

Improving and Expanding Cross Border Rail Passenger Service through the Implementation of Pre-clearance

PURPOSE:

This paper provides background and an overview of the issues associated with pre-clearance for passenger rail between the United States and Canada, and the potential benefits of expanding pre-clearance to international rail service that provides a direct route from the border to a clearance facility. The Eastern Border Transportation Coalition (EBTC) strongly supports the Beyond the Border Action Plan's call to establish a pre-clearance agreement, and to expand the availability of pre-clearance where appropriate.

BACKGROUND

Pre-clearance makes air travel easier for the millions of passengers moving between Canada and the United States each year by allowing them to be cleared for entry to the United States before departing from Canadian airports. The United States has provided pre-clearance services in major Canadian airports for more than 50 years, operating under the provisions specified in the 1974 Canada-U.S. Air Transport Pre-clearance Agreement (last updated in 1999). Pre-clearance between Canada and the U.S. is already available at eight Canadian airports (Montreal -Trudeau, Ottawa, Toronto, Halifax, Winnipeg, Edmonton, Calgary and Vancouver)

While the language in the Pre-clearance Act, the enabling Canadian legislation (see Appendix A), states in the preamble that, "it has become desirable to put into place statutory authority to facilitate the movement of travelers and goods across the border between the two countries by all means of transportation" it is currently limited to air travel only.

Pre-clearance would improve cross-border travel times for rail passengers by providing advanced screening at a secure facility before they cross the international border while simultaneously improving and enhancing security processes and effectiveness. Expanding the existing air pre-clearance authority to include intercity passenger rail services would also serve to strengthen the viability and success of passenger rail services in both countries by removing a perceived barrier to travel.

CURRENT INTERNATIONAL SERVICE

Currently, international intercity passenger rail services exist on the following routes:

- *Cascades* service between Portland, OR, Seattle, WA and Vancouver, BC
- *Maple Leaf* service through Niagara Falls, NY to Toronto, ON
- *Adirondack* Service from New York City, NY to Montreal, QC

Each of the services has different operating circumstances as it approaches the border. The *Cascades* service has no scheduled stops between the station in Vancouver and the border. The *Adirondack* service currently has one stop at St. Lambert, Quebec that would be eliminated to provide non-stop service between Montreal and the New York State border if pre-clearance were implemented. The *Maple Leaf* service has several stops over the 80+ miles between the border and the Toronto station.

As shown in the table below, passenger ridership on these existing services is generally growing overall; however pre-clearance would encourage more cross-border travel and increase ridership by resolving the cumbersome and duplicative clearance process in use now. It is important to note that all of these services receive direct funding from the States and impediments to ridership growth due to the federal security agencies constraints, sets up a serious conflict in the States' ability to ensure the success and longevity of service which benefits the traveling public.

International Rail Passenger Service Ridership Totals FFY 2010-2012

Amtrak Route	FFY 2010	FFY 2011	FFY 2012	1 yr. % change	3 yr. % change
<i>Adirondack</i>	118,673	125,239	131,869	5.0%	10.0%
Border Crossings	79,020	85,986	90,901	5.7%	15.0%
Border Crossing %	66.6%	68.7%	68.9%	0.3%	3.5%
<i>Maple Leaf</i>	386,430	406,286	407,729	0.4%	5.2%
Border Crossings	52,270	50,060	44,696	-10.7%	-14.5%
Border Crossing %	13.5%	12.3%	11.0%	-10.6%	-18.5%
<i>Cascades</i>	836,499	852,269	845,099	-0.8%	1.0%
Border Crossings	141,879	150,676	150,546	-0.1%	6.1%
Border Crossing %	17.0%	17.7%	17.8%	0.6%	4.7%

In addition to existing cross-border passenger rail services between EBTC partners New York, Ontario and Quebec, more service is being considered within the EBTC region. The State of Vermont is actively working to reestablish service along its *Vermont* route from Washington, DC to Montreal via St Albans, VT; the State of Michigan has expressed interest in reestablishing passenger service between Detroit and Toronto via Windsor, ON; and the State of Maine is exploring service between Portland, ME and Montreal. In all cases, major infrastructure investments have been made, or are in the planning stages, which include both state and federal funds, and often private sector funding from the host railroad companies which own the rail lines.

