

**GAO**

Report to the Chairman, Subcommittee  
on Investigations and Oversight,  
Committee on Public Works and  
Transportation, House of  
Representatives

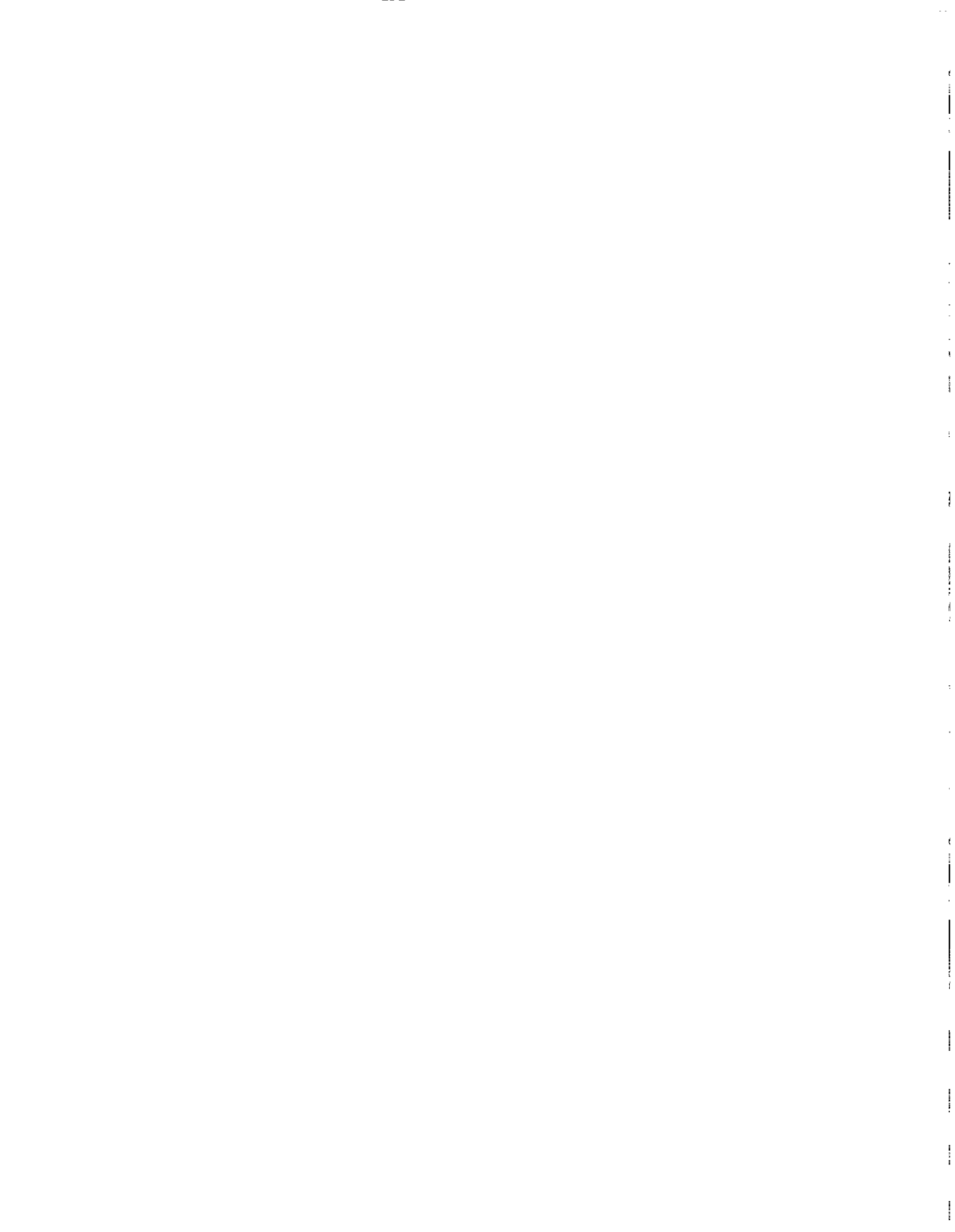
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March 1994

