

CONSULTATION
GUIDANCE
DOCUMENT



February 2006

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MESSAGE FROM THE ADVISORY PANEL

The Advisory Panel is pleased to undertake this important review of the *Canadian Air Transport Security Authority Act* for the Minister of Transport. In addition to the examination of the provisions and operation of the Act, we have been asked to provide advice on the future aviation security requirements that may impact on the Canadian Air Transport Security Authority's future operations, and on one of the issues emanating from the recent review of the bombing of Air India Flight 182.

This Consultation Guidance Document has been published to assist stakeholders in focusing attention on what we believe are the key issues that need to be addressed. At the same time, we recognize that there may be additional issues not mentioned that stakeholders may wish to bring to our attention. We invite you to consider the contents of this document and we look forward to receiving your views and submissions to help us in our mandate. Please refer to the end of this document on how to make a submission.

Reg Whitaker (Chair)

Jacques Bourgault

Chern Heed

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INTRODUCTION

On November 23, 2005, the Minister of Transport announced the appointment of a three-member Advisory Panel to assist him in conducting a review of the *Canadian Air Transport Security Authority Act (CATSA Act)*. The Minister of Transport is required, by virtue of section 33 of the *CATSA Act*, to complete a review of the provisions and operation of the legislation and to report to Parliament on the results. The *CATSA Act* came into force on April 1, 2002, and resulted in the creation of the Canadian Air Transport Security Authority (CATSA), a direct consequence of the events of September 11, 2001. In addition, the Panel has been asked to consider one of the recommendations contained in “Lessons to be Learned”, the report by the Honourable Bob Rae into outstanding questions with respect to the bombing of Air India Flight 182 in 1985. Through this review, the Minister is also seeking advice from the Panel on possible future aviation security requirements. The Minister must complete the review and report to Parliament by March 31, 2007.

This document has been prepared to provide background and summary information to stakeholders on the events related to the bombing of Air India Flight 182, the history of aviation security in Canada, including the creation of CATSA, and the mandate of the Advisory Panel. Also contained is a list of questions to help focus the attention of stakeholders on key issues the Panel is interested in exploring.

BACKGROUND ON AVIATION SECURITY IN CANADA

In the early 1970s, in response to increasing threats to civil aviation, member states of the International Civil Aviation Organization (ICAO) adopted Annex 17 to the Convention on International Civil Aviation. Annex 17 requires each member country to designate an appropriate authority to develop national objectives, policies and programs for the prevention of unlawful acts that threaten the safety of civil aviation. Since that time, Annex 17 has been updated several times in response to emerging threats.

The Government of Canada designated Transport Canada as its authority and developed an airport policing and security program based on the ICAO-recommended security specifications and practices for international airports. In 1972 the *Criminal Code of Canada* was amended to include indictable offences for aircraft hijacking, endangering the safety of aircraft in flight and the taking on board of offensive weapons and explosive substances. Aviation security provisions were added to the *Aeronautics Act* in 1973 and regulations were developed requiring operators of Canadian aircraft to search persons, their belongings and cargo as a condition of carriage. Operators of foreign aircraft were made subject to the same requirements in 1976. The *Aeronautics Act* and its regulations underwent major revisions in 1985 and again after September 11, 2001, and continue to be updated to accommodate the changing requirements in aviation security.

Prior to 1985, carriers were responsible for the security of their aircraft while Transport Canada was responsible for the establishment of overall security standards for airports and airlines and, in its capacity as owner and operator of major airports, for the provision of aviation security equipment and facilities at airports. Particular attention was paid to carry-on items brought onboard aircraft. Transport Canada, through its aviation security regime, provided airlines the hand-held metal detectors, walk-through metal detectors and X-ray devices with which to provide the screening.

As a result of the terrorist bombing of Air India Flight 182 on June 23, 1985, and the simultaneous baggage-area explosion at Narita Airport in Japan, significant improvements were made to Canada's aviation security regime. These events transformed Canada's civil aviation program and generated new approaches to protecting passengers, airports and aircraft. The following measures were adopted as an initial response to the tragedies:

- More rigorous screening of passengers and carry-on baggage;
- The physical inspection or X-ray inspection of all checked baggage (international destinations);
- A 24-hour hold on cargo (except perishables received from a known shipper) unless a physical search or X-ray inspection was completed;
- The acquisition and deployment of 26 explosive detection units, which were in the final stages of testing and development at the time of the Air India and Narita Airport tragedies;
- The acquisition and deployment of additional carry-on luggage X-ray units, hand-held detectors and walk-through detectors.