CURRENT RAIL SCREENING AND SECURITY CLEARANCE

Presently, any passenger screening and security clearance agreements for cross-border rail services are negotiated on a case-by-case basis, without a national framework in either Canada or the United States to guide the transportation or border security agencies and the rail service providers. In addition, the border security agencies [U.S. Customs and Border Patrol (CBP) and Canada Border Services Agency (CBSA)] also operate under regional unit jurisdictions, which creates a very cumbersome and inefficient process for delivery of services by all parties.

The lack of a coordinated, consistent process for passenger rail service border security is a result of passenger rail not fitting the airport or highway security models. Also, prior to September 11, 2001 (9/11), informal, on-board screening of passengers was satisfactory and pre-clearance was not a priority for CBP given their finite resources along the northern border. Post 9/11, customs and immigration inspection processes evolved both nationally and regionally, on-board inspection was no longer considered satisfactory from the perspective of border security agencies.

On-board inspections do not afford agents a level of privacy to properly interview travelers, especially about sensitive issues such as immigration status, documentation, or the possession of large amounts of cash. It is also time consuming and difficult to clearly match every item of baggage to its owner. Currently, border enforcement agencies must dispatch officers from the nearest land port of entry to perform passenger rail inspections at facilities near the border crossing that are not adequately equipped to provide officers with linkage to their agencies' information technology systems. Safety and security risks also exist with potentially unruly passengers and the presence of firearms carried by border enforcement officers. Additionally, increased costs and jurisdictional challenges exist for agencies when passengers are denied entry and must then be transported to remote facilities for further action.

The *Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness Action Plan*, released on December 7, 2011, called for the countries to negotiate a pre-clearance agreement for land, marine and rail to enable U.S. and Canadian border security agencies to carry out their missions in the other country, which would place all modes of transportation on par with air service. As part of this initiative, a pilot program is being developed to enable the U.S. Customs and Border Patrol to conduct full pre-clearance of rail passengers in Vancouver, BC.

BEYOND THE BORDER FULL PRE-CLEARANCE PILOT PROJECT

At present, the State of Washington's *Cascades* service between Portland, Seattle and Vancouver has the ability to carry out pre-inspection, but not to conduct full pre-clearance. This precursor effort, which has been evolving for over a decade, is considered a pilot project that could lay the groundwork for full passenger rail pre-clearance.

The Amtrak *Cascades* service has two daily round trips. The *Cascades* service operates as a non-stop, closed door, or "sealed", train from the U.S. border at Blaine, WA and its terminus in Vancouver. The Amtrak station in Seattle faxes an initial passenger manifest to CBP and CBSA and a second manifest is sent upon the train's departure from its last U.S. stop. Upon arrival in Vancouver, passengers and their baggage are funneled to a sterile, secure area for processing and inspection by CBSA.

For southbound service from Canada to the U.S., passengers have their immigration status checked and verified by CBP at the Vancouver station prior to departure and their baggage is inspected. Once the train departs from Vancouver, U.S. Customs declaration forms are distributed and an on-board Customs inspection is performed by CBP upon the train reaching Blaine, WA, just south of the border.

Amtrak and the State of Washington are working towards a long term goal of having all customs and immigration functions, north and south bound, performed entirely at the Pacific Central Station in Vancouver. Under the *Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness Action Plan*, a pilot initiative to conduct full pre-clearance of travelers and their baggage for passenger rail and cruise ships at Vancouver is being negotiated. The original start date of December 2012 has been extended to allow the parties to complete negotiations and address implementation details. This initiative only covers the *Cascades* service, meaning passenger rail pre-clearance for other existing and proposed services will need to be authorized separately.

