



Testimony of

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## **Introduction**

Chairman Dorgan, Ranking Member DeMint, and distinguished members of the Subcommittee, thank you for the opportunity to testify today about the Department of Homeland Security's (DHS) ongoing efforts to improve aviation security standards in the wake of two failed terrorist attacks on the aviation system--on December 25, 2009 and October 28, 2010.

As you know, both of these attempted attacks involved exploiting the international aviation infrastructure to attack America. It is clear, however, that while the targets were domestic, the mechanisms that set these plots in motion were decidedly international. In both cases, terrorists sought to strike at America using the global aviation system, including the structures and operations across multiple countries and international airports, with little regard for the threat or potential consequences to a multitude of countries and citizens.

America's security – and the threats to it – does not exist in a vacuum. Consequently, protective efforts must extend beyond our shores. America's security relies in part on a robust international aviation security system, comprised of many layers and operated by many partners, across the globe. This system of collective security measures depends in part on the competency and capabilities of each individual partner. As such, maintaining effective standards and best practices is critical.

The recent attempts to attack the United States — the plot aboard Northwest Airlines (NWA) Flight 253 on December 25, 2009, and the October 28, 2010 cargo plot using aircraft to conceal and ship explosive devices — highlight the fact that the terrorist threat is a global challenge and ensuring aviation security is a shared responsibility.

In our testimony today, we would like to discuss DHS's role in responding to the October 28 cargo plot and some of the initiatives we are looking to implement in the long term, followed by a broader discussion of our efforts post-12/25 in enhancing international aviation security. We will conclude with some observations on the way forward.

## *The October 28 Plot*

Similar to the NWA 253 plot, as the events of October 28 unfolded, DHS took a number of actions to immediately ensure the safety and security of the American people. The Transportation Security Administration (TSA) and U.S. Customs and Border Protection (CBP) immediately took measures to enhance existing protocols for screening inbound cargo, including temporarily grounding all packages originating from Yemen destined for the United States. With constant communication and coordination with the private sector, and with international and government partners, we were able to support the larger effort by the U.S. government to successfully disrupt this plot before it did any harm. As we continue to address the threat to air cargo, DHS continues to gather and analyze information and develop intelligence on the packages intercepted from Yemen.

In the days immediately following the attempted plot, at the direction of President Obama and Secretary Janet Napolitano, TSA deployed a team of security specialists to Yemen to provide assistance and guidance to the Government of Yemen regarding its cargo screening procedures. TSA also conducted significant outreach with more than 100 foreign governments, more than 200 foreign air carriers, and several industry organizations to discuss the common transportation security threats we all face and the cooperative actions we could take to address security vulnerabilities.

On November 2, Secretary Napolitano spoke with leaders of the international shipping industry, including UPS, DHL, FedEx, and TNT, about enhancing air cargo security. During that discussion, Secretary Napolitano underscored her commitment to partnering with the shipping industry to strengthen cargo security through enhanced screening and preventative measures, including terrorism awareness training for shipping industry personnel.

Following her dialogue with shipping industry leaders, Secretary Napolitano spoke with International Air Transport Association (IATA) Director General Bisignani about the Department's continued collaboration with our private sector and international partners to secure the global supply chain through a layered security approach that is designed to identify, deter,

and disrupt threats at the earliest possible point. The Secretary also reiterated her commitment to ongoing coordination with the airline and shipping industries to uphold TSA security standards, including the vetting of personnel with access to cargo, employee training, and cargo screening procedures.

DHS also issued additional directives to the airline industry on the non-acceptance or enhanced screening of high-risk packages on passenger and all-cargo flights. Specifically, on November 8, Secretary Napolitano announced that:

- The ban on air cargo from Yemen will continue and has been expanded to all air cargo from Somalia;
- No high-risk cargo will be allowed on passenger aircraft;
- Toner and ink cartridges weighing 16 ounces or more will be prohibited on passenger aircraft in both carry-on bags and checked bags on domestic and international passenger flights in-bound to the United States, as well as certain inbound international air cargo shipments; and
- All cargo identified as high-risk will go through additional and enhanced screening, including inbound international mail packages, which must be screened individually and certified to have come from an established postal shipper.

### *DHS Initiatives*

Beyond the immediate actions taken as a result of the directives discussed above, DHS is working to develop a range of longer-term and sustainable security solutions to address this real and constantly evolving threat.