The Air India and Narita Airport events led to a thorough review of Canadian aviation security and additional measures were introduced, including:

- Passenger/baggage reconciliation on international flights, a measure later extended to include domestic flights;
- More stringent security controls on passengers, carry-on baggage, checked baggage, cargo and mail;
- The purchase of additional X-ray detection equipment and explosive vapour detectors for inspection of carry-on and checked baggage;
- Strengthening of the pre-board screening training program and the introduction of a certification program for airport screeners;
- Enhanced training for airport security personnel and air crew;
- Enhanced procedures for handling bomb threats and improved search procedures;
- Comprehensive background checks for airport workers;
- Tightened access-control measures at airports;
- Consolidation of the security functions in Transport Canada by the creation of a dedicated Security and Emergency Preparedness Directorate;
- Overhaul of the regulatory framework including new regulations;
- Improved dissemination of classified threat-assessment and intelligence information;
- Significant enhancements to security awareness programs.

Starting in the early 1990s, Transport Canada began to divest itself of airports and to transfer operational responsibilities to local airport authorities. The role of Transport Canada then evolved from owner/operator of airports to landlord, policy-maker, regulator and compliance monitor.

Following the September 11, 2001 terrorist attacks in the United States, the Canadian government further enhanced the country's counter-terrorism capabilities and preparedness. The Federal Budget of December 2001 contained a \$2.2 billion package of new funding for civil aviation security improvements. In addition, the *Public Safety Act, 2002* was passed to further enhance Canada's capacity to prevent terrorist attacks. The Act included provisions related to providing a more secure environment for air travel and resulted in amendments to the civil aviation security requirements of the *Aeronautics Act*.

One of the significant components of the Budget 2001 was the creation of a new Crown corporation, the Canadian Air Transport Security Authority, to be responsible for several core aviation security functions, including those associated with the screening of passengers and their onboard and checked baggage. Other measures included:

- Hiring additional Transport Canada security inspectors for each region of Canada;
- Funding for aircraft security modifications (e.g. reinforced cockpit doors);
- Purchase of additional explosive detection systems;
- Funding for increased police presence and security at airports;
- Funding for an expanded program of armed police officers on aircraft;
- New limits on carry-on luggage;
- Random secondary searches prior to boarding for flights to the United States.

Today, responsibility for civil aviation security in Canada is shared among several federal government departments and agencies, CATSA, air carriers and airport operators. Transport Canada has the lead role for policy development and regulation and represents Canada in

the development of ICAO standards. CATSA's role involves screening of passengers and their belongings, screening of persons accessing restricted areas at airports, and managing funding agreements for policing. Air carriers are responsible for the security of their aircraft, as well

as the security of cargo, mail, catering and provisions carried onboard. Airports respond to threats, establish and maintain restricted areas of airport terminals, and are responsible for physical security including perimeter security. In addition, airports are responsible for arranging police response to screening checkpoints, a police presence in U.S. pre-clearance areas and for other police services that they may require. The Royal Canadian Mounted Police (RCMP) is responsible for the Air Carrier Protective Program. Other significant players include local police forces, the Canadian Security Intelligence Service (CSIS), and the Canada Border Services Agency (CBSA).

CANADIAN AIR TRANSPORT SECURITY AUTHORITY OVERVIEW

On March 27, 2002, the *Canadian Air Transport Security Authority Act* received Royal Assent and the legislation gave rise to the creation of CATSA on April 1, 2002. The legislation assigned CATSA authority for:

- The effective and efficient screening of persons who access aircraft or restricted areas through screening points, the property in their possession or control, and the belongings or baggage that they give to the air carrier for transport;
- The management of funding agreements with the RCMP for the Canadian Air Carrier Protective Program and with airport authorities for enhanced airport policing; and
- Other air transport security functions provided for in the *CATSA Act* or assigned to CATSA by the Minister of Transport. Assigned tasks currently include random screening of non-passengers accessing restricted areas at airports and managing the Restricted Area Identification Card (RAIC) program.