EBTC PASSENGER RAIL SERVICE

The Government of Canada has had a long established legislated approach to ensure that adequate space is provided at ports of entry to examine travelers and goods seeking to enter Canada. Pursuant to the *Customs Act*, the *Plant Protection Act*, the *Health of Animals Act*, and the *Immigration and Refugee Protection Regulations*, the owners and operators of international toll bridges, tunnels, railways, airports and marine ports receiving international traffic must provide, at no charge, adequate installations to examine international passengers and goods for their admissibility to enter Canada.

In 2010, the Canada Border Services Agency announced its intent to bring its examination procedures for rail passengers up to the standards already established and in place for passengers arriving in Canada via air, auto, bus, ship and ferry. CBSA informed the agencies involved that the requirement that all passengers be off-loaded for inspection within an adequate facility in accord with above stated legislation would be enforced. For the *Adirondack* route between New York City and Montreal, the current inspection facility at Lacolle, QC is inadequate for this purpose.

Off-loading passengers at the border causes significant problems for passengers, AMTRAK, the customs agencies, and state and provincial governments. These include:

- Requiring passengers to de-board and re-board while carrying large, heavy suitcases, particularly during inclement and freezing weather poses a risk to passenger safety, particularly for senior citizens, passengers with disabilities, and passengers with infants and small children.
- Off-loaded inspections and clearance results in longer border dwell and total trip times, increasing operating costs. For example, the current process for customs and immigration inspections at the border adds a minimum of one hour to the *Adirondack* trip in both directions.
- Because border dwell times are dependent on the number of passengers and available customs inspectors, there is no certainty to the length of time trains will be delayed at the border and therefore, uncertainty as to destination arrival times. It is typical for the *Adirondack* to be two or more hours late arriving at its destination in Central Station.
- The unreliability of the train service reduces customer satisfaction and results in a decline in ridership and revenues reducing the economic viability of cross border passenger service.
- Border delays not only increase economic costs, but also result in added environmental and social costs.

On-time performance for the *Adirondack* has ranged between 44% and 57% in recent years, largely due to the border delays, and has been as low as 22% within the past decade. This aspect would be in conflict with the intent of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) to improve on-time performances for passenger rail service.

To date, CBSA has not enforced this policy to require passenger off-loading at the border with the understanding that there has been progress towards a permanent facility at Central Station in downtown Montreal. Enforcing the off-loading requirement for entry into Canada would add at least another hour to inspection times on the northbound service.

PROPOSED MONTREAL CENTRAL STATION FACILITY

A proposal being developed jointly by Amtrak, the Province of Quebec, and the States of New York and Vermont would avoid the need to perform off-loading at the Lacolle site. The proposed new facility at the Central Station in downtown Montreal would meet many needs, including the off-loading requirements, more reliable travel times, better on-time performance and system connectivity between Amtrak and VIA Rail in Canada. The new facility would also be able to serve the proposed reinstatement of Amtrak service (*the Vermonter*) between St. Albans, Vermont and Montreal.

A facility at Central Station would also result in a more efficient border inspection process for both CBSA and CBP. At the proposed facility, as Canada bound passengers would be cleared, they would be allowed to exit to the station. Conversely, for southbound trips to New York, CBP would be allowed to perform its inspections and prevent any improperly documented travelers from boarding the train and passengers would be screened with their baggage, alleviating chances for uninspected or undeclared items to be placed onboard.

Pre-clearance requires that the train be “sealed” between the border and Central station so the current stop at St. Lambert, QC would be eliminated. With pre-clearance being conducted at Central Station the current stop for customs and immigration processing at Rouses Point, NY, just south of the border, would also be eliminated.

The ability to conduct pre-clearance for customs and immigration functions would significantly reduce travel time for the *Adirondack* service, and dramatically increase service reliability. Amtrak has developed conceptual designs for the new facility at Central Station and has received preliminary agreement from CBSA that the design meets its needs. CBP has also reviewed the conceptual design.

