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FOR A HEARING ON

“Resumption of U.S. Commercial Air Service to Cuba”

BEFORE THE

United States House of Representatives  
Committee on Homeland Security  
Subcommittee on Transportation Security

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## Introduction

Good afternoon, Chairman Katko, Ranking Member Rice, and distinguished Members of the Subcommittee. Thank you for the opportunity to appear before you today to discuss the Department of Homeland Security's role in aviation security as it pertains to commercial air service between the United States and Cuba.

In response to both 9/11 and evolving threats, and with the help and support of Congress, DHS has adapted and enhanced its ability to detect and mitigate a diversity of threats through a multi-layered, risk-based system. Our people do extraordinary work every day to protect the homeland from the threat of terrorist-*directed* attacks, and the increasing threat of terrorist-*inspired* attacks, while protecting our Nation's economic prosperity and the American way of life. We know terrorists, criminals, and hostile nation-states have long viewed the transportation sector, particularly aviation, as a leading target for attack or exploitation. Unfortunate demonstrations of this continued focus on the aviation environment include the attempted "Shoe Bomber" in December 2001, the attempted "Underwear Bomber" in December 2009, the attempted "Package Bomb" plot in October 2010, the destruction of Metrojet Flight 9268 above the northern Sinai in October 2015, and most recently on February 2, 2016 during an attack on Daallo Airlines, where explosives detonated during its ascent from Adde International Airport in Mogadishu. These persistent and evolving threats to the aviation environment, to the broader transportation sector, and to the homeland in general are among DHS' most pressing challenge and require an intense and sustained focus on our security missions.

DHS security professionals here in the United States and around the globe are committed to our mission, and they are our most important resource. Last fiscal year, for example, TSA screened 695 million passengers (3 million more than last year); screened 450 million pieces of checked luggage (the highest in six years), and, at the same time, seized a record number 2500 firearms from carry-on luggage, 84% of which were loaded. Also in last fiscal year, CBP screened 1 million commercial and private aircraft and 382 million travelers at land, marine and air ports of entry to the United States. DHS relies upon intelligence-driven analysis, innovative partnerships, and advanced technology to secure and speed the movement of legitimate cargo and travelers transiting through the aviation environment each day. As the vast majority of people, goods and services moving through our transportation systems are legitimate and pose minimal risk.

This risk-based approach will result in separating known and unknown travelers, with known travelers receiving expedited screening and other travelers, some high threat, receiving more extensive screening. To improve aviation and airport security, DHS also has enhanced security at overseas last-point-of-departure airports, and a number of foreign governments have replicated those enhancements. We continue to work domestically and abroad to address evolving challenges posed by insider threats, employee screening protocols, airport access controls, perimeter security, cybersecurity at airports, exit lane monitoring requirements and checked baggage and air cargo screening operations. We remain deeply committed to ensuring that DHS remains a high-performing, risk-based intelligence-driven counterterrorism organization.

The Department's commitment to this approach continues as the United States begins scheduled air service between the United States and Cuba. DHS, particularly through its Operational Components and working closely with our United States Government interagency partners, plays a key role in the U.S. – Cuba relationship by securing flows of people and ensuring the security of authorized trade between the United States and Cuba. In DHS Headquarters, the Office of Policy assists the operators, like TSA and CBP, by providing coordination across the Department and with the Federal interagency, ensuring that the work of the Components of the Department and their missions represent a unified effort. As an example, the Office of Policy led the negotiations that developed a law enforcement cooperation Memorandum of Understanding between DHS and the Ministry of the Interior (MININT) and the Customs Office (AGR) of the Republic of Cuba. The MOU sets the basis of cooperation in exchanging risk information for travelers, cargo or conveyances in international transit; the continuation of periodic, mutual, and reciprocal assessments regarding air, sea, and port security; and the coordination of transportation security, screening of cargo, travelers and baggage, and the design of secure, efficient inspection facilities at ports and airports, among other things. Implementation of the MOU will be coordinated under the umbrella of the ongoing Law Enforcement Dialogue, currently co-chaired by the Departments of State (DOS), Justice (DOJ), and DHS and the DHS delegation will include representatives from the DHS Office of Policy, U.S. Coast Guard, CBP, and Immigration and Customs Enforcement.

TSA's mission is to protect the nation's transportation systems to ensure freedom of movement for people and commerce. Within TSA, the Office of Global Strategies (OGS) works with international and domestic partners to address security risks to international transportation modes. When a new threat or potential vulnerability emerges, TSA coordinates with foreign governments, air carriers, and international organizations to develop and implement responses that effectively mitigate the likelihood of a successful attack. This process involves measures used to identify risk in terms of threat, vulnerability, and consequence. Once a threat is identified, TSA analyzes the underlying factors and develops appropriate mitigation strategies as part of its role as an intelligence-driven counterterrorism agency.

