

**Progress Report**  
**Air India Inquiry Action Plan**  
**Table of Contents**

Foreword

Introduction

Government Commitments: Reporting Progress

The Prosecution of Terrorism Offences

The Protection of Witnesses

The Financing of Terrorism

The Sharing of Information and Interdepartmental Cooperation

Intelligence and Evidence

Aviation Security

Annex A: Commitment Status

## Foreword

On December 7, 2010, the Government released the *Air India Inquiry Action Plan* (Action Plan) in response to the *Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182's* (the Commission) final report. This Action Plan is the Government's roadmap for moving forward in six broad areas of national security that are critical to keeping Canadians safe.

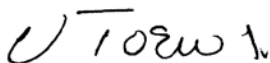
The 17 commitments made in the Action Plan highlight how the Government intends to address and correct the outstanding concerns relating to our country's security and intelligence system. By improving our country's national security framework, we aim to help ensure that we stay one step ahead of the terrorist threat, which is real, persistent and evolving. The recent Speech from the Throne highlighted that the implementation of this Action Plan is a priority for our Government.

Since the establishment of the Commission in May 2006, the Government has remained committed to the families of the victims. On June 23, 2011, on the 26<sup>th</sup> anniversary of the bombing of Air India Flight 182, the Government unveiled, with victims' families, the final memorial in Montreal commemorating those who lost their lives during this tragedy.

During this ceremony, the Prime Minister also announced the establishment of the Kanishka Project, which is a five year national research project to develop the knowledge and understanding our country needs to effectively counter terrorism and keep Canadians safe. A total of \$10 million will be made available to fund a range of initiatives, including conferences, publications, and major research projects.

We firmly believe that terrorism has not, and will not, undermine our way of life. Our society remains resilient because of the basic values that bind us and make us stronger – freedom, equal opportunity, diversity, human security, and inclusiveness. The memory of the victims and the pain of the families strengthen our resolve to fight criminality and terrorism at home and abroad.

We believe it is important for Canadians to know what actions their Government is taking to protect them and address outstanding security challenges. We are therefore pleased to present this first Progress Report on the status of implementation of the commitments we made in the Action Plan. We intend to continue this dialogue with Canadians as implementation of the Action Plan progresses.



Vic Toews  
Minister of Public Safety



Rob Nicholson  
Minister of Justice and  
Attorney General of Canada



Denis Lebel  
Minister of Transport,  
Infrastructure and  
Communities

## Introduction

June 23, 2011, marked the 26<sup>th</sup> anniversary of the bombing of Air India Flight 182, which took the lives of 329 innocent people, most of them Canadians. In May 2006, the *Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182* (the Commission) was established to provide the families of the victims with long overdue answers and to help prevent another such tragedy. In June 2010, the Commission delivered to the Government its final report, which provided an in depth and comprehensive assessment of a number of challenges facing Canada's security and law enforcement agencies.

This past December, the Government released its *Air India Inquiry Action Plan* (Action Plan) in response to the Commission's report. In this Action Plan, the Government outlined how it would address a number of outstanding security challenges. Specifically, 17 commitments were made in six broad areas to:

- streamline criminal trial processes to better manage the inherent complexity of terrorism prosecutions;
- modify the federal Witness Protection Program to ensure it is appropriately suited to the types of witnesses who need protection in terrorism cases;
- strengthen Canada's framework for combating terrorist financing;
- enhance cooperation among Canada's law enforcement and intelligence agencies, in particular information sharing for national security purposes;
- examine ways to improve how security intelligence is collected and retained, and explore the process of disclosure and the obligations of security intelligence agencies; and
- make targeted investments and improvements in aviation security over the short, medium and longer term, always focusing on areas of highest risk.

The commitments laid out in the Action Plan represent an important undertaking by the Government to improve Canada's national security system. This document represents a snapshot, taken at the seven month stage, of the progress that has been made to implement the Action Plan. It explains that a number of the aspects of the Action Plan that were achievable in a seven month timeframe, such as the passage of Bill C-2 which will improve the conduct of mega-trials, the formation of a forum on illicit financing, and the realignment of responsibilities for the Passenger Protect Program between Ministers, have been completed.

Other aspects of the plan, which relate to highly complex issues and may require new legislation, are well underway. Given the difficult fiscal environment we are facing, as we move forward on these aspects of the Action Plan we are making every effort to seek efficiencies and ensure that we maximize the results we obtain for the resources we invest, while respecting Canadian values and principles.