Through cooperation with the Agence métropolitaine de transport (AMT) of Montreal, Amtrak has been able to retain an architectural and engineering firm to further investigate the feasibility of the conceptual design and identify permitting and other issues that would need to be resolved prior to construction of the new facility. The province of Quebec has agreed to contribute up to \$100,000 (CAD) and the states of New York and Vermont up to \$100,000 (US) and \$50,000 (US), respectively, to finance this preliminary step.

To further enhance service in the *Adirondack* corridor (and eventually the *Vermont* service), the ministère des Transports du Québec (MTQ) is also financing a \$120,000 (CAD) study that will update a 2003-2004 study on the Canadian National (CN) and Canadian Pacific (CP) rail lines between Montreal and the border, estimate the costs to upgrade the tracks to handle 59, 79 and 100 mph service while identifying areas incompatible for those speeds, and perform preliminary evaluation of improvement scenarios for rail access to downtown Montreal.

PRE-CLEARANCE BENEFITS

In 2009, Amtrak and the State of Washington performed an analysis of the economic value of the Amtrak *Cascades* service on Vancouver to justify the retention of the second daily round trip train without the Government of Canada imposing a daily fee of \$1500 for performing the pre-inspection service on the second train. The intent was to demonstrate that the *Cascades* service, with travel time savings because of pre-inspection, generated a net benefit to the local economy that exceeded the amount that would be recouped through the imposition of a fee.

Between 2006 and 2008 there was an average ridership of 35,255 passengers on the portion of the *Cascades* service between Seattle and Vancouver. During this period Amtrak provided only a single daily round trip, versus the two daily round trips now offered. In addition, an average of 26,435 passengers per year traveled between the two cities on supplemental intercity bus service operated by Amtrak. Forty-four percent of the annual ridership occurred during the peak summer tourism period.

It was determined that 93 % of Amtrak rail passengers stayed overnight, versus 65% overnight stays by visitors using all modes, representing 5.4% of the market share of all overnight visitors during that period. Those making overnight visits stayed an average of 4.36 nights. The combined overnight and day visitors spent \$444 (CAD) per trip on accommodations, food/beverages, shopping and entertainment along with other expenses for a total spending per year of \$15.66 million (CAD). The weighted average of spending by visitors to Vancouver using all modes is \$343 per passenger. The study estimated that the second daily round trip provides another \$16.6 to \$33 million in value to the economy of Vancouver.

Prior to the current pre-inspection pilot for the *Cascades* service an Amtrak/ State of Washington report estimated that the railroad lost an additional \$10,000 in annual operating cost for each minute the service is delayed and idling at the border. The majority of that cost was borne by the taxpayers of Washington.

The *Adirondack* service between New York City and Montreal had annual ridership totals, averaging 125,300 per year during the FFY 2010 to 2012 period. For the proposed pre-clearance facility at the Central Station in Montreal, a similar economic value and business case study is being developed.

The study will look at the capital and annual operating costs, and will include a benefits analysis. The benefits analysis will look at the impacts that will possibly result from moving the enforcement activities away from the border, including:

- I Increased ridership and revenue for Amtrak due to faster trip times, improved reliability and on-time performance, and potential changes for arrival and departure times
- I Expense savings (labor, fuel) from shorter trip times and reduced idling
- I Enhanced ridership and revenue from new same day connections to VIA service from Montreal to Quebec City, Halifax, Ottawa, Toronto and points throughout Canada and better connections in New York City for Canadian travelers
- I Potential ridership and revenue from the future addition of *Vermont* service
- I Ridership and revenue increases for Amtrak from new market opportunities stemming from improved reliability and more favorable departure times
- I Economic value from increased tourism travel in Quebec, Vermont, and New York and related employment impacts
- I Environmental benefits along the corridor (less idling, less overall fuel usage, etc.)

Further, pre-clearance would enhance the viability of restoring the *Vermont* service and would provide a pre-requisite for either of these corridors to support future High Speed Rail initiatives in the EBTC region. .