The legislation also requires CATSA to ensure consistency across Canada in the delivery of security screening and the other functions set out in the Act.

CATSA is a Crown corporation reporting to the Minister of Transport. CATSA's governance structure includes an 11-member Board of Directors, including a Chairperson. The Board appoints a Chief Executive Officer (CEO) to be responsible for day-to-day management of CATSA and the CEO cannot also be a member of the Board. The Minister of Transport recommends appointments to the Board of Directors and appointments are made by the Governor-in-Council. The Minister may also issue binding directives to CATSA and may assign other air transportation security functions to the Authority. The legislation also provides for regulations to be made by the Governor-in-Council.

CATSA currently has over 200 employees, with the majority located at headquarters in Ottawa. The Authority delivers its screening responsibilities through contractors that hire approximately 4,000 airport screening officers. These officers process more than 37 million passengers and airport workers and intercept more than 700,000 prohibited items annually at 89 designated airports across Canada.

INDEPENDENT REVIEW OF AIR INDIA FLIGHT 182

In April 2005, the Government appointed the Honourable Bob Rae to review and assess whether there are any outstanding questions of public interest with respect to the 1985 bombing of Air India Flight 182.

Mr. Rae's report, "Lessons to be Learned" was released on November 23, 2005. The Government of Canada accepted the recommendations contained in the report and committed to review the following issues:

- The systemic protocol followed by the Government of Canada when issuing a threat assessment;
- The relationship between the RCMP and CSIS;
- The reconciliation of incompatibilities associated with the collection of evidence and intelligence; and
- Whether Canada has learned all it can from the bombing in terms of public policy in the area of aviation security?

On November 25, 2005 the Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness announced that the Honourable Bob Rae had been appointed to undertake additional analysis of the first three issues raised in his report. The fourth issue identified by Mr. Rae, as to whether Canada has learned all it can in the area of aviation security, was assigned to the Advisory Panel for the *CATSA Act* Review.¹

MANDATE OF THE ADVISORY PANEL FOR THE *CATSA ACT* REVIEW

The Advisory Panel will be the Minister's principal source of advice on the five-year review of the provisions and operation of the *CATSA Act*. The Minister has also asked for the Panel's advice on future aviation security requirements that may impact on CATSA's future operations. As mentioned above, the Panel has been tasked to consider the fourth recommendation of Mr. Rae's report on the Air India bombing. The Panel may also make observations on other important matters that come to its attention during the course of its work.

The role of the Advisory Panel is to conduct independent study and analysis, to undertake consultations, and to prepare a report for the Minister with recommendations and

¹ If a judicial inquiry into the Air India flight 182 bombing is established, the Panel's mandate with respect to the Air India bombing may be affected.

observations. The Panel will consult CATSA and Transport Canada, as well as stakeholders, including air carriers, airport operators, industry associations, air travellers, labour organizations, law enforcement agencies, provincial authorities, as well as other federal government departments and agencies. The Panel will hold a series of meetings across Canada where individuals and groups can present their views. In the course of conducting this work, the Panel will meet with the families of the victims of the Air India bombing to discuss aviation security breaches associated with Air India Flight 182. The Panel will be supported by a Secretariat established within Transport Canada.

The text of the Terms of Reference for the *CATSA Act* Review Advisory Panel may be found in Appendix B to this document.

KEY ISSUES TO BE EXPLORED

In summary, the three-member Advisory Panel, appointed by the Minister, has been tasked to:

1. Examine the provisions and operation of the *CATSA Act* to ensure that the legislation provides a sound and adequate statutory basis for CATSA's air transport security mandate;
2. Provide advice on future aviation security requirements and other developments that may impact on CATSA's future operations;
3. Examine whether Canada has learned all it can in the area of aviation security stemming from the Air India bombing; and
4. Inform the Minister on other important issues that come to its attention.

The Panel is seeking input from stakeholders covering the mandated items listed above. The following list of key questions is designed to help focus stakeholder input. It is not an exhaustive list and does not in any way restrict the possibility of other issues coming forward.