## **AVIATION SAFETY**

# **FAA and the State Department Can Better Manage Foreign Enforcement Cases**







United States  
General Accounting Office  
Washington, D.C. 20548

Resources, Community, and  
Economic Development Division

B-250303

March 17, 1994

The Honorable Robert A. Borski  
Chairman, Subcommittee on  
Investigations and Oversight  
Committee on Public Works  
and Transportation  
House of Representatives

Dear Mr. Chairman:

In November 1992, a foreign-operated aircraft departing from Miami International Airport experienced engine failure, ditched into the Atlantic Ocean, and sank. The aircraft was overweight on takeoff, could not climb to the proper altitude, and narrowly missed high-rise buildings in a heavily populated area before it crashed, jeopardizing the lives of U.S. residents. The Department of Transportation (DOT) determined that the operator had no liability insurance on the aircraft, and DOT took enforcement action by assessing a \$6,000 penalty. Also, the Federal Aviation Administration (FAA) inspected the carrier and found that it did not meet established international safety standards.

Both the accident and our November 1992 report about foreign governments' oversight of foreign carriers that fly into the United States raised your concern about compliance with safety regulations.<sup>1</sup> Consequently, you asked us to determine whether (1) foreign governments acted on enforcement cases that FAA referred to them and, conversely, FAA acted on enforcement cases that foreign governments referred to it; (2) FAA had identified enforcement system weaknesses in its assessments of foreign countries' compliance with international safety standards; and (3) DOT acted against foreign air carriers that violated departmental aviation regulations.

## Results in Brief

FAA has not effectively managed its enforcement work load, and as a result, foreign governments and FAA have not acted on all referred safety violations. Of the 146 enforcement cases we reviewed that FAA referred to foreign governments and closed between fiscal years 1990 and 1992, 48 cases were not acted on, primarily because the referral occurred after statutory time limits or too close to them to investigate. Likewise, FAA did not act on 22 of 58 cases we reviewed that foreign governments referred to

<sup>1</sup>Aviation Safety: Increased Oversight of Foreign Carriers Needed (GAO/RCED-93-42, Nov. 20, 1992).

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it, mainly because FAA took too long in sending the cases to its field offices for investigation. FAA has taken steps to prevent the recurrence of untimely case processing, including eliminating the backlog of enforcement cases and increasing attorney staffing.

When conducting foreign country assessments between August 1991 (program implementation) and September 1993, FAA found deficiencies that weakened foreign countries' enforcement capabilities. Overall, 16 of the 26 countries that FAA assessed did not meet international safety standards. FAA found such deficiencies as no inspectors to identify and investigate violations, no technical expertise to carry out inspection programs, and no regulations for taking enforcement actions or assessing civil (financial) penalties.

DOT assessed 28 civil penalties totaling about \$1.25 million against foreign carriers between 1989 and 1992. Violators in 26 of these actions have paid their fines. Two carriers failed to pay the civil penalties assessed and committed additional violations. DOT officials revoked both carriers' operating authority, one effective November 30, 1993, and the other effective February 4, 1994.

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## Background

To create a framework for international cooperation in developing civil aviation, representatives of the United States and 51 additional countries signed the 1944 Convention on International Civil Aviation, commonly called the "Chicago Convention," and created the International Civil Aviation Organization (ICAO). As of April 1993, ICAO had 178 member countries. In accordance with the Convention, member countries control their airspace and agree to (1) comply with international safety standards and (2) ensure that their aircraft honor other countries' regulations. As a result, U.S. aircraft must comply with foreign countries' regulations when in foreign airspace, and foreign aircraft must comply with U.S. regulations when in U.S. airspace.

Both DOT and FAA regulate carrier operations in U.S. airspace. DOT regulates consumer and economic aspects of aviation. When DOT finds a regulatory violation, it takes action to ensure compliance, regardless of the carrier's home country. Usually the action is finalized in a consent order agreed to by the carrier concerned.<sup>2</sup> FAA regulates both carrier and crew safety issues and can initiate enforcement actions against violators of U.S.