While significant progress has been made in the seven months since the Action Plan's release, implementation is ongoing. As the process of implementing the Action Plan

moves forward, the Government will continue to keep Canadians apprised of progress made.

## Government Commitments: Reporting Progress

### *The Prosecution of Terrorism Offences*

*Progress achieved:*

- *royal assent granted to Bill C-2, An Act to amend the Criminal Code (Fair and Efficient Criminal Trials Act), in the First Session of the 41<sup>st</sup> Parliament*
- *a new chapter in the operational manual to prosecutors is being developed on national security (terrorism) prosecutions*

The prosecution related to the Air India tragedy highlighted the significant challenges that mega-trials – usually the result of long and complicated criminal investigations – pose for the criminal justice system. Notwithstanding these challenges, in the last year, a number of court decisions have demonstrated that Canadian agencies are able to identify and arrest individuals before they cause harm, successfully prosecute, and secure significant prison time for individuals who commit terrorism offences.

For example, on December 17, 2010, the Court of Appeal of Ontario increased the sentence of Mohammed Momin Khawaja, an Ottawa resident charged in 2004, with seven counts of terrorism related offences. It imposed a sentence of life imprisonment, the maximum penalty under the law<sup>1</sup>. On the same day, the Court of Appeal of Ontario also released three other judgments related to the “Toronto 18” terrorist cell, which planned to detonate bombs in downtown Toronto, and cause multiple deaths and injuries. The Court denied the appeal of the life sentence for the leader of the cell, Zakaria Amara<sup>2</sup>, and increased the sentences of two other participants: Saad Khalid (from 14 to 20 years)<sup>3</sup> and Saad Gaya (from 12 to 18 years)<sup>4</sup>.

Although success has been achieved, the management of such trials needs to be further streamlined. The Government continues to work to achieve this goal, including through the implementation of the Action Plan’s commitments.

*Commitment 1: Introduce legislation to improve how cases are managed in court. This will, among other things, give judges stronger control of proceedings and provide for more efficient trials*

In the third session of the 40<sup>th</sup> Parliament, the Minister of Justice introduced Bill C-53, *An Act to Amend the Criminal Code (Fair and Efficient Criminal Trials Act)*, to improve the conduct of long, complex trials, including national security (terrorism) prosecutions. However, Bill C-53 died on the Order Paper upon the dissolution of Parliament in March 2011.

---

<sup>1</sup> *R. v. Khawaja*, 2010 ONCA 862

<sup>2</sup> *R. v. Amara*, 2010 ONCA 858

<sup>3</sup> *R. v. Khalid*, 2010 ONCA 861

<sup>4</sup> *R. v. Gaya*, 2010 ONCA 860

The Minister of Justice re-introduced this Bill as Bill C-2 in the 41<sup>st</sup> Parliament on June 13, 2011. The passage of Bill C-2 was expedited by the Government and the Bill received Royal Assent on June 26, 2011.

The legislation offers procedural tools to streamline the conduct of long and complex trials through stronger case management, reduced duplication of processes, and improved criminal procedure. The legislation allows for the appointment of a case management judge empowered to exercise greater control and management of the preliminary phase of the trial by, among other things, imposing deadlines on parties, encouraging them to simplify proceedings, and ruling upon preliminary issues. The legislation also provides for the joint hearing of related motions raised in separate but related trials, streamlines the use of direct indictments, and provides that rulings relating to certain preliminary issues that were made during the trial remain binding on the parties in any new trial ordered as a result of a mistrial or a severance of the indictment. The legislation also enhances the protection of jurors' identity and allows an increase in the maximum number of jurors from 12 to 14 in exceptional circumstances.

*Commitment 2: Continue to identify best practices to improve the conduct of mega-trials. The Public Prosecution Service of Canada will ensure that they are reflected in its practice directives to its prosecutors*

The Public Prosecution Service of Canada (PPSC) has developed a Deskbook, which provides a comprehensive set of written guidelines to its prosecutors. Specifically, chapter 54 contains a series of guidelines that govern the management of mega-trials. The PPSC is also in the process of updating another chapter on the process of disclosure under section 38 of the *Canada Evidence Act* to reflect recent case law and best practices that have been identified as a result of recent prosecutions. In addition, the PPSC will be adding a new chapter on national security (terrorism) prosecutions. This chapter will set out, in a comprehensive form, policies on the management of national security prosecutions that have been developed and refined with the benefit of the experience in prosecuting terrorism offences under Part II.1 of the *Criminal Code*, and which are already in place.

