

STATEMENT OF THE HONORABLE MATTHEW V. SCOCOZZA  
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BEFORE THE HOUSE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,  
AVIATION SUBCOMMITTEE  
ON AIRPORT AND AIRLINE SECURITY  
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Mr. Chairman and Members of the Subcommittee:

I welcome the opportunity to appear before the Subcommittee to discuss current aviation security programs and the legislative changes that the Department needs to strengthen those programs.

I would like to start off by saying that we believe that the air transportation security system developed by the United States is fundamentally sound and amply protects the American public. Naturally, we continually refine the details of the system. As an example, we are currently working on some very promising research that would provide better detection of explosives, flammable materials and weapons for use in screening both passengers and baggage and cargo. Recently, we recommended to the President that we commit additional resources to that research to expedite its completion.

In addition to our extensive domestic system, the Department of Transportation has an on-going program to assess security at foreign airports. For this purpose, the FAA maintains eleven overseas offices. We require that all airlines serving the United States meet basic security requirements, including a passenger screening system, and we conduct on-site inspections of those systems frequently.

However, we have no authority over foreign airports themselves. We cannot dictate to foreign governments the security standards they must observe on their soil, just as we would not permit them to dictate their policies to us, but we do work with other governments in a number of ways.

First, we work directly with a foreign government when we discover that the airport itself has some security deficiency, through our periodic inspections of carrier operations or through other means. We have found most foreign governments cooperative and genuinely concerned for the safety of all passengers.

In addition, we work closely with the Department of State in its anti-terrorist assistance program to provide training and technical assistance to other governments in their efforts to improve aviation security.

Finally, the Department works through various international organizations to encourage the establishment of an international consensus on civil aviation security standards and to monitor their worldwide observance. In this regard, two international organizations are especially important. The first is the International Civil Aviation Organization, referred to as ICAO. ICAO sets minimum civil aviation security standards and recommends practices to implement those standards. Those standards are, however, less specific than those prescribed by the FAA.

In an attempt to persuade ICAO to reexamine and strengthen its security standards, Secretary Dole addressed the ICAO Council on June 27, 1985. She asked ICAO to focus on the problem of terrorism against international air transportation, to review its

security standards, to monitor more effectively the level of compliance with those standards, and to convene a special session to review its progress in improving international aviation security. The ICAO Council promptly extended that session for two weeks and is currently considering an ambitious work program reflecting in large measure the U.S. government's recommendations. A special session will be held late in the summer.

The second international organization most involved in this area is the International Air Transport Association. IATA, as it is called, is an association of airlines throughout the world. IATA has historically been involved in monitoring the effectiveness of security measures at airports used by its member carriers. By working through the carriers, many of which are state-owned, IATA has been able to influence the level and extent of security at many foreign airports.

The American system of airport security serves as a model for the world community. However, as I have discussed, we are limited in our ability to control the level of security at foreign airports. To provide us with the tools we need to deal effectively with the threat of air piracy and terrorism in foreign air transportation, the Department believes that current law should be amended. The bill proposed by the Department of Transportation, and introduced as H.R. 2827 by the chairman and ranking members of the full committee and the aviation subcommittee, provides us with these tools.

First, the Department's proposal would strengthen our existing authority under section 1115 of the Federal Aviation Act

of 1958 which relates to the suspension of air service to unsafe foreign airports. It would grant to the Secretary of Transportation, with the approval of the Secretary of State, clear authority to suspend air service between the U.S. and foreign airports which present an unacceptable security risk, without the need to use potentially time-consuming consultation procedures. Further, the bill expands section 1115 to include U.S. air carriers and carriers of third countries, in addition to foreign air carriers of the country in question.

After the hijacking, President Reagan asked Secretary Dole to review the need for an expanded air marshal program. She has now done so and reported her conclusion that the air marshal program can and should be expanded. Our legislation therefore responds to our need for authorization of an appropriation from the Airport and Airway Trust Fund of amounts necessary to fund that expansion. The bill would also provide DOT with the authority, subject to the approval by the Secretary of State and the Attorney General, to grant the power of arrest and the authority to carry firearms, eliminating the need to have our air marshals deputized by the U.S. Marshal Service.