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<sup>2</sup>According to DOT officials, the consent order usually involves a provision precluding repetition of the same violation and almost always includes a civil penalty.

regulations. When FAA finds violations, it can take enforcement actions that include warning letters, civil penalties, suspensions, and revocations, which generally involve a coordinated effort primarily between FAA's Flight Standards Service and the Office of Chief Counsel. Among their responsibilities, Flight Standards inspectors investigate regulatory violations and forward cases requiring legal enforcement action (e.g., civil penalties and license revocations) to their regional counsels, who review the sufficiency of evidence and the appropriateness of the action recommended.

Regional counsels generally forward certain cases, such as those involving violations by foreign persons and companies, to the headquarters Office of Chief Counsel, Enforcement Division's Special Programs Branch. The Special Programs (formerly known as Enforcement Litigation) Branch generally refers the foreign cases to foreign governments, through the Department of State, for action.

When U.S. carriers or crews violate foreign regulations, foreign governments generally refer the cases, through the Department of State and its embassies, to FAA's Special Programs Branch. The Branch forwards the cases to the headquarters Field Programs Division, which sends them to FAA regional offices. The regions then send the cases to field inspectors for investigation. However, some foreign governments and U.S. embassies, when they know which FAA field office will investigate the violations, bypass FAA's Special Programs Branch and the Department of State and send enforcement cases directly to the field office.

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## Impediments Affecting FAA's and Foreign Governments' Enforcement Systems

Concerns with international agreements, the complexities involved in interpreting and applying international law, and the sovereign rights of nations present unique sensitivities to FAA when taking enforcement actions against foreign carriers. Nevertheless, FAA did not follow up on enforcement cases that it referred to foreign governments and those that it received from foreign governments. FAA took so long to process some enforcement cases that the referrals occurred after statutory time frames or too close to them for the foreign authorities to investigate. Similarly, FAA either did not track or did not timely process some foreign authorities' referrals to FAA.

## Foreign Governments Faced Impediments in Addressing FAA-Referred Violations

Between fiscal years 1990 and 1992, FAA closed 320 enforcement cases against foreign carriers, commercial and private pilots, mechanics, and passengers. FAA revoked or suspended licenses or assessed civil penalties in 97 of these cases because the violators had direct U.S. ties. For example, individuals had a U.S. pilot's license or residency, and carriers had an agent or representative in the United States. For the remaining 223 cases, direct ties with the United States did not exist, and FAA referred the violations to the appropriate foreign governments for action. Most violations related to air traffic control deviations; others included insufficient fuel, unqualified pilots, and such communication problems as an inability to speak or comprehend English. At least 43 percent of the 223 cases involved emergency landings, loss of the standard separation with other aircraft, near air or ground collisions, or accidents. The aircraft included large transport-category jets, such as Boeing 747s; smaller general aviation aircraft; and foreign military aircraft.

We examined 146 of 223 enforcement cases FAA referred to foreign governments, omitting 77 cases because they were not current or generally dealt with passenger security violations. FAA referred the 146 cases to 23 countries. Table 1 shows the enforcement disposition of the cases we examined.

**Table 1: Enforcement Disposition for Cases That FAA Referred to Foreign Countries**

Case disposition	Number of cases
Action taken	63
No action taken	48
Unable to determine	35
<b>Total</b>	<b>146</b>

Foreign governments took such actions as imposing fines, suspending licenses, and sending warning letters for 63 of the 146 (43 percent) enforcement referral cases but could not act on 48 (33 percent) referrals. FAA, Department of State, U.S. embassy, and foreign government officials could not tell us the disposition of the remaining 35 (24 percent) cases that FAA referred largely because of their inability to locate or provide documents. Reasons that foreign governments did not act on FAA referrals are shown in table 2.

**Table 2: Reasons Foreign Governments Did Not Act on FAA Referrals**

<b>Reason</b>	<b>Number of cases</b>
Statute of limitations precluded action	35
Lacked authority to prosecute	6
Policy limitations precluded action	2
Political or diplomatic sensitivity	2
No violation found	3
<b>Total</b>	<b>48</b>

Statutes of limitations precluded action against violators in 73 percent of the 48 cases. For example, one country's law prohibits the government from initiating enforcement actions when more than 1 year has elapsed since the date of the violation. Country officials informed FAA of this limit in 1988. Nonetheless, FAA referred 34 of 72 enforcement cases to this country after the statutory time limit or too close to it to investigate. FAA referred 12 cases more than 2 years after the violation occurred. We also found that FAA enforcement officials were not aware of five other countries' statutes of limitations.