Within the PPSC, the National Terrorism Prosecutions Coordinator is in place to monitor all terrorism prosecutions in Canada to ensure consistency, oversight, and the provision of timely information in these cases. The Coordinator's role is complemented by Regional Terrorism Prosecutions Coordinators, who also help ensure consistency, the smooth flow of information, and identify and implement best practices at the regional level.

## *The protection of witnesses*

### *Progress achieved:*

- *legislative amendments to the Witness Protection Program (WPP) Act being drafted*
- *administrative changes to improve the effectiveness of the federal WPP underway*
- *development of an agreement between the Canadian Security Intelligence Service (CSIS) and the Royal Canadian Mounted Police (RCMP) to establish a centralized and secure process for the exchange, when appropriate, of information concerning human sources*

The protection of witnesses and sources is critical to successfully prosecuting those who commit terrorist acts. As demonstrated during the Air India investigation, witnesses and sources face risks and must be adequately protected.

### *Commitment 3: Introduce more transparency and accountability into decisions concerning admission to the Witness Protection Program*

The RCMP is finalizing a report that will include recommendations on how to best proceed to change the reporting structure within the RCMP so as to separate decisions on admission into the federal WPP from investigations. It is expected that this separation would provide more objectivity in program admission decisions.

Proposed legislative amendments (see below) and program enhancements may also include provisions that would enhance the capacity of the WPP to make consistent and fair decisions about the safety of witnesses and sources.

### *Commitment 4: Promote the fair and equitable treatment of protectees by focusing more on their needs*

Public Safety Canada, in consultation with the RCMP and the Department of Justice, has developed legislative amendments to the *Witness Protection Program Act* for Parliament's future consideration. It is expected that such amendments would make the WPP more flexible and effective, and offer better protection to individuals admitted into the Program.

Other changes to the WPP are under consideration that would more comprehensively meet the needs of protectees by further professionalizing program services to ensure that they receive high quality and consistent treatment. Public Safety Canada and the RCMP will continue to identify these enhancements for the Government's consideration.

In addition, the RCMP is in the process of making a number of administrative changes to further enhance the effectiveness of the WPP. These changes include:

- standardizing operational processes, such as training for coordinators and handlers, and introducing risk management principles into protection processes, to

- ensure that protectees receive equitable treatment regardless of their location within Canada; and
- establishing Memoranda of Understanding between the RCMP and each of its federal partners. These Memoranda are intended to simplify the process for creating and obtaining federal documents required for a secure identity change, and to enhance the security of this process.

*Commitment 5: Enhance the way sources of mutual interest to CSIS and the RCMP are handled*

CSIS and the RCMP have drafted a proposed agreement that establishes a centralized and secure process for the exchange, when appropriate, of information concerning human sources. In some cases, this will provide both agencies with an opportunity to de-conflict their activities during investigations of mutual interest and enhance operational effectiveness. While the RCMP and CSIS do already exchange such information, this would formalize the de-confliction process. The proposed agreement is expected to be signed in the coming months.



## *The financing of terrorism*

*Progress achieved:*

- *options to enhance the exchange of intelligence between the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) and its federal partners under development*
- *establishment of the Illicit Financing Advisory Committee*

The Action Plan noted the importance of depriving terrorists of access to funds to undermine their activities. In recognition of the threat posed to Canadians and to the integrity of Canada's financial system by terrorist and other illicit financing activities, the Government has put in place the key elements of a comprehensive anti-terrorist financing regime, including a legislative framework, a system to receive, analyze and share financial intelligence, and a regime to regulate charities.

*Commitment 6 – Enhance the exchange of intelligence about possible threats to the security of Canada between the Financial Transactions and Reports Analysis Centre of Canada and its federal partners*

The Department of Finance has been developing options to enhance the sharing of information between FINTRAC and its federal partners, including through possible amendments to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA). At present, efforts are underway to determine the best manner to move forward on these options, and in particular to ensure coherence with the development of legislation to clarify the authorities for information sharing for the purposes of national security (see commitment 8).

*Commitment 7 – Establish a new forum to identify illicit financing threats from abroad and to develop targeted measures to safeguard Canada's financial and national security interests*

As part of the Action Plan, the Government committed to further strengthening its anti-terrorist financing regime by establishing the Illicit Financing Advisory Committee (the Committee). The Committee is chaired by the Department of Finance, and consists of representatives from the Canada Border Services Agency, the Canada Revenue Agency, CSIS, the Department of Foreign Affairs and International Trade, the Department of Justice, FINTRAC, the Privy Council Office, Public Safety Canada, the RCMP, and the Office of the Superintendent of Financial Institutions.