The benefit of this legislation may be illustrated by some events that took place immediately after the hijacking. On July 1, 1985, the President exercised his broad powers under section 1114 of the Act to suspend the operating rights of all Lebanese carriers and all U.S. carriers' authority to serve Lebanon. On July 2, the Department of Transportation revoked the authority of all U.S. carriers to serve Lebanon and of Middle East

Airlines (MEA), the Lebanese carrier, to serve the United States. To accomplish this, the Department exercised its safety authority under section 609 of the Act to revoke the operating authority of U.S. carriers for safety reasons. Fortunately, MEA operated under section 416 exemptions from section 402 of the Act which were specifically subject to the condition that they could be revoked without notice or hearing. The Department was thus able to act swiftly to revoke all authority to operate between the United States and Lebanon.

However, if the President had not been able to invoke the provisions of section 1114 by finding that a violation of the international hijacking convention had occurred, and if MEA had held a permit under section 402, the Department's specific authority to act as swiftly as it did would have less clear. The current section 1115 of the Act would have required us first to consult with the foreign government with whose airport we had concerns before revoking any authority. It does not explicitly provide for emergency action. Our ability to revoke permits under section 402 could arguably require at least a "show-cause" proceeding under statutory procedural requirements.

Section 1115 also does not extend to U.S. carriers nor does it allow us to terminate the rights of carriers from third countries who may be authorized to operate to the U.S. through airports which have inadequate security.

There may be other authority available to support immediate action by the Secretary of Transportation to protect the safety of international flights to and from United States in emergency

circumstances, but we believe that it would be useful to establish clear statutory authority to act in these circumstances.

Specifically, the Secretary should be empowered to act in an emergency without notice or hearing, but with the approval of the Secretary of State, to terminate all service between the United States and a foreign airport that presents an unacceptable security risk.

I want to take this opportunity to present our views on the various pieces of pending legislation, in particular the bill sponsored by this committee and passed by the House on June 18, H.R. 2796. The timely passage of this bill demonstrates the initiative and leadership for which this subcommittee is well known. And I believe that the same fundamental goal lies behind both the Administration's bill and the House bill: improving the capability of the U.S. to assure the safety of international air transportation. H.R. 2796 responds to a perceived need to step up security inspections at foreign airports and to inform the public of deficiencies discovered during those inspections. In addition, H.R. 2796 prescribes a 120-day period during which the Secretary must take some action. We understand this provision may also become a part of the House's foreign aid legislation.

As a general matter, the Department agrees with the view underlying the notice provisions that, in most circumstances, information which the government possesses regarding serious safety risks should be shared with the travelling public.

However, any legislation that forces our government to deal with a foreign government in a prescribed manner would be counterproductive to the international cooperation that we believe is necessary to deal effectively with terrorism. The United States cannot and should not be forced to take rigid unilateral actions in dealing with foreign governments on the issue of airport and air carrier safety and security.

We also believe that the public notice requirements of H.R. 2796 are too rigid. We believe that we have adequate authority under existing statutes to notify the public, and in fact the Department of State exercised its authority by issuing a travel advisory concerning safety issues at the Athens airport. H.R. 2796 would replace the current system, which provides a flexible means of tailoring the public notification to the degree of the safety problem, with a more bureaucratic system that may not give the public any better notice than it has now. In addition, such a notice provision runs the risk that we will be forced to disclose to potential terrorists those airports which are most vulnerable.

I would also like to describe our serious concerns with H.R. 2822, the Fascell bill. We believe that bill, as reported out by the Foreign Affairs Committee, would disturb the careful delineation of responsibility that currently exists between the FAA, acting for DOT, and the Department of State. H.R. 2822 would ignore the current statutory mechanism in Title XI of the FAA Act

and create a parallel process in which DOT would not have a statutory role. We and the Department of State are opposed to this version of the bill. We understand that modifications to the language as added to the House foreign aid legislation may mitigate the problem, but we do not consider the underlying requirement reasonable.

The Department believes that passage of its bill will permit it to strengthen its efforts to protect U.S. citizens from future terrorist incidents in air transportation. Therefore, we urge you to review H.R. 2827 carefully and to support its enactment into law, in lieu of other bills pending before the Congress.

That completes my prepared statement. We would be pleased to respond to any questions you may have at this time.