1. Provisions and Operation of the *CATSA Act*

CATSA has responsibility for the following:

- Screening passengers and their carry-on baggage;
- Screening checked baggage;
- Random screening of non-passengers accessing restricted areas at airports;
- Enhancing the airport pass system for restricted areas (RAIC);
- Administering funding agreements for the Canadian Air Carrier Protective Program;
- Administering airport policing funding agreements.

1.1 Mandate

Keeping in mind CATSA's assigned roles, the list of questions below relates to its mandate as provided for in the CATSA legislation.

- 1.1.1 Does the *CATSA Act* clearly establish the respective roles of CATSA and the Minister of Transport? Are these roles appropriate?
- 1.1.2 Are there issues in the management of the funding agreement for the RCMP Canadian Air Carrier Protective Program?
- 1.1.3 Are there issues in the management of funding agreements for enhanced airport policing?
- 1.1.4 Should CATSA's mandate be expanded beyond its assigned roles to include, for example, screening of air freight or other security measures at airports?
- 1.1.5 Are there elements of CATSA's current mandate that could be better handled by other agencies?
- 1.1.6 CATSA is required, by *Regulation*, to provide screening services at 89 airports across Canada. Should these services be provided in more or fewer airports? Does this requirement appropriately balance the public policy interests of security and cost effectiveness?

1.2 Governance and Accountability

The *CATSA Act* created the Canadian Air Transport Security Authority as a Crown corporation reporting to the Minister of Transport under *Part X* of the *Financial Administration Act Schedule III: Part I*.

Crown corporations are used to pursue certain public policy objectives, especially when autonomy is a key requirement. They are a diverse set of organizations, operating in many social and economic sectors. Some corporations are completely funded by government appropriations, while others, primarily those with a commercial orientation, tend to be self-sufficient or profit-making. Some have regulatory or quasi-regulatory responsibilities. Some, like CATSA, are agents of the Crown. While they operate at arm's length from the government, Crown corporations are ultimately accountable to the government.

CATSA is currently the only Canadian government security entity that is a Crown corporation. Other security entities are either full departments (e.g. Public Safety and Emergency Preparedness Canada, Department of National Defence) or departmental portfolio agencies (e.g. CSIS, RCMP, CBSA).

- 1.2.1 Is a Crown corporation model appropriate for an organization with front-line security responsibilities? Would another model be more appropriate?
- 1.2.2 Does CATSA have appropriate authorities and financial flexibility to respond in a timely fashion to changing circumstances in aviation security?
- 1.2.3 Are the responsibilities of the Minister of Transport, CATSA Board, Chair and CEO appropriate to the organization's mandate?

- 1.2.4 Do the eleven CATSA Directors (two representing the airline industry, two representing airport operators, seven others) adequately represent the spectrum of stakeholders and are the nomination and designation provisions in the legislation operating well?
- 1.2.5 Are effective relationships and feedback mechanisms in place with stakeholder groups and the travelling public to ensure that CATSA is aware of and responsive to their needs and concerns?
- 1.2.6 Is the accountability for aviation security at airports clearly defined among the players involved? Is the current accountability structure appropriate?
- 1.2.7 Is it clear where the public should take complaints about aviation security? If not, how can this be improved?

1.3 Service Delivery

Aviation security in Canada is governed by *Regulations* and *Security Measures* under the *Aeronautics Act* that specify the standards and procedures to be followed by CATSA, airports and air carriers in carrying out their responsibilities. These regulations and measures are largely prescriptive in nature. Transport Canada is responsible for developing, amending and enforcing compliance with these regulations and measures, and for ensuring that they comply with ICAO standards.

The Government of Canada is moving towards use of results-based regulations that would establish performance goals and would allow flexibility in how they are to be achieved. There is a range of views with respect to the applicability of this approach to the regulation of security services.

- 1.3.1 What are your views regarding a results-based versus a prescriptive-based method of regulating aviation security?
- 1.3.2 Does the current regulatory framework for aviation security effectively support accountability for results?
- 1.3.3 Does the content, implementation and enforcement of the regulatory framework achieve an appropriate balance between results-based and prescriptive-based approaches?
- 1.3.4 How well is CATSA fulfilling its legislated mandate to provide efficient and effective security screening functions?
- 1.3.5 CATSA is required to provide screening services that are efficient and effective. Are these concepts appropriate and how can they be measured? Should other criteria be considered?
- 1.3.6 Are screening services delivered consistently across the country, taking into account the characteristics of the 89 designated airports?