The creation of the Committee has addressed the need for close cooperation among Government departments and agencies by providing a formal mechanism for the sharing, analysis, and monitoring of information related to international terrorist financing and money laundering. In addition, the Committee identifies and assesses money laundering/terrorist financing threats posed by foreign jurisdictions and entities to Canada, and its analysis and recommendations inform the Government's imposition of targeted financial counter-measures, including limiting or prohibiting transactions,

against jurisdictions and foreign entities that lack sufficient or effective measures to combat terrorist financing and money laundering. Legislation allowing the Government to impose such measures was passed in July 2010 and will be brought into force when accompanying regulations are completed. Finally, the Committee also informs the position Canada takes at international organizations or meetings of states where illicit financing is discussed and acts as a consultative body with respect to the review of certain directives and regulations created under the PCMLTFA.

Since the release of the Action Plan in December 2010, the Committee has met on three occasions to discuss current and emerging illicit financing threats facing Canada. In its ongoing efforts to help combat the financing of terrorism and safeguard Canada's financial and national security interests, the Committee has agreed to meet on a regular basis, three times a year.

## *The sharing of information and interdepartmental cooperation*

### *Progress achieved:*

- *legislative proposals to improve information sharing for national security purposes being developed*
- *upgrades are planned to enhance the Government's classified communications infrastructure*

In its final report, the Commission focused at length on the importance of coordination and information sharing among the departments and agencies charged with ensuring the safety and security of Canadians. Today, identifying, assessing and mitigating threats before they materialize often requires drawing together information, expertise, and capabilities from a number of departments and agencies. As such, Canada's national security depends more than ever on effective coordination and information sharing within the Government. The commitments made in the Action Plan recognize that while more can be done in this regard, effective laws and mechanisms are already in place and need to be preserved.

The position of the National Security Advisor (NSA) is an example of an effective mechanism that ensures Canada's national security institutions function in a coordinated and coherent manner. The NSA is responsible for, among other things, providing advice and briefings to the Prime Minister and Ministers on matters of national security, ensuring the effective coordination of Canada's security and intelligence community, participating in the setting of strategic national security policies and priorities, and assisting in the development of a common understanding of threats, risks and the necessary responses.

Another example of a mechanism ensuring the coordination of our country's national security apparatus is the newly established Cabinet Committee on National Security. This Committee provides broad strategic direction for security and foreign policy related to Canada's national interest, and oversees Canada's national security response activities. Chaired by the Prime Minister and composed of ministers with a broad range of responsibilities, the Committee demonstrates the importance the Government places on protecting Canadians at home and abroad, and on ensuring that departments and agencies responsible for national security operations coordinate their work to the greatest extent possible.

*Commitment 8: Introduce legislation to clarify the authorities for information sharing for the purposes of national security*

While a great deal of information is shared within the Government for national security purposes every day, this Action Plan commitment aims to improve the effectiveness and timeliness of such sharing. Consequently, Public Safety Canada and the Department of Justice have been leading the development of proposals in this regard. Ultimately, the process aims to improve information sharing in a manner that helps departments and agencies protect Canada and Canadians, while also respecting the *Canadian Charter of Rights and Freedoms* (the *Charter*) and the privacy rights of Canadians.

*Commitment 9: Leverage technological innovation to facilitate and foster information sharing*

It is vital that the Government make the greatest possible use of new technologies to ensure that information required for national security purposes is available to the appropriate decision makers at the appropriate time. To ensure that this is done, interdepartmental expert committees are in place to regularly examine how new technology and applications can be applied to Canada's classified communications infrastructure to ensure it keeps pace with technological innovation. Further, the Government is working to upgrade this infrastructure, which provides the tools required by front line personnel and others who need to share classified information.

*Commitment 10: Enable the review of national security activities involving multiple departments and agencies, and create an internal mechanism to ensure accountability and compliance with the laws and policies governing national security information sharing*

Since the Action Plan's release, Public Safety Canada has been working with key departments and agencies to develop options that would deliver effective and robust review, and accountability without undermining agencies' operations or their capacity to protect Canada and Canadians. As this is a complex task, care is being taken to preserve the effectiveness of the mechanisms that already review individual agencies' compliance with laws, policies, and ministerial directions. Work is underway to develop options for inter-agency review, recognizing that effective and robust review is essential to maintaining public confidence in the Government's national security activities.