TSA would like to take this opportunity to thank the Members and staff of the subcommittee for its continued support of TSA's international mission, as well as for developing H.R. 4698, the "Securing Aviation from Foreign Entry Points and Guarding Airports Through Enhanced Security," or SAFE GATES Act of 2016. This legislation passed the House on April 26, 2016. It would enable TSA to more effectively execute its mission, notably through authority to donate screening equipment to appropriate international partners. The bill also includes authorities pertaining to recognizing foreign cargo security programs. These authorities would assist TSA in its efforts to work with foreign partners to mitigate risks and enhance the security of transportation systems.

### **TSA's International Authorities**

Under title 49 of Chapter 449, of the United States Code, the Secretary of Homeland Security is required to assess security at all foreign airports served by U.S. aircraft operators as well as at foreign airports serving as last point of departure (LPD) locations for foreign air carriers using the security standards adopted by the International Civil Aviation Organization

(ICAO). The Secretary has delegated this duty to TSA. Under this requirement, as well as the regulations at 49 C.F.R. § 1544.3 and 1546.3, TSA OGS evaluates the effectiveness of security measures maintained at foreign locations through assessments of foreign airports and inspections of air carriers that operate from those airports. TSA collaborates closely with foreign partners, including host governments, air carriers, all-cargo air carriers, international organizations, as well as airport authorities. TSA maintains close relationships internationally through our Transportation Security Administration Representatives (TSARs), International Industry Representatives, and TSA's Transportation Security Specialists (TSSs). TSA also coordinates with multi-lateral and industry organizations, such as ICAO, International Air Transport Association (IATA), Airports Council International (ACI), QUAD, and G7 groups. TSA serves as the lead U.S. government agency on matters of aviation security and represents the United States on the ICAO Aviation Security Panel of Experts (AVSEC Panel) and in its various working groups. All of the above support the Homeland Security mission.

### **Commencement of New International Flight Service to the United States**

Whenever commercial air carriers seek to launch new flight service into the United States, federal requirements must be fulfilled prior to the commencement of those services, including safety regulations of the Federal Aviation Administration (FAA), as well as TSA's security standards.

When a new flight route is requested, TSA's Transportation Security Specialists will visit the LPD airport to determine the efficacy of security operations. TSA also conducts on-site inspections of U.S. aircraft operators, foreign air carriers, U.S. all-cargo aircraft operators and foreign all-cargo air carriers for those operations that serve the United States from that LPD.

Additionally, TSA conducts thorough assessments to determine compliance with international security requirements. These assessments include on-site observation and verification, interviews, and document review pertaining to critical airport and air carrier operations. As part of these airport and air carrier visits, TSA's TSSs observe and determine compliance with requirements in the following areas:

- Passenger Screening
- Carry-on and Checked Baggage Screening
- Access Control
- Aircraft Security
- Cargo Security
- Incident Prevention and Response
- Airport Operations
- Mail Security; and
- Quality Control

Flight service into the United States becomes possible once these security measures have been evaluated and determined to be in compliance with international security requirements, based on the Standards and Recommended Practices contained in Annex 17 to the Convention on International Civil Aviation, adopted by ICAO.

## **Ensuring Continual Compliance with Security Requirements**

Once such commercial service has commenced, TSA conducts regular, ongoing visits to these airports to ensure continued compliance and to identify any existing or potential vulnerabilities in the security operations.

TSA's methodology to determine the frequency of these assessments and inspections uses the threat, vulnerability and consequence model. This methodology ensures that the allocation of assets is based on the likelihood of a location being targeted (threat), the protective measures in place (vulnerability), and the impact of the loss of that airport's services (consequence). Once this is determined, assessments are coordinated by the applicable TSARs and completed by a team of TSSs from one of our six Regional Operation Centers located worldwide. Our TSSs performed 289 air carrier inspections and 146 foreign airport assessments in Fiscal Year 2015. TSA is on a similar course for Fiscal Year 2016.

TSA also engages in the recognition of international programs commensurate with TSA's own requirements in the United States. The recognition of National Cargo and National Explosive Detection Canine Security Programs provide TSA with opportunities to identify vulnerabilities at LPD airports overseas while also engaging closely with domestic and international partners to promote information sharing. These TSA commensurability programs continued to thrive, with the recognition of now 40 National Cargo and three National Explosives Detection Canine Security Programs in cooperation with foreign governments, to include the 28 Member States of the European Union.