From the perspective of the *Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness Action Plan*, the proposed Montreal pre-clearance facility would meet a number of the stated goals.

- I The shared pre-clearance facility would allow Canada and the United States to promote security and border efficiency by screening travelers seeking to enter each country at the earliest point possible.
- I The ability to identify the threat potential of passengers and their baggage prior to leaving Montreal or being cleared upon arrival is consistent with the goal of developing a common approach to assessing threats and identifying risks.
- I The pre-clearance concept is consistent with the stated goal of establishing a coordinated entry and exit system and capability for the border security agencies to share information.
- I The *Action Plan* identifies the importance of trade facilitation, economic growth and jobs to both economies. One aspect of this goal is to enhance the ability of legitimate, trusted business people and tourists to move efficiently across the border. A centralized pre-clearance facility would remove the inefficiencies of off-loading at the border for customs and immigration processing while also enabling the border security agencies to have greater capability to identify high risk individuals warranting enhanced inspection in a manner that would decrease potential danger for border agents and passengers

- I Both nations have agreed to coordinate border infrastructure investment and upgrade physical infrastructure at key crossings. The proposed facility would service a critical multi-passenger transport mode between the largest U.S. city and second largest Canadian city, would support an initiative to restore international passenger rail service between Quebec and Vermont, and would obviate the need to build separate security facilities, and enable agents to perform their security duties in a more efficient, cost-effective manner.

FUTURE ACTIONS

The Eastern Border Transportation Coalition (EBTC) is a non-profit membership organization dedicated to improving the movement of people and goods between the United States and Canada. EBTC members are the transportation agencies of the U.S. States of Michigan, New York, Vermont and Maine and the Canadian Provinces of Ontario, Quebec, New Brunswick, Nova Scotia, and Newfoundland and Labrador.

EBTC strongly supports the concept of pre-clearance as an effective means of reducing border crossing times for intercity passenger rail service, and improving the viability of these services, while also meeting safety and security goals for both countries. At its annual conference in July, the Council of State Governments – Eastern Regional Conference approved a resolution of support for pre-clearance at the Montreal facility and forwarded copies of the resolution to the U.S. Secretaries of Homeland Security and Transportation and the Canadian Ministers for Public Safety and Transport, Infrastructure and Communities (see Appendix B).

EBTC will continue to support efforts of its member agencies to expand pre-clearance to rail operations. EBTC will monitor this issue, and provide support for the efforts at every opportunity. As a specific action, EBTC will work with the Transportation Border Working Group's newly formed passenger rail working group to move forward on this and other rail and border issues.

Prior to implementation of pre-clearance at the Montreal facility, a treaty between the governments of Canada and the United States will need to be negotiated and ratified by the federal legislative bodies. EBTC and its member agencies will continue to work with and assist the TBWG to provide technical information and other required background materials as necessary for the negotiation process.

APPENDIX A

THE CANADA-U.S. PRECLEARANCE AGREEMENT

Preclearance

Preclearance services allow travellers to be cleared for entry to the United States before departing from certain Canadian airports. Preclearance makes air travel easier for the millions of passengers who travel between Canada and the United States each year, allowing them direct access to U.S. airports that do not have U.S. Customs and Immigration facilities. It also reduces connection times and eases congestion for passengers linking with flights at busy U.S. airports.

The United States has provided preclearance services in Canadian airports for more than 50 years and currently operates under the 1974 Canada-U.S. Air Transport Preclearance Agreement. Since the successful liberalization of the bilateral aviation agreement in 1995, Canada and the U.S. have explored ways to update and improve preclearance. The conclusion of the new preclearance agreement on January 18, 2001, is the result of extensive consultations with Canadian air carriers and airports, and of several rounds of negotiations between both governments.

Seven Canadian airports currently offer U.S. preclearance facilities: Montreal (Dorval), Ottawa, Toronto, Winnipeg, Edmonton, Calgary and Vancouver. The new agreement is fully reciprocal, ensures the continuity of preclearance at these airports, and permits additional Canadian and U.S. airports to apply for preclearance if they meet the necessary criteria.