## *The relationship between intelligence and evidence in criminal proceedings*

### *Progress achieved:*

- *extensive review of the disclosure process in the national security context underway*
- *compliance with Charkaoui v. Canada decision, and implementation of new directives and practices in Fall 2011*
- *the Department of Justice is analyzing the Supreme Court of Canada (SCC) decision and its implications for possible legislative and policy reform, bearing in mind the need to reconcile issues related to trial delay, fairness and protection of national security information*

The Action Plan noted the competing public interests in criminal proceedings between the requirement for appropriate disclosure of relevant intelligence and the need to protect information where public disclosure may injure national security, international relations or national defence. Canada is not the only country struggling with this complex issue. Indeed, many of our allies are facing similar challenges.

### *Commitment 11: Explore the process of disclosure and the obligations of Canada's security intelligence agencies*

An extensive review is currently underway on the process of disclosure in the context of national security judicial proceedings, including an examination of the role of security intelligence agencies in the process. This review is taking into account past work in this area, practical operational experience, and the perspective of key affected departments and agencies. The review is also examining what various inquiries, including the *Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182*, academics, and experts have said about disclosure in this context.

Building on a review of the jurisprudence to date, the RCMP and CSIS are currently developing best practices to ensure that the disclosure of intelligence in the context of criminal investigations occurs in the most expeditious and efficient manner. The two agencies will continue this work in the coming months.

### *Commitment 12: Examine how security intelligence is collected and retained*

CSIS has examined its retention policies and practices in light of the SCC's 2008 ruling in *Charkaoui v. Canada (Citizenship and Immigration)*<sup>5</sup>, and is currently complying with the ruling by retaining all relevant information and intelligence collected. CSIS will be implementing new directives and practices in Fall 2011, to ensure it continues to comply with the SCC decision.

---

<sup>5</sup> In this case, the SCC recognized that the retention of raw intelligence can help ensure the accuracy and precision of intelligence. The SCC concluded that as a result of the *CSIS Act*, and for practical reasons, CSIS officers must retain their operational notes when conducting investigations that are not of a general nature. Once intelligence is properly collected under section 12 of this *Act*, it should be retained, including original notes and recordings, since they constitute the best source of information and evidence. *Charkaoui v. Canada (Citizenship and Immigration)*, 2008 SCC 38, (2008) 2 S.C.R. 326.

*Commitment 13: Consider the Supreme Court of Canada’s upcoming decision on the current process of disclosure that involves the Federal Court*

In January 2009, Justice Dawson of the Ontario Superior Court held that the provisions of sections 38 through 38.16 of the *Canada Evidence Act*<sup>6</sup> were unconstitutional and of no force and effect, insofar as they vest exclusive jurisdiction in the Federal Court to determine the national security privilege in respect of criminal trial proceedings in the Superior Court of Justice. This judgment was appealed directly to the SCC.

In *R. v. Ahmad*<sup>7</sup>, a judgment released on February 10, 2011, the SCC unanimously held that the section 38 regime is constitutional, thus overturning the Ontario Superior Court’s decision. The SCC held that the regime preserves the full authority and independence of a judge presiding over a criminal trial “to do justice between the parties”, including entering a stay of proceedings if it is deemed appropriate. The SCC also found that the process of disclosure under the section 38 regime involving both the Federal Court and criminal courts of the provinces does not violate sections 96 and 101 of the *Constitution Act, 1867*<sup>8</sup>, and that the regime does not violate section 7 of the *Charter*<sup>9</sup>.

While the SCC unanimously upheld the constitutionality of the section 38 regime, it stated that it is ultimately for Parliament to decide, with the benefit of experience, whether the current two-court process should be reconsidered, as a number of commentators have suggested.

The Department of Justice is analyzing the SCC decision and its implications for possible legislative and policy reform, bearing in mind the need to reconcile issues related to trial delay, fairness, and protection of national security information.

---

<sup>6</sup> Section 38 of the *Canada Evidence Act* sets out the procedure for objecting to the disclosure of information on the grounds that it would be injurious to international relations, national defence or national security. This regime relies on the Federal Court to rule on injury and on the public interest in disclosure, while the underlying proceedings, such as criminal trials, are heard outside of the Federal Court.

<sup>7</sup> *R. v. Ahmad*, 2011 SCC 6.

<sup>8</sup> Sections 96 and 101 of the *Constitution Act* relate to Parliament’s ability to confer powers on courts or tribunals.