## **Mitigating the Inbound Risk**

TSA has a variety of tools to mitigate issues identified during airport or air carrier inspections. Options range from providing immediate guidance and recommendation for improvements, conducting training, recommending a Public Notice stating that the airport does not implement adequate security measures, or suspending service entirely. These last two responses are generally only considered when all other attempts to improve security have failed. When a specific threat is identified, or as warranted by significant vulnerabilities, TSA may issue Security Directives (SDs) and Emergency Amendments (EAs) for implementation by air carriers at selected LPD locations. SDs are regulations issued by TSA to mitigate threats posed to transportation for U.S. airport and aircraft operators, and EAs are issued to foreign air carriers. These risk-mitigating regulations apply to all U.S. air carriers, U.S. airport operators, as well as foreign air carriers operating to, from, or within the United States.

Prior to issuing SDs and EAs, TSA works with partners and stakeholders to develop effective and appropriate regulatory language to address identified vulnerabilities and communicate these new policy requirements to foreign and domestic partners. Additionally, TSA may issue information circulars to regulated parties to share security concerns, best practices, and other situational information.

## **Commercial Flight Service and Aviation Security in Cuba**

On February 16, 2016, U.S. Transportation Secretary Anthony Foxx, Assistant Secretary of State for Economic and Business Affairs Charles Rivkin, Cuban Minister of Transportation Adel Yzquierdo Rodriguez and President of the Institute of Civil Aeronautics of

Cuba (IACC), Alfredo Cordero Puig, signed an arrangement that provides for the re-establishment of scheduled air services between the United States and Cuba. Immediately following the signing, the U.S. Department of Transportation (DOT) instituted a proceeding and invited U.S. air carriers to apply for an allocation of the new opportunities provided by the arrangement.

Under the arrangement, U.S. carriers may operate up to 20 daily roundtrip flights between the United States and Havana and up to 10 daily roundtrip flights between the United States and each of Cuba's nine other international airports, for a total of 110 daily roundtrip flights between the United States and Cuba. We expect the new services to begin later this year.

TSA currently assesses Cuban airports in Cienfuegos, Camaguey, Havana, Holguin, Manzanillo, Santiago, and Santa Clara. TSA has reconfirmed its commitment to respond in a timely manner for assessments at any new startup airports that are approved for service between Cuba and the United States. New LPD service could begin later this year at three additional Cuban airports: Matanzas, Cayo Coco, and Cayo Largo.

For the past five and a half years, TSA and the IACC have enjoyed a strong, professional relationship. During this period, the IACC has responded favorably to every aviation security initiative proposed by TSA. Through the work of TSA personnel and our Cuban counterparts, we have made important advancements in securing this new aviation security partnership. The Cuban representatives associated with IACC are highly professional and eager to achieve the best security possible. They maintain the required aviation security posture at all LPD airports, despite challenges posed by limited access to equipment and training.

### **Deployment of Federal Air Marshals**

TSA is working to finalize an arrangement with the Government of Cuba on the deployment of Federal Air Marshals (FAMs) on flights between the United States and Cuba. The initial arrangement will apply only to public charter flights. Once scheduled flights begin later this year, a new FAMs arrangement will be necessary to cover those flights.

### **Vetting of Passengers through Secure Flight**

Cuba's national air carrier, Cubana de Aviación does not currently provide service to the United States, but overflies the United States en route to Canada. TSA has required the air carrier to establish a TSA security program and provide passenger information to TSA for vetting against the Terrorist Screening Database via Secure Flight. Current regulations require that flights of foreign registered aircraft transiting or operating within U.S. territorial airspace meet specific conditions. One of those conditions is to operate under an approved TSA Secure Flight Program or through an approved FAA/TSA airspace waiver. Since Cubana de Aviación does not fly to U.S. airports, it does not currently qualify for a full TSA security program and instead operates under a limited security program.

On February 13, 2016, executives from Cubana de Aviación briefed TSA on their latest efforts to implement Secure Flight for flights through U.S. airspace between Canada and

Cuba. Aggressive testing of procedures has been completed. On Monday, April 4, 2016, Secure Flight received the first successful submissions in the live production system for Cubana de Aviación.