- 1.3.7 How well is CATSA fulfilling its mandate to conduct random screening of non-passengers accessing restricted areas at airports? Is random screening appropriate? Have any other issues arisen in the delivery of this program?
- 1.3.8 How well is CATSA fulfilling its mandate with respect to the Restricted Area Identification Card (RAIC) program?
- 1.3.9 Does the provision of CATSA services strike the right balance among the objectives of maintaining security, satisfying customer service, and supporting commercial viability in the airport/airline industry?
- 1.3.10 Does CATSA receive the threat assessments and other intelligence information needed to perform its role in an optimal manner?
- 1.3.11 Have issues arisen with respect to compensating airports for reasonable costs incurred in the delivery of screening?
- 1.3.12 Are decisions regarding the acquisition, maintenance and replacement of capital equipment used in the screening of passengers and their belongings made with due regard for efficiency, effectiveness and value for money?
- 1.3.13 The *CATSA Act* provides for the use of CATSA employees, airport employees or private contractors to deliver front-line security services. Currently, all screening is performed through screening contractors. What are the advantages and disadvantages of this model? Would direct delivery by CATSA or by airport employees be considered viable options?
- 1.3.14 Are screening contractors and screening officers appropriately qualified and trained to carry out their responsibilities? Do they demonstrate appropriate performance of their security functions and customer service skills?
- 1.3.15 Have concerns arisen with respect to the retention of screeners, nationally and/or locally?
- 1.3.16 Have any labour relations issues arisen that may affect the delivery of screening services in Canada?

1.4 Legislative Provisions

It is essential that the legislation provides a sound and adequate basis for CATSA's aviation security mandate.

- 1.4.1 Are there provisions in the *CATSA Act* that require amendment, clarification, replacement or deletion?
- 1.4.2 Are any new provisions required to better reflect the current mandate, accommodate an expanded mandate, or address emerging trends in aviation security?
- 1.4.3 Have issues arisen with respect to the *Regulations* or *Directives* adopted under the Act that need to be addressed?

2. Review of Future Aviation Security Requirements and Other Developments

In addition to the Panel's review of the provisions and operation of the *CATSA Act*, the Minister is seeking advice from the Panel on future aviation security requirements and other developments that may impact on CATSA's future operations.

- 2.1 How might social and economic trends affect future aviation patterns and threats?
- 2.2 What are the emerging threats and trends in aviation security and how might they affect CATSA in carrying out its mandate in the future?
- 2.3 What are the new technologies and screening/processing practices of the future? How will these new technologies and practices impact CATSA in carrying out its mandate including the acquisition of equipment and maintenance requirements?
- 2.4 What will be the impact on CATSA services of projected air passenger traffic volumes and patterns, emerging aircraft designs, and airport configurations? What responses will be necessary and available to deal with these industry changes?

3. Issues Arising from the Independent Review of the Air India Flight 182 Tragedy²

On November 23, 2005, the Honourable Bob Rae completed his report on outstanding questions with respect to the bombing of Air India Flight 182. One of Mr. Rae's recommendations for further study is the following:

“There were grievous breaches of aviation security in the Air India bombing. Has Canada learned enough from the Air India bombing in terms of its public policy in this area, and what further changes in legislation, regulation, and practice are required?”

- 3.1 Has Canada learned all it can from the Air India bombing?
- 3.2 Has sufficient action been taken since 1985 to address the specific aviation security breaches associated with the Air India flight 182 bombing, particularly those relating to the screening of passengers and their baggage? Are further changes required in legislation, regulations or practice to specifically address these breaches?
- 3.3 Is Canada's aviation security system sufficiently responsive to emerging threats?

4. Observations on Other Important Issues

In addition to the above key questions to which the Panel is seeking input, it may also inform the Minister of other important matters that come to its attention through its research, analysis or consultations.

² If a judicial inquiry into the Air India flight 182 bombing is established, the Panel's mandate with respect to the Air India bombing may be affected.