<sup>9</sup> Section 7 of the *Charter* provides that everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

## Aviation Security

*Progress achieved:*

- *Royal Assent granted to Bill C-42 allowing Canadians to continue to overfly United States (U.S) airspace*
- *changes introduced to the air cargo security regulatory framework, which set out new requirements for air carriers, freight forwarders and shippers operating in Canada*
- *development of National Civil Aviation Security Program underway*
- *re-alignment of responsibilities under the Passenger Protect Program to better align responsibilities with the expertise and mandates of the respective Ministers*

The Government is committed to promoting the safety and security of the air travelling public. To achieve this end, the Government is continuously re-evaluating and upgrading Canada's aviation security systems. Canada has in place a multilayered approach to aviation security that includes information collection and sharing, intelligence assessments, policing, physical security, training, regulations, and other instruments. To further improve aviation security, the Action Plan made commitments in four key areas.

*Commitment 14: Advance Bill C-42, An Act to Amend the Aeronautics Act (Strengthening Aviation Security), which will help to ensure that Canadian air travellers can continue to access destinations in the fastest and most cost effective way, while also building on the Government's efforts to enhance aviation security in conjunction with Canada's international partners*

On March 23, 2011, Bill C-42 received Royal Assent. When accompanying regulations come into force, Canada will have met all requirements of the U.S. Secure Flight program. Secure Flight requires that airlines provide specified passenger information to the U.S. Transportation Security Administration for flights flying to, within, out of, or over the continental U.S. It is anticipated that the regulations will come into force by Fall 2011, thus allowing Canadians to continue overflying U.S. airspace.

*Commitment 15: Continue to work with industry and international partners to implement initiatives that were funded in Budget 2010 and that address several key vulnerabilities identified by the Commission*

As part of the Government's continuing efforts to protect and enhance the security of Canadians, and as announced in *Budget 2010*, the Government undertook a review of the Canadian Air Transport Security Authority (CATSA), and concluded in February 2011, that the security of air travel in Canada would be enhanced through a modernization of passenger and baggage screening, and by harmonizing our prohibited items list with international partners. These efforts will make CATSA's screening efforts both more efficient and effective.

Meanwhile, in May 2010, funding of more than \$95 million over five years was provided to strengthen the air cargo security program with an enhanced regulatory framework, the

testing and qualifying of new screening technologies, and the development of the requirements for the secure supply chain.

This investment is focused in areas that provide the greatest security value, including preventing explosive devices from being loaded onto aircraft, while facilitating the transportation of legitimate goods.

In 2010-2011, the Air Cargo Security Program proceeded to implement a made-in-Canada solution to cargo security. On April 1, 2011, new security measures came into effect providing security requirements for the secure supply chain and cargo screening. This approach is comparable and compatible with security measures used by the U.S. and international partners. The implementation of the Air Cargo Security Program allows Canada to meet international standards, which in turn allows the continued ability to move cargo internationally – a \$50 billion business worldwide that transports 35% of the value of goods traded internationally and is a critical part of the Canadian economy.

*Commitment 16: Outline a National Civil Aviation Security Program to articulate Canada's policy and strategic direction over the medium and long term*

The National Civil Aviation Security Program (NCASP) will set out the broad based framework for safeguarding civil aviation in the medium and long term. Transport Canada is developing a draft of the NCASP that outlines a risk management approach and will help to clarify Government and industry roles and responsibilities, while outlining how Canada's policies, procedures, and measures together comprehensively protect air travel and trade. Since December 2010, Transport Canada has consulted industry stakeholders on key elements of the NCASP in the context of implementing *Budget 2010* initiatives. The Government plans to continue engaging stakeholders in the coming months and in doing so ensure the NCASP strikes the right balance between security, efficiency, and Canadian values. It is hoped the NCASP will be finalized by the end of 2011.

*Commitment 17: Enhance the Passenger Protect Program, which prevents individuals who pose a threat to aviation security from boarding an aircraft*

The Government has made changes to the Passenger Protect Program, which identifies individuals who pose a threat to aviation security and disrupts their ability to cause harm through measures such as preventing them from boarding an aircraft. The Passenger Protect Program was reorganized in February 2011, to become a shared program between the departments of Public Safety and Transport Canada. The reorganization was conducted to better align responsibilities with the expertise and mandates of the respective Ministers.