First and foremost, DHS will accelerate work that has been ongoing since early this year to obtain critical information on the goods, conveyances, and entities involved in the shipment of air cargo to the United States prior to the loading of that cargo on an aircraft. The Department relies upon a risk-based and layered approach to security that allows us to focus our resources on the greatest threats and helps us speed delivery of lawful shipments. This approach is only as

good as the data we gather about each shipment; and DHS is constantly striving to improve the quality and timeliness of the data we receive.

We are exploring additional pilot programs to augment several of the pilots that have been operational since early 2010 to better understand the type, quality, and timeliness of the pre-departure information we may require in the future. These pilots will ensure that we derive the most security benefit from any additional requirements and have considered the wide range of policy and operational factors that will need to be addressed. For instance, while some entities may be in a position to provide the necessary information now, others may need time to develop the appropriate technical systems or business processes. In addition, procedures for further inspecting and adjudicating suspicious cargo will need to be refined, as DHS does not currently have a physical presence in many airport locations where air carriers and host nation partners conduct the inspections. DHS is committed to moving forward with a pre-departure initiative and is developing a more detailed timeline and work plan.

In addition to seeking pre-departure information, we are also working with our international and private sector partners to expand and strengthen other important layers of security including:

- Prioritized engagement with worldwide cargo hubs and high-risk/high-threat shipping locations;
- development and sharing of intelligence and information gathering capabilities to target high risk cargo;
- continued promotion and development of next-generation technologies that can identify threat material; and
- coordination and mutual recognition of processes and programs among federal partners and also, where possible, among private and public sector partners with a role in aviation security.

It is critical that DHS and other federal stakeholders work closely with the variety of private sector entities that own and operate the air cargo system to ensure that strong and sensible security measures are developed that both protect the aviation system and facilitate the movement of legitimate trade that is so essential to our economic prosperity. To highlight the

crucial role of the private sector in this area, it is important to note that FedEx, UPS, DHL, and TNT together employ more than 1 million people around the world, and own or operate more than 1,700 aircraft. Each of these companies has operations in more than 200 countries. In 2008, air merchandise trade comprised almost 30 percent of U.S. exports by value, totaling approximately \$390 billion, and almost 20 percent of U.S. imports by value, totaling more than \$417 billion. Combined, that represents more than \$800 billion of U.S.-international merchandise trade.

### *DHS and Aviation Security Post-12/25*

Over the past 11 months, DHS has embarked on an unprecedented international campaign to elevate the importance of aviation security worldwide, with a focus on four priorities: strengthening aviation security measures and standards; developing and deploying new security technologies and measures; enhancing information gathering and sharing; and coordinating international technical assistance. Today we would like to highlight the advancements made in each of these categories.

### *Strengthening Aviation Security Measures and Standards*

The global dimensions of the attempted attacks in December 2009 and October 2010 highlight the importance of international partnerships in mitigating evolving threats to our security. Over the past year, under the leadership of Secretary Napolitano, DHS and its components, including TSA, CBP, and Immigration and Customs Enforcement (ICE), have accelerated efforts to enhance and harmonize international and domestic aviation security standards.

In order to enhance global aviation security measures and standards, DHS initiated a broad international campaign to strengthen the global aviation system against the evolving threats posed by terrorism. After initial outreach following the December 2009 attempted attack that laid the groundwork for improved aviation security standards, Secretary Napolitano participated in four Regional Aviation Security conferences hosted by Mexico, Japan, Nigeria, and the United Arab Emirates while working in concert with the International Civil Aviation Organization

(ICAO) to increase international awareness and strengthen global aviation security measures. Secretary Napolitano also traveled to Spain and met with European ministers during the Justice and Home Affairs Informal Meeting on January 22, 2010, to promote enhanced global aviation standards. These five regional conferences and meetings included broad participation from elected leaders, security ministers, and airline officials across Europe, the Western Hemisphere, the Asia Pacific region, Africa, and the Middle East and resulted in the signing of historic joint declarations on improved aviation security standards in each region.

