

FOR BACKGROUND PURPOSES ONLY: PRECLEARANCE – HOW DOES IT WORK?

What is preclearance?

U.S. Customs and Border Protection (CBP) operates preclearance facilities at 15 locations in six foreign countries. The preclearance facilities allow travelers to pass through CBP immigrations, customs and agricultural inspections *prior* to traveling to the United States. The process streamlines border procedures, reduces congestion, and enhances national security. More than 600 CBP officers and agriculture specialists are deployed to preclearance facilities in Aruba, Bermuda, Canada, Dublin, Ireland, and the United Arab Emirates.

- **Preclearance allows CBP to address threats early, and enhances our national security.**

A preclearance inspection is the same inspection an individual would undergo at a U.S. port of entry. The only difference is that it is conducted outside the United States. Passengers found to be inadmissible to the U.S. never commence travel.

Preclearance supports the Department of Homeland Security's strategy to push our borders out and prevent national security threats from gaining access to the United States. In FY2014, preclearance intercepted more than 10,000 inadmissible travelers before they departed from foreign soil. As a result, the United States saved more than \$20 million in detention, processing and repatriation costs.

- **Preclearance facilitates trade and economic growth.**

Preclearance opens up the potential for increases in foreign direct investment, new job creation and high-value leisure travel to regional markets throughout the United States. Because passengers undergo screening prior to travel, they are not subjected to long lines when they arrive in the United States – especially at smaller regional airports without the necessary facilities. In FY2014, CBP processed more than 16 million U.S.-bound travelers at preclearance locations.

- **Preclearance occurs at minimal cost to the United States.**

Bilateral agreements between the U. S. and foreign countries provide reimbursement to the U.S. by the host country for most costs associated with preclearance services, including, but not limited to, salaries, expenses, and relocation of CBP personnel.

Expanding preclearance operations in Canada will increase national security, expand trade, and provide job growth in the United States.

The United States operates nine preclearance locations in Canada, pursuant to an outdated air transport agreement signed in 2001. In March 2015, the United States and Canada signed a new preclearance agreement to expand preclearance operations in the marine, land, air and rail sectors. This agreement is part of the broader bilateral "Beyond The Border" effort, through which the United States and Canada agreed to work together within, at, and away from the borders of our two countries to enhance security and facilitate the legitimate cross-border flow of people, goods, and services. Canada is our largest trading partner, and expanded preclearance operations will be an enormous economic benefit to the United States. It also will strengthen national security by allowing CBP to interdict anyone who poses a threat before they come into the United States.

**FOR BACKGROUND PURPOSES ONLY:
THE PROMOTING TRAVEL, COMMERCE AND NATIONAL SECURITY ACT OF 2016**

The Promoting Travel, Commerce and National Security Act of 2016 is needed to expand preclearance operations in Canada, which will facilitate travel and tourism and strengthen our national security.

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- CBP officers assigned to preclearance locations operate with law enforcement authorities and immunities as agreed upon by the United States and the host country government. Under the new preclearance agreement with Canada, the United States secured the right to prosecute U.S. officials if they commit crimes on the job while stationed in Canada – and thereby preclude a prosecution by Canadian prosecutors. But in many cases, the United States would lack the legal authority to prosecute U.S. officials because many federal crimes do not have extraterritorial reach.
- **The Promoting Travel, Commerce and National Security Act of 2016 would ensure that the U.S. has legal authority to hold our own officials accountable if they engage in wrongdoing in Canada.** This also ensures they will not be prosecuted by a foreign government. Enactment of the legislation is necessary to fully implement the expanded Canada preclearance agreement.

The Promoting Travel, Commerce and National Security Act of 2016 complements existing law by ensuring that U.S. personnel stationed in Canada in furtherance of preclearance operations can be held accountable in the United States for any criminal wrongdoing.

- **The Promoting Travel, Commerce and National Security Act of 2016 would provide legal clarity.** Any U.S. employee or contractor working in Canada on preclearance operations who commits a crime could be tried and sentenced in the United States – rather than the Canadian jurisdiction. This ensures accountability but also protects U.S. personnel.
- The Military Extraterritorial Jurisdiction Act currently provides extraterritorial jurisdiction over Defense Department employees and contractors who commit crimes abroad, but it does not explicitly cover people working for other federal agencies. **The Promoting Travel, Commerce and National Security Act of 2016 fills this gap for personnel stationed in Canada pursuant to preclearance agreements.**
- **The Promoting Travel, Commerce and National Security Act of 2016 creates no new substantive offenses.** Rather, it allows the government to prosecute certain government employees for existing federal crimes if committed in Canada.