NEXT STEPS

A web page for the *CATSA Act* Review has been established at:
http://www.tc.gc.ca/tcss/CATSA/toc_e.htm

Stakeholders are encouraged to refer to the web site for information on the progress of the review. Full details on the schedule of upcoming public consultations will be published on the web site, along with the timing for submissions. All submissions will be published on the web site as they are received, except for information that the originator identifies as being security or commercially sensitive.

Stakeholders are invited to provide written submissions to the Panel either electronically to this web site or by mail to the *CATSA Act* Review Secretariat at the address listed below.

CATSA Act Review Secretariat
180 Elgin Street, Suite 901
Ottawa, Ontario
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Following the consultations, the Advisory Panel will prepare a report for the Minister of Transport that includes its observations and recommendations on the provisions and operation of the *CATSA Act* and on the other issues falling within the scope of the Terms of Reference. The Panel is expected to submit its report to the Minister by July 2006, in order that the Minister may complete the required review and report to Parliament by March 31, 2007.

APPENDIX A—BIOGRAPHIES OF ADVISORY PANEL MEMBERS



Reg Whitaker (Chair)

Reg Whitaker is Distinguished Research Professor (Emeritus) at York University and Adjunct Professor of political science at the University of Victoria in British Columbia. He received a PhD in political economy from the University of Toronto and has since received many academic honours, including an Isaac Walton Killam Research Fellowship. His publications include *Canada and the Cold War* (2003) with Steve Hewitt and *The End of Privacy: How Total Surveillance is becoming a Reality* (1999).

In addition to his academic work, Dr. Whitaker has provided media commentary and has provided advice to public commissions and to refugees facing deportation. He is a member of the advisory panel to the Arar Commission's Policy Review on the creation of an arm's length review mechanism for the national security activities of the RCMP.



Jacques Bourgault

Jacques Bourgault is a Professor at the Université du Québec à Montréal and Adjunct Professor at the École nationale d'administration publique. Since 2001, Mr. Bourgault has been a Research Fellow at the Canada School of Public Service. His research specialties include: public management modernization, accountability, governance and public service management trends in the federal and Quebec governments. He holds a PhD in political science from La Sorbonne (Public Administration) and is also a lawyer and a member of the Quebec Bar.

Dr. Bourgault has acted as a consultant for the federal and provincial governments, as well as at the international level for governments in northern and sub-Saharan Africa and for the World Bank. His publications include *Public Administration and Public Management: Experiences in Canada*.



Chern Heed

Chern Heed has extensive professional experience in airport planning, management and operations in Canada and abroad. He served as the airport general manager of both Vancouver International Airport and Toronto Lester B. Pearson International Airport.

Mr. Heed led the operational planning for Bangkok's new Suvarnabhumi Airport during the past year, and has provided consulting services for airports in Canada and around the world, including the redevelopment of airports in Nassau, Bogotá and Moscow. He also held executive positions during the development of Hong Kong International Airport between 1994 and 1999.

Mr. Heed holds a degree in electrical engineering from the University of British Columbia.

APPENDIX B—TERMS OF REFERENCE – ADVISORY PANEL ON THE *CATSA ACT* REVIEW

Background

Aviation security has been an issue of importance for Canada. Significant improvements were made to Canada’s aviation security regime as a result of the terrorist bombing of Air India in 1985. Following the September 11, 2001 terrorist attacks on the United States, the Government enhanced Canada’s counter-terrorism authorities, capabilities and preparedness. One of the most significant early announcements was the creation of a new Crown corporation—the Canadian Air Transport Security Authority or CATSA—to be responsible for several core aviation security functions, including those associated with the screening of passengers and their on-board and checked baggage. Air carriers had been performing these screening functions, using private sector contractors.

The Government announced the creation of CATSA in the December 2001 Budget, as part of a \$2.2 billion package of new funding for civil aviation security enhancements. Shortly thereafter, on March 27, 2002, the *Canadian Air Transport Security Authority Act* received Royal Assent. This new legislation assigned CATSA authority for:

- The effective and efficient screening of persons who access aircraft or restricted areas through screening points, the property in their possession or control, and the belongings or baggage that they give to the air carrier for transport;
- The management of funding agreements with the Royal Canadian Mounted Police for the Canadian Air Carrier Protective Program and with airport authorities for enhanced airport policing; and
- Other air transport security functions provided for in the *CATSA Act* or assigned to CATSA by the Minister. Assigned tasks currently include random screening of non-passengers accessing restricted areas at airports and managing the Restricted Area Identification Card (RAIC) program.