In-Transit Preclearance

In-transit preclearance allows passengers from third countries to bypass Canadian Immigration and Customs and report directly to U.S. Customs and Immigration when travelling to the U.S. through Canadian airports. This process allows passengers to move more efficiently within Canadian airports, improves connection times for passengers, and enhances the competitiveness of both airports and air carriers.

The new agreement formalizes the existing in-transit preclearance pilot program, which has been in place at Vancouver airport since 1997. Similar facilities are planned for Toronto, Montreal and Calgary in the near future. Other Canadian airports with U.S. preclearance programs (e.g. Edmonton, Winnipeg and Ottawa) subsequently will be eligible for in-transit preclearance.

Enabling Legislation in Canada

The *Preclearance Act*, which came into force in stages on December 13, 2001 and on May 1, 2002, provides U.S. preclearance officers with appropriate Canadian authorities to inspect U.S.-bound travellers while ensuring travellers' rights and Canadian sovereignty. The Preclearance Agreement entered into force on May 2, 2003.

APPENDIX B



The Council of State Governments

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Resolution # 07/2012-001

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**PROPOSED: RESOLUTION IN SUPPORT OF CUSTOMS PRE-CLEARANCE
FACILITY AT MONTREAL’S CENTRAL STATION**

Whereas, the Council of State Governments’ Eastern Regional Conference (CSG/ERC) is comprised of the 11 Northeast states from Maine to Maryland, the U.S. Virgin Islands, Puerto Rico and five eastern Canadian Provinces; and

Whereas, the economic links between Canada and the Northeastern States are vital to the economies of both regions; and

Whereas, expediting customs clearance is a critical step to enhancing and expanding passenger rail service between Eastern Canada and the Eastern U.S.; and

Whereas, more efficient passenger train service between Montreal and New York City will spur job creation and economic opportunities on both sides of the border; and

Whereas, customs clearance for passenger rail service between Montreal and New York City is cumbersome and time-consuming, and can cause significant travel delays due to the uncertainty in clearance processing times; and

Whereas, in December 2011, President Barack Obama and Prime Minister Stephen Harper issued a joint declaration -- "Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness"-- which articulates a shared approach to security in which both countries work together to address border threats while expediting lawful trade and travel; and

Whereas, one of the goals of the declaration is to improve and expand preinspection and pre-clearance initiatives, including negotiating a preclearance agreement for land, rail and marine modes by December 2012; and

Whereas, the States of Vermont and New York and the Province of Quebec are currently working on a plan with U.S. and Canadian officials and with Amtrak to establish a joint U.S. – Canadian clearance facility at Montreal’s Central Station to conduct the pre-clearance of passengers traveling to and from the U.S.; and

Whereas, construction of a new facility at Montreal’s Central Station and preclearance authority would reduce trip times by at least an hour in each direction, improve the safety of border clearance operations and improve service reliability on New York State’s Adirondack service; support Vermont’s proposed re-instatement of service to Montreal and other services like night trains that could reach Boston and New York; and improve system connectivity between Amtrak and VIA Rail service supporting increased passenger rail travel;

Therefore Be It Resolved that the CSG/ERC urges U.S. officials to move quickly to reach an agreement with their Canadian counterparts on allowing pre-clearance security inspections for Amtrak trains to take place at Montreal’s Central Station; and

Be It Further Resolved that copies of this resolution be forwarded to the U.S. Secretary of Homeland Security, the U.S. Secretary of Transportation, the Minister of Public Safety of Canada, the Minister of Transport, Infrastructure and Communities of Canada, the Minister of Transport of Ontario, the Minister of Transport of Quebec and the Premiers and Speakers of the Legislative Assemblies of the Eastern Canadian Provinces and the Governors of the Northeastern States.

Adopted July 22, 2012 at the CSG/ERC Annual Meeting and Policy Forum in Atlantic City, New Jersey.