

OVERVIEW OF THE LEGISLATION

SUMMARY

The *Preclearance Act* provides U.S. customs, immigration and agricultural inspection officers with appropriate authorities to determine, at designated airport areas in Canada, what people and what goods are allowed to enter the U.S.A. Modelled on existing preclearance schemes in Europe such as the Swiss/French airport agreement, the Act provides these officers (Federal Inspection Services) with the authority to examine and seize goods and to administer certain monetary penalties under American border-control statutes. The Act provides full protection under Canadian law and the Canadian Charter of Rights and Freedoms.

BACKGROUND

Canada has allowed U.S. Federal Inspection Services to operate air passenger preclearance in Canada since the 1950s. "Preclearance" is the processing by U.S. federal inspection agencies of travellers and goods that are starting their journey in Canada and seeking entry to the United States.

These arrangements were formalized by the 1974 *Air Transport Preclearance Agreement between Canada and the United States of America*. Under that agreement, air preclearance services now clear 8.5 million passengers annually at seven airports i.e. Vancouver, Edmonton, Calgary, Winnipeg, Toronto, Ottawa and Montreal (Dorval).

Changes have occurred in Canada's law and in border operations since 1974. The 1982 Charter of Rights and Freedoms has granted Canadians new individual rights. Border processing of persons and goods has evolved as a result of the rapid increase in border crossings and the adoption of new technology.

Statutory authority and amendments to the 1974 agreement will ensure appropriate legal authorities for the new realities of the border and protect travellers' rights under Canadian law. Canada is introducing this legislation to provide this authority. The legislation would also provide the legal basis for re-engineering border operation arrangements for persons and goods travelling by air and other modes of transport.

Intransit arrangements will be introduced at airports with preclearance facilities. "Intransit preclearance" is the inspection, in Canada, by U.S. federal inspection agencies of travellers and goods from *third* countries travelling through Canada to the U.S., who do not formally enter Canada.