

STATEMENT OF GUY S. GARDNER, ASSOCIATE ADMINISTRATOR FOR  
REGULATION AND CERTIFICATION, FEDERAL AVIATION ADMINISTRATION,  
BEFORE THE HOUSE COMMITTEE ON TRANSPORTATION AND  
INFRASTRUCTURE, SUBCOMMITTEE ON AVIATION, CONCERNING H.R. 145.  
OCTOBER 9, 1997.

Mr. Chairman and Members of the Subcommittee:

It is my pleasure to appear before you today to discuss H.R. 145, the Aircraft Repair Station Safety Act of 1997.

As you know, this legislation would terminate the effectiveness of certain 1988 amendments to the Federal Aviation Regulations (FAR) permitting greater use of foreign repair stations for aircraft repairs; require that regulations pertaining to foreign repair stations and their personnel be identical to those regulations that apply to domestic repair stations and their personnel; and mandate revocation of any repair station certificate, domestic or foreign, for knowing use of uncertified or substandard parts.

We share many of the goals of this legislation, especially the one of ensuring a level playing field between foreign and domestic repair stations to ensure the highest level of safety. However, we believe we can achieve these goals through an update of regulations now being prepared.

This morning, I would like to provide you with a brief history and background on how the FAA came to promulgate the 1988 amendments, and brief you on our efforts to update and make more effective the regulations that apply to foreign and domestic repair stations. I also want to give you a progress report on our efforts to address Suspected Unapproved Parts, or SUPs.

FAA first promulgated foreign repair station regulations in 1949, when more U.S. aircraft began flying international routes, resulting in a need for maintenance to be performed abroad. These regulations, which stayed largely static until the mid-1980's, established the concept of issuing a U.S. certificate to repair stations located outside the United States. This was designed to ensure that U.S. carriers and operators of U.S.-registered aircraft could obtain limited maintenance outside the country. The regulations limited U.S. aircraft use of these certificated repair stations to those that operated abroad, and even then, only permitted repairs immediately necessary for safe flight. This normally meant that work performed abroad was confined to maintenance and repair of unexpected problems that occurred while an aircraft was operating at a foreign location. Any other maintenance work performed abroad required an exemption issued by the FAA.

As time went by, it became apparent that the regulations needed to be updated in the face of changes in the makeup of the U.S. fleet. More and more foreign-manufactured aircraft were being acquired and flown by U.S. operators. For example, European and Brazilian turboprops began to be seen in the commuter fleet in significant numbers. In addition, more foreign-manufactured components were being installed on U.S.-manufactured aircraft.

Carriers and manufacturers in the United States were regularly shipping foreign-built components to their original manufacturers for repair, and U.S.-operated turboprops, which were used almost entirely on domestic routes, as well as some general aviation jets, were also being sent abroad for maintenance and alterations. FAA had to issue exemptions to permit foreign manufacturers to perform repairs on their own products, and to permit U.S. operators to obtain repairs abroad when they could not be performed in the U.S. in a timely manner because of a lack of appropriately-rated facilities. This was an unwieldy process.

The reality became that FAA permitted the use of foreign-built aircraft and components, but forbade the repair or overhaul of those components by their manufacturers without an exemption. Over 100 exemptions were made before the issuance of the 1988 amendments, resulting in considerable paperwork and delay to air carriers.

Consequently, FAA proposed revisions to the FAR to acknowledge this inconsistency and address the increasingly international nature of aviation. After extensive consultation and input from Congress and the aviation community, these revisions were finalized in 1988.

The 1988 amendments to the FAR permit the Administrator to certificate a foreign repair station if it is needed to maintain or alter U.S.-registered aircraft and components for use on U.S.-registered aircraft. The regulations were written to assure that foreign repair stations meet virtually all certification and personnel requirements that domestic repair stations must meet. However, there are a few differences in the regulations, as written, that warrant clarification.

As our regulations are currently structured, there is an appearance that different standards are applied to domestic and foreign stations. For example, our regulations state that an applicant for domestic repair station certification must determine the abilities of its noncertificated employees performing maintenance based on practical tests or employment records. No such requirements are specified in the Federal Aviation Regulations for foreign repair stations. Yet, through the certification process, our inspectors look for evidence that employees performing maintenance in foreign repair stations have skills similar to those of their domestic counterparts.

Our regulations also do not require supervisory personnel at foreign repair stations to have a U.S. certificate. If supervisory personnel at a foreign repair station do not hold an FAA certificate, FAA evaluates the qualifications of those individuals. If they hold a certificate issued by their own government, we review that country's certification program and know the criteria used to issue the certificate. If the supervisor is not certificated at all, the inspectors handling the certification evaluate the applicants using the same standards we use to evaluate personnel at domestic repair stations.