The *Act* requires CATSA to ensure consistency across Canada in the delivery of security screening and all other functions within its mandate.

The *CATSA Act* came into force on April 1, 2002 by Order in Council. CATSA’s governance structure includes an 11-member Board of Directors, including a Chairperson, all appointed by the Governor-in-Council. The Board appoints a Chief Executive Officer to be responsible for day-to-day management of CATSA and who is not a member of the Board. The Minister of Transport recommends appointments to the Board of Directors, may issue binding directives to CATSA, and may assign other air transportation security functions to CATSA.

Currently, CATSA staff number approximately 200, mainly at the Ottawa headquarters. CATSA delivers its screening responsibilities through contractors who hire approximately 4,000 screening officers who process more than 37 million passengers and workers and intercept more than 700,000 prohibited items annually at 89 airports.

Legislative Review Requirement

According to section 33 of the *CATSA Act*:

- A review of the provisions and the operation of this Act must be completed by the Minister during the fifth year after this section comes into force.
- The Minister must cause a report of the results of the review to be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the report has been completed.

Process

The Minister of Transport has appointed an Advisory Panel of three part-time members to conduct independent study and analysis, to undertake consultations, and to prepare a report with recommendations and observations.

The Panel will consult CATSA and Transport Canada, as well as stakeholders, including air carriers, airport operators, air travellers and other federal government departments and agencies. The Panel will hold meetings across Canada where individuals and groups can present their views. To assist those who wish to make submissions, the Panel will prepare a Guidance Document setting out key issues of interest to the Panel.

A full-time Secretariat established within Transport Canada will support the Panel.

Scope of the Panel's Work

The Panel will be the Minister's principal source of independent advice on the five-year review of the provisions and operation of the *CATSA Act*. The Minister is also seeking the Panel's advice on future aviation security requirements and other developments that may impact on CATSA's future operations. The Minister has assigned the Panel tasks flowing from the independent review of the 1985 crash of Air India Flight 182, and acknowledges that the Panel may wish to make observations on other important matters that come to its attention during the course of its work.

1. Review of Provisions and Operation of the Legislation

The primary aim of this five-year review of the *CATSA Act* is to ensure that the legislation provides a sound and adequate statutory basis for CATSA's air transport security mandate. The Panel will review all the provisions of the *CATSA Act* and identify those provisions that the Panel considers require amendment, clarification, replacement, or deletion. The Panel will also identify the need for new provisions required to carry out CATSA's air transport security mandate.

The Minister has asked the Panel to accord special attention to issues arising from the provisions of the legislation dealing with:

- Governance and accountability, including the choice of the Crown corporation model, and the responsibilities of the Minister, the Board of Directors, the Chairperson, and the Chief Executive Officer;
- The delivery of core screening functions (direct, through screening contractors, or through authority to airport operators);

- CATSA's role in the funding of the RCMP's Air Carrier Protection Program and with airport authorities for enhanced airport security;
- The requirement for CATSA to conform with the CATSA Act provisions to deliver its screening functions effectively and efficiently and to deliver all its functions in a consistent manner across Canada;
- The qualifications, training and performance of screening contractors and screening officers; and
- The protection of information relating to air transport security or public security.

The mandate of CATSA remains consistent with the Government's national security policy objectives, and therefore the Minister is not seeking the Panel's advice on the expansion

of CATSA's mandate beyond air transport security functions. The structure, organization and functions of government entities are the Prime Minister's prerogative. The Panel will provide recommendations and observations on the appropriateness and effectiveness of the existing model in delivering CATSA's air security mandate.