TSA is coordinating with the DOT and the IACC to ensure that security for forthcoming scheduled air service between our countries meets TSA's requirements as well as the high security expectations of the U.S. traveling public. Through the successful growth of our working relationship with the IACC, TSA has seen a commitment to aviation security as the IACC has been receptive to all proposals put forward by TSA to enhance security. The seven Cuban airports currently assessed and inspected by TSA meet the international standards adopted by ICAO. In the coming months, and as more information becomes available from DOT on the allocation of frequencies, TSA will continue to engage with U.S., Cuban and industry stakeholders to ensure the security of all commercial flight service between the United States and Cuba.

CBP's approach to securing and facilitating the travel of Cuban nationals on commercial flights to and from the United States will be identical to our approach for any other international flight. CBP's intelligence-driven strategy is integrated into every aspect of our travel security operations at every stage along the international travel sequence – including when an individual applies for U.S. travel documents; reserves, books or purchases an airline ticket; checks-in at an airport; while en route; and upon arrival at a U.S. port of entry (POE). This multi-layered approach is designed to detect, identify, and prevent dangerous or inadmissible individuals from boarding planes bound for the United States.

### **Pre-Departure Safeguards**

On a typical day, CBP welcomes to the United States nearly one million travelers at our air, land, and sea POEs, almost 300,000 of whom arrive by air. One of the initial layers of defense in securing international air travel is preventing dangerous persons from obtaining visas, travel authorizations, and boarding passes. Before boarding a flight destined for the United States, most foreign nationals,<sup>1</sup> including Cuban nationals, must obtain a nonimmigrant or immigrant visa – issued by a U.S. embassy or consulate – or, if they are eligible to travel under the Visa Waiver Program (VWP), they must apply for a travel authorization through the Electronic System for Travel Authorization (ESTA).<sup>2</sup>

Through ESTA, CBP conducts enhanced vetting of VWP applicants in advance of travel to the United States, to assess whether they are eligible to travel under the VWP, could pose a risk to the United States or the public at large. In response to increasing concerns regarding foreign fighters and other terrorist threats, DHS recently strengthened the security of VWP by implementing enhancements to ESTA. These enhancements include a series of

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<sup>1</sup> Exceptions would be citizens of countries under other visa exempt authority, such as Canada. Citizens of countries under visa exempt authority entering the U.S. via air are subjected to CBP's vetting and inspection processes prior to departure. In the land environment, they are subjected to CBP processing upon arrival at a U.S. POE.

<sup>2</sup> Cuban nationals, who are dual citizens with VWP countries, may apply for authorization to travel under the VWP through CBP's ESTA.

additional questions VWP travelers must answer on the ESTA application, including other names or citizenships; parents' names; contact and employment information; and city of birth. These improvements are designed to provide an additional layer of security for the VWP and increase our ability to distinguish between lawful applicants and individuals of concern.

Any traveler who requires a nonimmigrant visa to travel to the United States must apply to the Department of State (DOS) under specific visa categories depending on the purpose of their travel, including those as visitors for business, pleasure, study, and employment-based purposes. Prior to the issuance of a visa, the DOS screens every visa applicant's biographic data against the DOS Consular Lookout and Support System, and provides data to the inter-agency community via the streamlined DOS Security Advisory Opinion (SAO) process to alert consular officers to the existence of Terrorist Screening Database (TSDB) files or records related to potential visa ineligibilities. DOS also checks the applicant's biometric data (i.e., fingerprints and facial images) against other U.S. Government databases for records indicating potential security, criminal, and immigration violations.

In an effort to augment and expand visa security operations, ICE Visa Security Program (VSP) personnel are co-located with CBP personnel at the National Targeting Center (NTC) to conduct thorough and collaborative analysis and in-depth investigations of high-risk visa applicants. The VSP is focused on identifying terrorists and criminal suspects and preventing them from exploiting the visa process, while the NTC provides tactical targeting and analytical research in support of preventing terrorist and terrorist weapons from entering the United States.

Furthermore, ICE, CBP, and DOS have implemented an automated visa application screening process that significantly expands DHS' ability to identify serious threats to national security and public safety. The program enables synchronized reviews of information across these agencies and allows for a unified DHS response and recommendation regarding a visa applicant's eligibility to receive a visa. This process also serves as a precursor to and works in conjunction with the current DOS SAO and Advisory Opinion (AO) programs. The collaborative program leverages the three agencies' expertise, authorities, and technologies, such as CBP's Automated Targeting System (ATS), to screen pre-adjudicated (approved) visa applications and enhance the U.S. Government's anti-terrorism efforts.

