

Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.

[§ 70107A. Repealed. Pub. L. 115–254, div. J, § 1809(a)(1), Oct. 5, 2018, 132 Stat. 3537]

Section, added Pub. L. 109–347, title I, § 108(a), Oct. 13, 2006, 120 Stat. 1892; amended Pub. L. 111–281, title VIII, §§ 803, 824, Oct. 15, 2010, 124 Stat. 2990, 3003, related to interagency operational centers for port security.

Statutory Notes and Related Subsidiaries

SAVINGS CLAUSE

Pub. L. 115–254, div. J, § 1809(a)(2), Oct. 5, 2018, 132 Stat. 3537, provided that: “A repeal made by this subsection [repealing this section] shall not affect an interagency operational center established before the date of enactment of this Act [Oct. 5, 2018].”

NOTICE TO CONGRESS

Pub. L. 115–254, div. J, § 1809(a)(3), Oct. 5, 2018, 132 Stat. 3537, provided that: “The Secretary of Homeland Security shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives at least 1 year before ceasing operations of any interagency operational center established before the date of enactment of the Security and Accountability for Every Port Act of 2006 (Public Law 109–347; 120 Stat. 1884) [Oct. 13, 2006].”

REPORT REQUIREMENT

Pub. L. 109–347, title I, § 108(b), Oct. 13, 2006, 120 Stat. 1893, as amended by Pub. L. 115–254, div. J, § 1809(c)(2), Oct. 5, 2018, 132 Stat. 3538, related to continued compliance with requirements of section 807 of Pub. L. 108–293 (118 Stat. 1082). Amendment by Pub. L. 115–254 substituted “[Reserved].” for text of subsec. (b).

§ 70108. Foreign port assessment

(a) **IN GENERAL.**—The Secretary shall assess the effectiveness of the antiterrorism measures maintained at—

- (1) a foreign port—
 - (A) served by vessels documented under chapter 121 of this title; or
 - (B) from which foreign vessels depart on a voyage to the United States; and
- (2) any other foreign port the Secretary believes poses a security risk to international maritime commerce.

(b) **PROCEDURES.**—In conducting an assessment under subsection (a), the Secretary shall assess the effectiveness of—

- (1) screening of containerized and other cargo and baggage;
- (2) security measures to restrict access to cargo, vessels, and dockside property to authorized personnel only;
- (3) additional security on board vessels;
- (4) licensing or certification of compliance with appropriate security standards;

(5) the security management program of the foreign port; and

(6) other appropriate measures to deter terrorism against the United States.

(c) **CONSULTATION.**—In carrying out this section, the Secretary shall consult with—

(1) the Secretary of Defense and the Secretary of State—

(A) on the terrorist threat that exists in each country involved; and

(B) to identify foreign ports that pose a high risk of introducing terrorism to international maritime commerce;

(2) appropriate authorities of foreign governments; and

(3) operators of vessels.

(d) **PERIODIC REASSESSMENT.**—The Secretary, acting through the Commandant of the Coast Guard, shall reassess the effectiveness of antiterrorism measures maintained at ports as described under subsection (a) and of procedures described in subsection (b) not less than once every 3 years.

(e) **LIMITATION ON STATUTORY CONSTRUCTION.**—The absence of an inspection of a foreign port shall not bar the Secretary from making a finding that a port in a foreign country does not maintain effective antiterrorism measures.

(f) **RECOGNITION OF ASSESSMENT CONDUCTED BY OTHER ENTITIES.**—

(1) **CERTIFICATION AND TREATMENT OF ASSESSMENTS.**—For the purposes of this section and section 70109, the Secretary may treat an assessment that a foreign government (including, for the purposes of this subsection, an entity of or operating under the auspices of the European Union) or international organization has conducted as an assessment that the Secretary has conducted for the purposes of subsection (a), if—

(A) the Secretary certifies that the foreign government or international organization—

- (i) has conducted the assessment in accordance with subsection (b); and
- (ii) has provided the Secretary with sufficient information pertaining to its assessment (including information regarding the outcome of the assessment); and

(B) the foreign government that conducted the assessment is not a state sponsor of terrorism (as defined in section 3316(h)).

(2) **AUTHORIZATION TO ENTER INTO AN AGREEMENT.**—For the purposes of this section and section 70109, the Secretary, in consultation with the Secretary of State, may enter into an agreement with a foreign government (including, for the purposes of this subsection, an entity of or operating under the auspices of the European Union) or international organization, under which parties to the agreement—

(A) conduct an assessment, required under subsection (a);

(B) share information pertaining to such assessment (including, but not limited to, information on the outcome of the assessment); or

(C) both.

(3) **LIMITATIONS.**—Nothing in this section may be construed—

(A) to require the Secretary to treat an assessment conducted by a foreign government or an international organization as an assessment that satisfies the requirement under subsection (a);

(B) to limit the discretion or ability of the Secretary to conduct an assessment under this section;

(C) to limit the authority of the Secretary to repatriate aliens to their respective countries of origin; or

(D) to prevent the Secretary from requesting security and safety measures that the Secretary considers necessary to safeguard Coast Guard personnel during the repatriation of aliens to their respective countries of origin.