Specifically, the Minister of Public Safety is the policy lead for the program and was given the authority to determine if an individual should be placed on the Canadian Passenger Protect Program list. He also was given responsibility for the reconsideration mechanism that individuals can pursue if they have been denied boarding of an aircraft



under Canada's Passenger Protect Program. The Minister of Transport has retained responsibility for communicating with airlines, verifying compliance with aviation security regulations, and issuing the directions to airlines to deny boarding to an individual. The Government will continue to examine the Passenger Protect Program to determine whether any further changes are required.<sup>10</sup>

In addition to these commitments, *Budget 2011* allocated \$21 million over five years to upgrade baggage scanning equipment at Canadian airports to ensure the continued security and efficiency of Canada's aviation system.

Despite the extensive enhancements that have been made in aviation security in recent years, the Government will continue to assess and enhance aviation security to meet emerging threats in a way that balances security requirements, efficiency, and Canadian values.

---

<sup>10</sup> For more information on the Passenger Protect Program, please visit [www.passengerprotect.gc.ca](http://www.passengerprotect.gc.ca).

## **Conclusion**

The commitments made in the Action Plan represent important changes to Canada's national security system. As outlined in this document, in the seven months since the Action Plan's release, progress in implementing these commitments has been made on a number of fronts. Nevertheless, work does not end with the release of the Progress Report. In the coming months, the Government will work towards the full implementation of these 17 commitments. As this work continues, the Government will provide regular reports to Canadians on the progress that has been made.

## Annex A Commitment Status

Commitment	Status
<i>Streamlining prosecution of terrorist offences</i>	
<i>Commitment 1:</i> Introduce legislation to improve how cases are managed in court. This will, among other things, give judges stronger control of proceedings and provide for more efficient trials	<p><i>Complete</i></p> <ul style="list-style-type: none"> <li>• Bill C-2 received Royal Assent on June 26, 2011, and introduces significant changes in Canadian criminal procedure. It also offers additional tools to streamline long and complex trials by strengthening case management, reducing duplication of processes, and improving criminal procedure</li> </ul>
<i>Commitment 2:</i> Continue to identify best practices to improve the conduct of mega-trials. The Public Prosecution Service of Canada will ensure they are reflected in its practice directives to its prosecutors	<p><i>Complete</i></p> <ul style="list-style-type: none"> <li>• PPSC has identified best practices prosecuting mega-trials</li> </ul> <p><i>Ongoing</i></p> <ul style="list-style-type: none"> <li>• PPSC is reviewing its Deskbook, which sets out directives to its prosecutors, to include a new chapter reflecting the particularities of terrorism prosecutions, among other things</li> </ul>
<i>Delivering better and more effective protection for witnesses</i>	
<i>Commitment 3:</i> Introduce more transparency and accountability into decisions concerning admission to the Witness Protection Program	<p><i>Ongoing</i></p> <ul style="list-style-type: none"> <li>• RCMP is examining the feasibility of changing the federal Witness Protection Program's (WPP) reporting structure</li> <li>• Legislative amendments and program enhancements are being considered</li> </ul>
<i>Commitment 4:</i> Promote the fair and equitable treatment of protectees by focusing more on their needs	<p><i>Ongoing</i></p> <ul style="list-style-type: none"> <li>• RCMP is making administrative changes to further enhance the WPP, such as standardizing operational processes and establishing Memoranda of Understanding between the RCMP and its federal partners</li> </ul>
<i>Commitment 5:</i> Enhance the way sources of mutual interest to CSIS and the RCMP are handled	<p><i>Ongoing</i></p> <ul style="list-style-type: none"> <li>• CSIS and the RCMP have developed a proposed agreement to establish a centralized and secure process for the exchange, where appropriate, of information concerning human sources</li> </ul>