The ICAO General Assembly, held from September 28 to October 8 in Montréal, Canada, is a significant and essential global forum for advancing aviation security. Secretary Napolitano participated in this forum along with leaders from the majority of ICAO's 190 member states. Among the important security initiatives adopted by the General Assembly was the ICAO Declaration on Aviation Security, which was derived from the priorities and resulting Declarations endorsed at the five regional conferences and meetings held earlier in the year. The Declaration contains language on a number of key DHS aviation security priorities to help bolster global aviation security, including: increased screening technology, improved information sharing, enhanced cargo and airport security, expanded onboard flight protection, and increased transparency of ICAO audits. ICAO has also developed the Comprehensive Aviation Security Strategy (ICASS) that establishes the strategic framework for ICAO's aviation security efforts for the next six years. As President Obama noted, "the extraordinary global collaboration demonstrated by the nearly 190 ICAO countries during the ICAO General Assembly helped to bring about a truly 21st century international aviation security framework that will make air travel safer and more secure than ever before." The efforts taken by ICAO renew focus on aviation security and promote innovative, effective, and efficient security approaches, information sharing, and compliance and oversight, and emphasize the importance of security among sovereign States and stakeholders, as well as within ICAO.

Annex 17 to the ICAO Convention on International Civil Aviation has included cargo screening and security controls provisions well before September 11, 2001, and the provisions have been further updated in the most recent iteration, Amendment 12, adopted in November 2010. As with other aspects of aviation security, there is still a need to improve performance

internationally. In order to advance this concept, on November 16, 2010 TSA leadership met with the ICAO Secretary General and representatives from several countries and industry to discuss near-, mid-, and long-term actions informed by the most current threat information and intelligence. Discussions focused on implementing a graduated approach, led by ICAO, to identify ways to enhance cargo security worldwide.

This endeavor must be a collaborative mechanism for international counterparts from governments and industry to come together to discuss the threat from a risk perspective and identify actionable mitigation options. As this undertaking evolves, it will also serve as a model for the establishment of a mechanism for timely incident management led by ICAO, and also help to unify the global response as incidents occur.

We anticipate that this effort will encourage collaboration among international partners including both industry and organizations. Key priorities include the prioritized engagement with key cargo hubs and high threat cargo shipment countries; the establishment of a standard definition of high-risk cargo; development of chain of custody requirements and compliance requirements; development of multinational compliance teams and technology teams; information sharing; training; and development of ICAO guidance related to air cargo security. This guidance will be built upon the consensus of the international community along with outreach to industry and governments. Longer-term options under consideration include development of fortified devices to ensure minimal impact to the aircraft in addition to more rigorous standards for air cargo security at the international level.

The Department continues to support ICAO's Universal Security Audit Program (USAP), an essential tool for overseeing the implementation of the security measures set forth in Annex 17 to the Convention on International Civil Aviation. DHS supports the use of audit results to prioritize technical cooperation and capacity development as well as the greater transparency of audit results among member states when significant security concerns are found and verified.

Immediately following the air cargo incident, TSA participated in the ICAO Points of Contact Network and communicated directly with all countries with flights to the United States from the



Western Hemisphere, Asia-Pacific, Europe, Africa, and the Middle East. In addition, TSA coordinates closely with the European Union (EU) on all transportation security issues of mutual concern, including through formal meetings twice per year of the U.S.-EU Transportation Security Coordination Group (TSCG). Immediately after we learned of the air cargo threat, TSA consulted with EU officials as new requirements were developed for flights to the United States and participated via video teleconference in the EU Aviation Security Emergency meeting on November 5, 2010, to specifically discuss air cargo.

Additionally, we encourage the continuance of regional aviation security conferences to improve aviation standards amid evolving threats. In her opening remarks at the ICAO General Assembly, Secretary Napolitano encouraged other member states to continue to hold these conferences after the ICAO Assembly concluded. All of these priorities have and will continue to help strengthen aviation security standards and measures worldwide.

#### *Developing and Deploying New Security Technologies*

Since January 2010, DHS and its components have facilitated the development and deployment of new security technologies and measures around the world. Already, more than a dozen nations have joined the United States in strengthening their aviation systems by increasing their aviation security budgets and accelerating the use of new technologies. Today we would like to highlight several of these security enhancements:

- Increased Deployment of Advanced Imaging Technology (AIT): AIT machines bolster security by safely screening passengers for metallic and non-metallic threats including weapons, explosives, and other objects concealed under layers of clothing. To date, 13 countries have joined the United States in utilizing AIT. The Netherlands and Nigeria, two countries through which Umar Farouk Abdulmutallab traveled before his flight to Detroit, are deploying AIT. The Netherlands has specifically announced the deployment of AIT units for all U.S.-bound flights from Schiphol Airport. Additionally, Canada, Denmark, Germany, France, Italy, Japan, Korea, Russia, Spain, Ukraine, and the United Kingdom have all either deployed or announced plans to conduct trial runs of AIT units

in their major airports. Domestically, TSA's deployment of AIT machines incorporates vigorous privacy controls to protect passenger privacy and ensure anonymity while ensuring operational effectiveness.