Foreign repair stations must undergo annual or biennial renewals, as opposed to domestic repair stations, which have certificates that are valid until surrendered, suspended, or revoked. Foreign repair stations must, at renewal time, provide adequate justification for renewal. If insufficient justification exists, the certificate is not renewed.

FAA has been reviewing the FAR part 145 regulations for some time and, in consultation with the Office of the Secretary, is now in the process of finalizing a Notice of Proposed Rulemaking (NPRM) that will change the regulation to clarify that all other significant elements of the domestic certification regulations are applied even-handedly, to foreign and domestic facilities alike.

As you know, foreign repair station personnel are not subject to U.S. drug testing requirements. The potential use of illegal substances by maintenance personnel overseas is of legitimate concern. FAA has not imposed such testing requirements on foreign nationals in response to international concerns that to do so would violate principals of foreign national sovereignty. However, I am pleased to note that the International Civil Aviation Organization (ICAO) Air Navigation Commission has just recommended standards that will strengthen the prohibitions on drug use and alcohol misuse. It is expected that the ICAO

Council will accept those standards next month, and members will then have a year to come into compliance.

FAA is committed to ensuring that foreign repair facilities are adequately overseen. Therefore, FAA has pledged to limit certification of such facilities to a number that can be safely inspected by FAA inspectors at any given time. Consequently, the number of certified foreign repair facilities stands at 498, with 113 facilities on the waiting list for certification. The number of FAA inspectors assigned to full-time oversight of foreign repair facilities stands at 73. Each FAA inspector assigned to an International Field Office has responsibility for inspecting roughly 7 foreign repair facilities, down from one inspector for every 15 facilities in 1989. The ratio of domestic inspectors to domestic repair stations is about the same, and domestic inspectors have additional inspection responsibilities that the majority of foreign inspectors do not have. We would welcome the opportunity to brief the members of the Subcommittee on our oversight efforts.

Finally, I would like to update you on the FAA's efforts to address the issue of Suspected Unapproved Parts, or SUPs. In response to concerns expressed by Congress and others that FAA could improve its actions with regard to SUPs, FAA convened a task force to determine just what form those improvements should take. That task force recommended some 30 actions, all of which are being implemented or have been completed.

As the international leader on the SUPs issue, FAA has held seminars in Hong Kong, Singapore, Brussels, Paris, and London, designed to bring together and educate the international community. Over 500 participants have attended these seminars and received information on how to identify and screen for SUPs. In addition, FAA circulates alerts on SUPs that we know are in the marketplace both within the United States and to over 180 foreign civil aviation authorities. FAA is currently working on a Memorandum of

Understanding with the United Kingdom, and is cooperating with New Zealand on joint SUP investigations. We have also entered into a letter of agreement with a number of agencies, including Customs, the Defense Criminal Investigative Service, the FBI, the DOT's Inspector General, and are working with the Coast Guard to share data on international SUPs issues in order to further improve FAA oversight.

To summarize, the FAA believes that the 1988 amendments to part 145 have served the air transportation industry well as it becomes ever more global. More importantly, with the updates we will propose to make through the NPRM, which we expect to be issued by the end of this year, we can ensure an appropriate level of safety is maintained in the system today. Requirements for domestic and foreign repair facilities and their personnel are fundamentally the same, recognizing that we must respect the sovereignty of foreign nations in terms of what we can require of foreign repair personnel. FAA has committed to certifying new foreign repair facilities if, and only if, there are adequate inspection resources to perform the surveillance necessary to ensure that aviation safety is maintained at the highest levels. We are also taking aggressive action to improve our efforts to address SUPs in the domestic and international arenas, and are committed to taking revocation action when appropriately called for by the circumstances, as we may currently do under existing legislation and sanction guidance.

Mr. Chairman, we understand that concerns over aviation safety have prompted this hearing and the proposed legislation we are considering today. I would like to stress that safety concerns are also foremost for the Administrator and the Secretary, and that the attention being brought to this question by all sides is welcome. Although it seems absolutely clear that the 1988 amendments have not had an adverse impact on safety, the occasion of this hearing has given us a real impetus to act on these questions, and we place a high priority on timely rulemaking action. We are convinced that the final rule in this area

will address most of the goals of H.R. 145, and will best advance the interests of aviation safety. Therefore, we would not at this time like to see legislation get ahead of our efforts in this area.

This statement represents the position of the Administration on the safety aspects of the proposed legislation only, and does not address the potential economic and trade policy consequences.

In closing, I would like to extend my thanks to you for holding this hearing, and enabling all those concerned the opportunity to revisit this issue after having had 8 years to see whether the 1988 amendments have had unexpected safety consequences. I look forward to hearing the views of Congress and other panels this morning, and stand ready to answer any questions you may have at this time.