<b><i>Combating the financing of terrorism</i></b>	
<i>Commitment 6:</i> Enhance the exchange of intelligence about possible threats to the security of Canada between FINTRAC and its federal partners	<p><i>Ongoing</i></p> <ul style="list-style-type: none"> <li>Options are being developed to enhance the exchange of information between FINTRAC and its federal partners, including possible changes to the <i>Proceeds of Crime (Money Laundering) and Terrorist Financing Act</i></li> </ul>
<i>Commitment 7:</i> Establish a new forum to identify illicit financing threats from abroad and to develop targeted measures to safeguard Canada's financial and national security interests	<p><i>Complete</i></p> <ul style="list-style-type: none"> <li>A forum to combat the financing of terrorism, the Illicit Financing Advisory Committee, has been established, and has met on three occasions since December 2010</li> </ul>
<b><i>Improving information sharing and interdepartmental cooperation</i></b>	
<i>Commitment 8:</i> Introduce legislation to clarify the authorities for information sharing for the purposes of national security	<p><i>Ongoing</i></p> <ul style="list-style-type: none"> <li>Legislative proposals to improve information sharing for national security purposes are being developed</li> </ul>
<i>Commitment 9:</i> Leverage technological innovation to facilitate and foster information sharing	<p><i>Complete</i></p> <ul style="list-style-type: none"> <li>Interdepartmental expert committees are in place to regularly examine how new technology and applications can be applied to Canada's classified communications infrastructure to ensure it keeps pace with technological innovation.</li> </ul> <p><i>Ongoing</i></p> <ul style="list-style-type: none"> <li>The Government is working to upgrade this infrastructure</li> </ul>
<i>Commitment 10:</i> Enable the review of national security activities involving multiple departments and agencies, and create an internal mechanism to ensure accountability and compliance with the laws and policies governing national security information sharing	<p><i>Ongoing</i></p> <ul style="list-style-type: none"> <li>Work is underway to develop options for inter-agency review</li> </ul>

<b><i>Improving the relationship between intelligence and evidence in criminal proceedings</i></b>	
<i>Commitment 11:</i> Explore the process of disclosure and the obligations of Canada's security and intelligence agencies	<p><i>Ongoing</i></p> <ul style="list-style-type: none"> <li>• Extensive review on the process of disclosure in the national security context is underway</li> </ul>
<i>Commitment 12:</i> Examine how security intelligence is collected and retained	<p><i>Complete</i></p> <ul style="list-style-type: none"> <li>• CSIS has examined its retention policies and practices in light of the Supreme Court of Canada decision in <i>Charkaoui v. Canada</i>, and is currently complying with the ruling by retaining all relevant information and intelligence collected.</li> </ul> <p><i>Ongoing</i></p> <ul style="list-style-type: none"> <li>• CSIS will be implementing new directives and practices in Fall 2011 to ensure it continues to comply with the Supreme Court of Canada decision.</li> </ul>
<i>Commitment 13:</i> Consider the Supreme Court of Canada's upcoming decision on the current process of disclosure that involves the Federal Court	<p><i>Ongoing</i></p> <ul style="list-style-type: none"> <li>• DOJ is analyzing the Supreme Court of Canada decision and its implications for possible legislative and policy reform, bearing in mind the need to reconcile issues related to trial delay, fairness and protection of national security information.</li> </ul>
<b><i>Strengthening the security of the air travelling public</i></b>	
<i>Commitment 14:</i> Advance Bill C-42, <i>An Act to Amend the Aeronautics Act (Strengthening Aviation Security)</i> , which will help to ensure that Canadian air travellers can continue to access destinations in the fastest and more cost-effective way, while also building on the Government's efforts to enhance aviation security in conjunction with Canada's international partners	<p><i>Complete</i></p> <ul style="list-style-type: none"> <li>• Bill C-42 received Royal Assent on March 23, 2011, to permit air carriers to provide information on persons on board, which allows flights to continue to overfly the United States</li> </ul> <p><i>Ongoing</i></p> <ul style="list-style-type: none"> <li>• Accompanying regulations are being drafted</li> </ul>
<i>Commitment 15:</i> Continue to work with industry and international partners to implement initiatives that were funded in <i>Budget 2010</i> and that address several key vulnerabilities identified by the Commission	<p><i>Ongoing</i></p> <ul style="list-style-type: none"> <li>• TC has introduced changes to the air cargo security regulatory framework, which set out new requirements for air carriers, freight forwarders and shippers operating in Canada</li> </ul>

<p><i>Commitment 16:</i> Outline a National Civil Aviation Security Program to articulate Canada's policy and strategic direction over the medium and long term</p>	<p><i>Ongoing</i></p> <ul style="list-style-type: none"> <li>• TC is developing a National Civil Aviation Security Program – a document which sets out, for the first time, a broad- based policy framework and roadmap for concrete actions for aviation security out to 2020</li> </ul>
<p><i>Commitment 17:</i> Enhance the Passenger Protect Program, which prevents individuals who pose a threat to aviation security from boarding an aircraft</p>	<p><i>Complete</i></p> <ul style="list-style-type: none"> <li>• Responsibilities under the Passenger Protect Program were re-aligned between the Minister of Transport and the Minister of Public Safety to better align responsibilities with expertise and mandate</li> </ul> <p><i>Ongoing</i></p> <ul style="list-style-type: none"> <li>• Options to further enhance the Passenger Protect Program are being considered</li> </ul>