2. Review of Future Aviation Security Requirements and Other Developments

Based on the Panel's review of the provisions and operation of the *CATSA Act*, including matters with respect to mandate, governance, accountability and service delivery, the Minister is seeking independent advice from the Panel on a number of issues relating to CATSA's future operations and requirements, including:

- The impact of projected air transport passenger traffic volumes and patterns at Canadian airports with CATSA services;
- Projected security requirements at Canadian airports with CATSA services;
- New technology and screening/processing practices and their impact on equipment acquisition and maintenance requirements.

In its December 2001 Budget, the Government introduced the Air Travellers Security Charge (ATSC) to fund aviation security initiatives. Amounts raised by the ATSC are attributed to the Consolidated Revenue Fund and not directly to CATSA or any other government entity with security responsibilities. The work of the Panel will not extend to the current ATSC structure, level or impact on the aviation industry. Advice is not being sought from the Panel with respect to funding sources, mechanisms and levels applicable to CATSA.

3. Issues Arising from the Independent Review of the Air India Flight 182 Tragedy

On November 23, 2005, the Honourable Bob Rae provided the government his report on outstanding questions with respect to the bombing of Air India Flight 182. Mr. Rae recommended the following question for further study:

“There were grievous breaches of aviation security in the Air India bombing. Has Canada learned enough from the Air India bombing in terms of its public policy in this area, and what further changes in legislation, regulation, and practice are required?”

As part of the Government's response to Mr. Rae's report, the Minister of Transport is directing the Advisory Panel:

- to review the actions taken since 1985 to address the specific aviation security breaches associated with the Air India flight 182 bombing, particularly those relating to the screening of passengers and their baggage; and
- to advise the Minister on whether further changes are required in legislation, regulations or practice to specifically address these breaches.

In the course of conducting this work, the Panel will meet with the families of the victims of the Air India bombing to discuss the aviation security lapses in 1985.

4. Other Issues

The Panel may inform the Minister of other important issues that come to its attention through its research, analysis or consultations.

Reporting and Timing

The Panel will prepare a report for the Minister of Transport that includes observations and recommendations on the provisions and operation of the *CATSA Act* and on the other issues falling within the scope of these Terms of Reference.

The Panel will submit its report by July 1, 2006, in order that the Minister may complete the legislative review by March 31, 2007, five years after the *CATSA Act* came into force.

APPENDIX C—LIST OF 89 DESIGNATED AIRPORTS

British Columbia

Abbotsford
Campbell River
Castlegar
Comox
Cranbrook
Dawson Creek
Fort St. John
Kamloops
Kelowna
Nanaimo
Penticton
Prince George
Prince Rupert
Quesnel
Sandspit
Smithers
Terrace
Vancouver International
Victoria International
Williams Lake

Alberta

Calgary International
Edmonton International
Fort McMurray
Grande Prairie
Lethbridge
Lloydminster
Medicine Hat
Red Deer Regional

Saskatchewan

Prince Albert
Regina
Saskatoon (John G. Diefenbaker International)

Manitoba

Brandon
Thompson
Winnipeg International

Ontario

Hamilton
Kingston
Kitchener/Waterloo Regional
London
North Bay
Ottawa (Macdonald-Cartier International)
Sarnia (Chris Hadfield)
Sault Ste. Marie
Sudbury
Thunder Bay
Timmins
Toronto/Buttonville Municipal
Toronto (City Centre)
Toronto (Lester B. Pearson International)
Windsor

Quebec

Alma
Bagotville
Baie-Comeau
Chibougamau/Chapais
Gaspé
Îles-de-la-Madeleine
Kuujuaq
Kuujuarapik
La Grande Rivière
Lourdes-de-Blanc-Sablon
Mont Joli
Montréal International (Dorval)
Montréal International (Mirabel)
Quebec (Jean Lesage International)

Rivière-Rouge (Mont-Tremblant International)
Roberval
Rouyn-Noranda
Sept-Îles
Val D'Or

New Brunswick

Bathurst
Charlo
Fredericton
Moncton
Saint John
St. Leonard

Nova Scotia

Halifax International
Sydney
Yarmouth

Prince Edward Island

Charlottetown

Newfoundland and Labrador

Churchill Falls
Deer Lake
Gander International
Goose Bay
St. Anthony
St. John's International
Stephenville
Wabush

Nunavut

Iqaluit

Northwest Territories

Yellowknife

Yukon

Whitehorse International