BUILDING A SAFE AND RESILIENT CANADA



Canadian Preclearance Legal Framework

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Preclearance Overview

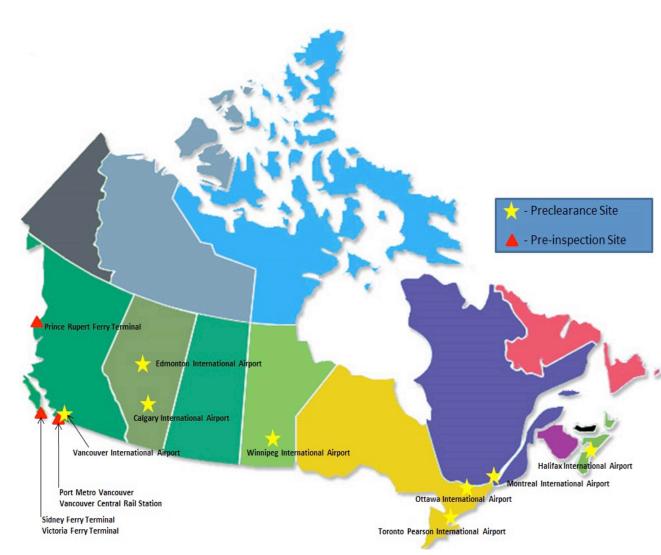


- Background
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Background – Preclearance in Canada



- Preclearance
 operating
 successfully in the
 air mode in Canada
 since the 1950s
- Preclearance currently exists at 8 major Canadian airports
- Pre-inspection
 (preclearance mostly for immigration purposes) exists at five sites in B.C.



New Legal Framework: Ratification



- On August 15, 2019 the new preclearance Canada-US treaty was ratified. The LRMA and the enabling domestic legislation came into force in both countries including:
 - Canadian legislation (*Preclearance Act, 2016*)
 - Canadian Part 1 regulations and other legal instruments (orders in council necessary to support preclearance implementation)
 - American legislation (*Promoting Travel, Commerce and National Security Act of 2016*)

New Legal Framework: Key Elements



- The LRMA is a fully reciprocal agreement that:
 - Modernizes the preclearance legal framework to improve the efficiency and security of the border
 - Creates opportunities for market-driven expansion of passenger and cargo preclearance in all modes of transportation in Canada and the U.S.
 - Permits co-location of border processing, which may be of most use at small and remote ports of entry
- Other key elements of the LRMA:
 - Criminal liability framework
 - Cost recovery
 - Defensive equipment reciprocity
 - Police presence (when U.S. preclearance officers are not armed)



Preclearance Act, 2016



- Canada's *Preclearance Act, 2016*, is divided into four parts:
 - **Part I:** Preclearance by U.S. in Canada
 - **Part II:** Preclearance by Canada in U.S.
 - **Part III:** Amendments to the *Criminal Code* (criminal liability framework and enable carriage of firearms)
 - **Part IV:** Miscellaneous items such as repealing and coming into force provisions and consequential amendments

PCA 2016 Part 1 Regulations



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The *Preclearance in Canada Regulations* address the following substantive areas:

- Handling of goods seized within a preclearance area
- Who may enter a preclearance area, and conditions under which a facility may authorize a person to access a preclearance area
- Obligations of the facility operator for armed police presence if U.S. preclearance officers are not permitted to be armed
- Actions of non-travellers within a preclearance area
- Means through which a traveller may inform senior Canadian officials of the Preclearance Consultative Group of concerns regarding interactions with border services officers conducting preclearance activities

Application of Preclearance Regulations



- These regulations apply to all preclearance facilities in Canada (in all modes of transportation; land, rail, marine and air).
- With the recent entry into force, the eight existing preclearance air facilities were automatically transitioned to the new regime
 - Further work will be conducted in order to operationalize land, rail and marine preclearance, which may potentially require additional regulations led by Transport Canada
- Land, rail and marine preclearance will be rolled out in Canada as they become operationally feasible based on an assessment of benefits and costs

Benefits of Preclearance



- Proven trade and travel benefits for Canada and the U.S.:
 - Expedited transiting of borders and airport transfers
 - Access to non-international U.S. airports and more destinations
 - Moves border processing away from congested entry points
 - Increased efficiencies in logistics; just-in-time manufacturing
- Enhances **security** by addressing security threats at the point of departure rather than upon arrival

Governance



- Moving forward, there will be both national and bi-national governance:
 - In Canada, Public Safety is the lead department responsible for preclearance, with support from Transport Canada, CBSA, Global Affairs Canada, and other departments
 - The Canada U.S. preclearance regime is governed through the Preclearance Consultative Group (PCG), that meets annually to discuss issues related to preclearance operations
- PCG is chaired by Public Safety Canada and Transport Canada on behalf of Canada, and the Department of Homeland Security and Department of State on behalf of the U.S.

Prospective Preclearance Sites



- Establishing new preclearance sites in Canada will be based on industry stakeholder assessments of the **benefits** and **costs**, based on passenger/cargo volumes at each interested facility
- New preclearance sites in Canada are subject to costs associated with conducting preclearance (e.g. infrastructure costs, and operational costs such as U.S. preclearance officer salaries).
 - Cost recovery agreement must be negotiated between the facility and U.S. CBP.
- We encourage sites in Canada considering adopting preclearance to contact Public Safety Canada so that we can provide guidance and assistance.
- New sites in Canada require agreement from both the governments of Canada and the U.S.

Next Steps



- The Government of Canada is continuing to work toward expanding preclearance to all modes for passengers and cargo, including the conversion of B.C. pre-inspection sites to full preclearance at those facilities that choose to convert
- The Government of Canada will continue working closely with prospective new sites and other stakeholders to continue to expand preclearance where viable
- Looking ahead, both governments will continue working with stakeholders to further improve the efficiency and security of the Canada U.S. border



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Questions?

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