Once travel is booked, CBP's NTC gathers information, assesses risk, and conducts pre-departure vetting for all international flights departing for the United States by commercial air. CBP leverages all available advance passenger data<sup>3</sup> — including Passenger Name Record

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<sup>3</sup> When a traveler purchases a ticket for travel to the United States, a PNR is generated in the airline's reservation system. PNR data contains information on itinerary, co-travelers, changes to the reservation, and payment information. CBP receives passenger data from commercial air carriers at various intervals up to 96 hours prior to departure and concluding at the scheduled departure time. Further, APIS regulations require that commercial air carriers transmit all passenger and crew manifest information before departure, prior to securing the aircraft doors. CBP vets APIS information, which includes passenger biographic data and travel document information, on all international flights to and from the United States against the Terrorist Screening Database, criminal history



(PNR) and Advance Passenger Information System (APIS) data, previous crossing information, intelligence, and law enforcement information, as well as open source information in its anti-terrorism efforts at the NTC — to make risk-based operational decisions before a passenger boards an aircraft, continuing until the traveler enters the United States.

The NTC vetting process for international passengers continues while the flight is en route to the United States to identify any travelers who, although not necessarily national security risks, may need a more thorough inspection at the port of entry upon arrival in the United States. Furthermore, CBP's pre-departure vetting efforts work in concert with the Transportation Security Administration's (TSA) Secure Flight program, which vets 100 percent of passengers flying to, from, over, and within the United States against the No Fly and Selectee portions of the TSDB.

Supported by these targeting efforts, CBP uses overseas enforcement capabilities and partnerships to extend our zone of security. For international flights to and from Cuba, CBP will coordinate with the Regional Carrier Liaison Groups (RCLG) to prevent terrorists and other inadmissible aliens from boarding U.S.-bound commercial aircraft. The RCLGs, which are located in Honolulu, Miami, and New York, are staffed by CBP officers and utilize established relationships with the commercial airlines to prevent passengers who may pose a security threat, who present fraudulent documents, or those who are otherwise inadmissible from boarding flights to the United States.

### **Arrival Processing**

CBP's use of advance information and targeting are key elements of CBP's multi-layered security strategy to address concerns long before they reach the physical border of the United States. It is important to note that upon arrival in the United States, all persons, regardless of citizenship, are subject to inspection by CBP officers. CBP officers review entry documents, collect biometrics,<sup>4</sup> query CBP and other law enforcement databases with both biographic and biometric information, and interview each traveler to confirm identity, determine the purpose and intent of their travel, and whether any further inspection is necessary based on, among other things, national security, admissibility, customs, or agriculture concerns.

Cuban citizens do have a unique processing ability under the *Cuban Adjustment Act* (CAA), Pub. L. 89-732, which allows Cuban citizens who are inspected and admitted or paroled into the United States to file for Lawful Permanent Resident status after being present in the United States for 1 year and 1 day.

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information, records of lost or stolen passports, public health records, and prior immigration or customs violations and visa refusals.

<sup>4</sup> Generally speaking, biometrics are collected from aliens arriving at U.S. airports, except for: (i) certain Canadian citizens temporarily visiting the United States; (ii) children under the age of 14; (iii) persons over the age of 79; and (iv) aliens admitted on A-1, A-2, C-3 (except for attendants, servants, or personal employees of accredited officials), G-1, G-2, G-3, G-4, NATO-1, NATO-2, NATO-3, NATO-4, NATO-5, or NATO-6 visas; and (v) certain Taiwan officials who hold E-1 visas or members of their immediate family who hold E-1 visas.

During arrival processing, CBP officers remove from circulation all counterfeit, fraudulent, and altered travel documents, as well as lost or stolen travel documents presented for use by an individual other than the rightful holder. CBP's Fraudulent Document Analysis Unit maintains a central fraudulent document repository and provides analysis, intelligence, alerts, and training back to the field. Furthermore, through the Carrier Liaison Program (CLP), CBP officers provide interactive training to commercial air carrier participants to improve the air carrier's ability to detect and disrupt improperly documented passengers. Since the program's inception in 2005, CLP has provided training to more than 36,341 airline industry personnel. In consultation with the Department of State, CBP has tentatively scheduled a one-week CLP training mission for airline personnel in Havana for September 2016.

### **Conclusion**

In support of U.S. foreign policy towards Cuba, DHS, CBP, and TSA are working with our Federal and international partners – as well as commercial carriers – to ensure the security and facilitation of the increased volume of commercial air travelers from Cuba. We will continue to collaborate to strengthen ongoing efforts to secure international air travel against terrorists and other threats, and promote safe and efficient international travel and tourism to the United States.

Chairman Katko, Ranking Member Rice, and Members of the Subcommittee, thank you for the opportunity to testify today. We look forward to answering your questions.