(4) NOTIFICATION TO CONGRESS.—Not later than 30 days before entering into an agreement or arrangement with a foreign government under paragraph (2), the Secretary shall notify the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the proposed terms of such agreement or arrangement.

(g) STATE SPONSORS OF TERRORISM AND INTERNATIONAL TERRORIST ORGANIZATIONS.—The Secretary—

(1) may not enter into an agreement under subsection (f)(2) with—

(A) a foreign government that is a state sponsor of terrorism (as defined in section 3316(h)); or

(B) an entity designated by the Secretary of State as a foreign terrorist organization pursuant to section 219 of the Immigration and Nationality Act (8 U.S.C. 1189); and

(2) shall—

(A) deem any port that is under the jurisdiction of a foreign government that is a state sponsor of terrorism as not having effective antiterrorism measures for purposes of this section and section 70109; and

(B) immediately apply the sanctions described in section 70110(a) to such port.

(Added Pub. L. 107-295, title I, §102(a), Nov. 25, 2002, 116 Stat. 2079; amended Pub. L. 109-347, title II, §234, Oct. 13, 2006, 120 Stat. 1918; Pub. L. 111-281, title VIII, §806(a)(1), (c)(2)(B), Oct. 15, 2010, 124 Stat. 2992, 2993; Pub. L. 114-120, title III, §317, Feb. 8, 2016, 130 Stat. 62; Pub. L. 118-31, div. E, title LVI, §5603, Dec. 22, 2023, 137 Stat. 959.)

Editorial Notes

AMENDMENTS

2023—Subsec. (f)(1). Pub. L. 118-31, §5603(1)(A), substituted “if—” and subpars. (A) and (B) for “provided that the Secretary certifies that the foreign government or international organization has—

“(A) conducted the assessment in accordance with subsection (b); and

“(B) provided the Secretary with sufficient information pertaining to its assessment (including, but not limited to, information on the outcome of the assessment).”

Subsec. (f)(3). Pub. L. 118-31, §5603(1)(B), amended par. (3) generally. Prior to amendment, text read as follows: “Nothing in this subsection shall be construed to—

“(A) require the Secretary to recognize an assessment that a foreign government or an international organization has conducted; or

“(B) limit the discretion or ability of the Secretary to conduct an assessment under this section.”

Subsec. (g). Pub. L. 118-31, §5603(2), added subsec. (g). 2016—Subsec. (f). Pub. L. 114-120 added subsec. (f).

2010—Subsec. (c)(2) to (4). Pub. L. 111-281, §806(c)(2)(B), redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out former par. (2) which read as follows: “the Secretary of the Treasury;”.

Subsec. (e). Pub. L. 111-281, §806(a)(1), added subsec. (e).

2006—Subsec. (d). Pub. L. 109-347 added subsec. (d).

§ 70109. Notifying foreign authorities

(a) IN GENERAL.—Unless the Secretary finds that a port in a foreign country maintains effective antiterrorism measures, the Secretary shall notify the appropriate authorities of the government of the foreign country of the finding and recommend the steps necessary to improve the antiterrorism measures in use at the port.

(b) TRAINING PROGRAM.—The Secretary, in cooperation with the Secretary of State, shall operate a port security training program for ports in foreign countries that are found under section 70108 to lack effective antiterrorism measures.

(Added Pub. L. 107-295, title I, §102(a), Nov. 25, 2002, 116 Stat. 2080; amended Pub. L. 111-281, title VIII, §806(a)(2), Oct. 15, 2010, 124 Stat. 2992.)

Editorial Notes

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-281 substituted “Unless the Secretary finds that a port in a foreign country maintains effective antiterrorism measures,” for “If the Secretary, after conducting an assessment under section 70108, finds that a port in a foreign country does not maintain effective antiterrorism measures.”.

§ 70110. Actions and assistance for foreign ports or facilities and United States territories

(a) IN GENERAL.—Unless the Secretary finds that a foreign port or facility maintains effective antiterrorism measures, the Secretary—

(1) may prescribe conditions of entry into the United States for any vessel arriving from that port or facility, or any vessel carrying cargo or passengers originating from or transhipped through that port or facility;

(2) may deny entry into the United States to any vessel that does not meet such conditions; and

(3) shall provide public notice for passengers of the ineffective antiterrorism measures.

(b) EFFECTIVE DATE FOR SANCTIONS.—Any action taken by the Secretary under subsection (a) for a particular port or facility shall take effect—

(1) 90 days after the government of the foreign country with jurisdiction over or control of that port or facility is notified under section 70109 unless the Secretary finds that the government has brought the antiterrorism measures at the port or facility up to the security level the Secretary used in making an assessment under section 70108 before the end of that 90-day period; or

(2) immediately upon the finding of the Secretary under subsection (a) if the Secretary