- Expansion of Federal Air Marshal Service (FAMS): The FAMS deploys Federal Air Marshals on U.S. carrier flights worldwide to detect, deter, and defeat hostile acts targeting U.S. air carriers, airports, passengers, and crews. This past year, TSA has finalized numerous Memoranda of Understanding (MOU) between the United States and foreign countries to allow FAMS coverage on U.S. carrier flights into and out of those countries. Additionally, more than a dozen foreign countries have developed their own air marshal programs for their national carriers, including for flights to and from the United States. We can expand on this initiative in a classified setting, and we are happy to arrange a briefing for you or your staff.
- Screening Air Cargo: As of August 1, 2010, 100 percent of air cargo loaded on passenger flights originating in the United States is screened for explosives. CBP and TSA are currently working to address international inbound air cargo through a combination of additional program requirements and coordination with key partners on comparability of national cargo security programs.

All of these security enhancements have contributed substantially to bolstering international aviation security and mitigating threats to the nation.

#### *Enhancing Information Gathering and Sharing*

Over the past 11 months, DHS has also worked to enhance information gathering and sharing processes to diminish vulnerabilities and mitigate threats to global aviation security. The following are several examples of enhanced information-gathering and sharing programs and processes:

- 100 Percent Watchlist Screening/Expansion of Secure Flight: At the end of November, DHS achieved a major aviation security milestone, and fulfilled a key 9/11 Commission recommendation by assuming responsibility from the airlines for terrorist watchlist screening for 100 percent of aircraft operators covered by the Secure Flight Final rule for flights within, from, or bound for the United States — a month ahead of schedule. In addition to facilitating secure travel for all passengers, the program helps prevent the misidentification of passengers who have names similar to individuals on government watchlists. Prior to Secure Flight, airlines held responsibility for checking passengers against watchlists.
- Improved Information Sharing: In April 2010, DHS launched a new initiative to expand information-sharing capabilities among its components on smuggling techniques and tactics. This includes daily briefings to TSA frontline officers on concealment techniques and tactics through a collaborative information sharing process established among CBP, TSA, and other DHS components. Additionally, TSA is in the process of granting secret-level clearances to a greater number of TSA employees, significantly enhancing TSA's ability to leverage the best intelligence and maximize the benefits of information sharing.
- Expansion of CBP's Global Entry Program: Global Entry is a program operated by CBP to allow for the expedited clearance of pre-approved low-risk air travelers into the United States. The Global Entry vetting process includes checking applicant data against law enforcement databases and terrorist watchlist (Terrorist Screening Database) records, an in-depth interview with a CBP officer, and an electronic collection of biometrics that are checked against FBI and DHS biometric databases. Participants are re-vetted every 24 hours to ensure no new derogatory information has arisen. CBP is currently working with several foreign customs/immigration administrations (United Kingdom, Germany, France, Japan, Korea, Canada, and Mexico) to develop agreements and arrangements supporting expanded participation in Global Entry.
- Expansion of Immigration Advisory Program (IAP): CBP works with foreign governments to sign IAP arrangements to allow the posting of CBP officers at

international airports to review the documents of U.S.-bound passengers to inform the boarding decisions of airlines or foreign officials. Currently, IAP is operational at 11 locations in nine countries, including the Joint Security Program in Mexico.

- Enhanced Science and Technology (S&T) Partnerships: DHS continues to build upon and effectively leverage S&T agreements with the United Kingdom, Canada, Australia, Sweden, Singapore, Mexico, Germany, Israel, France, New Zealand, and the European Commission to ensure that we have identified the most promising aviation security technologies and techniques around the globe.
- Expanded Electronic System for Travel Authorization (ESTA) and Visa Waiver Program (VWP): The VWP, which allows citizens from participating countries to travel to the United States for up to 90 days without a visa, requires travelers to apply and be screened for and receive travel authorization via ESTA before boarding a U.S.-bound flight. As of November 30, 2010, a total of 27,931,088 applications have been processed, with approximately 0.33 percent denied.

All of these initiatives have enhanced information-gathering and sharing processes to help improve international and domestic aviation security measures and diminish threats to global aviation security.

