exceeds the average
25 customs processing time to enter the United States

1 through a preclearance operation described in para-
2 graph (2), the Commissioner shall, not later than 60
3 days after making such determination, provide to
4 the appropriate congressional committees a remedi-
5 ation plan for reducing such average customs proc-
6 essing time referred to in paragraph (1).

7 (4) IMPLEMENTATION.—Not later than 30 days
8 after submitting the remediation plan referred to in
9 paragraph (3), the Commissioner of United States
10 Customs and Border Protection shall implement
11 those portions of such plan that can be carried out
12 using existing resources, excluding the transfer of
13 personnel.

14 (5) SUSPENSION.—If the Commissioner of U.S.
15 Customs and Border Protection does not submit the
16 remediation plan referred to in paragraph (3) within
17 60 days in accordance with such paragraph, the
18 Commissioner may not, until such time as such re-
19 medi- ation plan is submitted, conduct any negotia-
20 tions relating to preclearance operations at an air-
21 port in any country or commence any such
22 preclearance operations.

23 (6) STAKEHOLDER RECOMMENDATIONS.—The
24 remediation plan described in paragraph (3) shall

1 consider recommendations solicited from relevant
2 stakeholders.

3 (e) CLASSIFIED REPORT.—The assessment required
4 pursuant to subsection (a)(5) and the report required pur-
5 suant to subsection (b)(7) 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 (c) SELECTEES.—Any passenger who is determined
7 to be a selectee based on a check against a terrorist watch
8 list and arrives on a flight originating from a foreign air-
9 port at which preclearance operations have been estab-
10 lished in accordance with an agreement entered into pur-
11 suant to subsection (a), shall be required to undergo secu-
12 rity rescreening by the Transportation Security Adminis-
13 tration before being permitted to board a domestic flight
14 in the United States.

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

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

21 (1) that it routinely submits information about
22 lost and stolen passports of its citizens and nationals
23 to INTERPOL's Stolen and Lost Travel Document
24 database; or

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

4 **SEC. 7. EFFECTIVE DATE.**

5 Except for subsection (c) of section 4, this Act shall
6 apply only to the establishment of preclearance operations
7 in a foreign country in which no preclearance operations
8 have been established as of the date of the enactment of
9 this Act.

○