#### *Coordinating International Technical Assistance*

Finally, in collaboration with ICAO and the Department of State, DHS continues to conduct extensive training with foreign counterparts to strengthen identified areas of weakness within a nation's aviation security environment. TSA has provided more than 30 training courses to 30 foreign governments in the areas of cargo security, screening techniques for passengers and baggage, security management, and quality control. TSA also established the Aviation Security Sustainable International Standards Team initiative to provide the full spectrum of in-depth training and technical assistance. Successful programs have been conducted with Liberia and Saint Lucia, and an initial training needs assessment was performed in Yemen as part of a

proposed project under the oversight of ICAO. TSA is also working with the European Civil Aviation Conference on a capacity development project with Georgia. Serving as an ICAO-approved training center, TSA provides several security workshops throughout the year on behalf of ICAO. An additional effort underway through ICAO involves coordination among contracting states to better identify capacity development needs around the world, leverage resources where possible, and ensure better overall collaboration and coordination within the international community for all training and capacity development activity.

This past year, TSA collaborated with more than 100 foreign governments and more than 200 foreign air carriers to address aviation security threats and strengthen joint aviation security measures. TSA also conducted 133 airport assessments, including 14 surveys; 793 air carrier inspections, including 68 passenger cargo inspections; and 75 cargo visits at international airports with flights to the United States. All of these initiatives have contributed to bolstering global aviation standards and mitigating threats to the nation.

### **Items for Consideration on the Way Forward**

Effectively responding to a global challenge like aviation security requires trust and collaboration between nations. Among our remaining challenges is the false notion that privacy and data protection standards in the United States and the European Union (EU) are irreconcilable. As a result, several bilateral agreements that would improve information sharing on known offenders remain unsigned and some EU officials are now looking to restrict one of the most powerful tools we have for identifying risks to our aviation system, the review of data from passenger name records (PNR)—information that passengers give to travel agencies and airlines to book flights and that is provided to CBP in advance of a flight to prescreen passengers who may pose a risk to our nation's security. This data is invaluable as evidenced by the fact that the United States has successfully used PNR more than 3,000 times in 2008 and 2009, including in the investigation of many of the most notable terrorist plots in the United States over the last year. Likewise, our ability to protect it has been proven through multiple reviews by U.S. authorities and with the EU.

The United States is firmly committed to strong privacy protections that govern how we collect, store, and share information. At DHS, our Office for Civil Rights and Civil Liberties and our Privacy Office are involved in every step of the policymaking process, building in civil rights, civil liberties, and privacy protections to new security measures from the very beginning. For example, compliance documentation on all the DHS programs I have mentioned today is publically available on our website. These Privacy Impact Assessments and Systems of Records Notices are a comprehensive review of new or proposed Department programs, systems, technologies or rule-makings that assess privacy risks, and recommend privacy protections and alternative methods for handling personally identifiable information (PII) to mitigate those risks. Additionally, privacy protections are not only included, but are central to every information-sharing agreement and program that we carry out with partner countries.

DHS also continues to prioritize and improve the redress program for passengers who believe they have been misidentified or improperly delayed or prohibited from boarding an aircraft. All DHS aviation security programs use the results of the redress process to help prevent future misidentifications.

In discussions with our foreign counterparts, we have continued to stress that stronger coordination with international allies will allow the United States to share information about terrorists and other dangerous individuals more effectively. This exchange will make all passengers safer. In a time of rapidly evolving threats from terrorism, we have to leave behind the false notion that civil liberties and security are opposing values.

## **Conclusion**

Over the past 11 months, we have made substantial progress in improving aviation security standards around the world. DHS has strengthened international partnerships, enacted key domestic and international security enhancements, and established benchmark international aviation security guidance. Evolving aviation security threats against the United States will continue to present new challenges. While we cannot eliminate all threats to aviation, we can

mitigate these threats as we continue to improve domestic and international aviation security measures.

This past year, DHS concluded our nation's first ever Quadrennial Homeland Security Review. In it we set forth a vision of a safe, secure, and resilient homeland where American interests, aspirations, and way of life can thrive. We articulated clear missions, goals, and objectives to accomplish this vision. In the end, we concluded that we all must play a role to protect our nation—and in the commitment of each, we will secure the homeland for all. That same conclusion is true for all of those who comprise the international aviation system: in the commitment of each, we will secure the system for all.

DHS appreciates the support that this Committee has shown for our work on improving aviation security measures internationally and domestically. We have been able to make the progress we have in part because of your steadfast support to enhance aviation security standards and we look forward to working with you further on these efforts. Thank you again for the opportunity to testify. We are happy to take any questions you may have.