Four foreign governments lacked authority to prosecute six referred cases. Most of these cases involved careless or reckless actions by commercial pilots, resulting in aircraft flying too close to each other. Four cases involved foreign countries' registered aircraft flying in the United States. For example, one country's officials said that its laws do not authorize the government to prosecute violations of another country's air traffic control regulations. FAA enforcement officials told us that they were not aware that foreign governments lacked legal authority to prosecute cases involving their registered aircraft. These officials pointed out that each ICAO member country agrees to take enforcement action against regulatory violations committed with its registered aircraft and should have the supporting legal authority to carry out that responsibility. For the remaining two cases, foreign government officials said that they did not have the authority to prosecute because the aircraft were not registered in their countries. On the basis of our review of these two case files, we found that the aircraft were not registered in these countries and FAA had erroneously referred the violations to these two countries.

State Department and foreign government officials cited additional impediments to foreign government action on the remaining seven cases. Two governments did not act because they have a policy against prosecuting copilots. (FAA sometimes refers separate cases against the

pilot and copilot for a single incident.) In addition, State Department officials handled a few cases through diplomatic rather than enforcement channels because of their sensitivity. Finally, foreign governments dropped three cases because of such mitigating circumstances as severe air turbulence.

### Inadequate FAA and State Department Controls Over Enforcement Cases

Neither FAA nor the State Department had established controls for tracking referrals. FAA's Special Programs Branch does not ensure that it receives responses from foreign governments indicating the action taken to correct safety problems. In referring cases to foreign governments, the Branch asks that it be notified of actions taken to resolve safety problems. However, the Branch believes that its responsibility ends with the referral and closes the case file. As a result, FAA did not follow up on referred cases and could not tell us the disposition of 183 of 223 cases referred to foreign governments. We did find in FAA's files 40 responses from foreign governments indicating action taken or explaining why action was not taken. We also found an additional eight responses in State Department files that were not in FAA's files. Furthermore, a foreign country official provided 15 responses that were addressed to FAA but were not in FAA's case files. FAA officials could not explain why these 23 responses were not in the agency's case files.

FAA forwards enforcement cases to foreign governments through the Department of State, except for one country. State Department officials told us that they viewed their role as a conduit of information between FAA and foreign governments. In sending enforcement cases, the State Department instructs its embassies to (1) inform the appropriate government authorities about the safety problems, (2) ask the foreign government to advise the U.S. embassy in that country of actions taken to prevent similar incidents in the future, and (3) report any response to the Department.

We found that the State Department headquarters could not provide evidence that it sent its embassies 29 of the 154 enforcement cases FAA sent to the Department. State Department officials could not explain why they could not locate the records. We also contacted 18 embassies that were sent referrals to determine whether they, in turn, sent the referrals to foreign authorities. When we inquired about 53 cases, embassy officials told us that they referred 23 cases but did not know or were unsure whether they referred 26 cases. We did not receive embassy responses on four cases. Until we inquired about its procedures, the State Department



did not request that its embassies follow up with foreign governments about identified aviation safety problems. In April 1993, a State Department official told us that the Department revised its procedures to require its embassies to follow up on FAA referrals if the foreign governments do not respond to the embassies within 90 days.

### FAA Did Not Address Certain Violations Identified by Foreign Governments

We reviewed 58 enforcement cases against U.S. carriers and pilots that foreign governments referred to FAA—55 from one country and 3 from two additional countries. These violations occurred between 1988 and 1992 and included deviations from assigned routes, excessive aircraft weight on departure, aircraft with less than the required amount of fuel on landing, and a departure from the wrong runway while a car drove across it.

FAA officials told us that they could not provide information on the disposition of 16 cases (28 percent) because of the agency's inability to locate investigation records. FAA acted on 20 of the 58 cases (34 percent), issuing 13 warning letters, assessing 5 civil penalties, and revoking or suspending 2 airman certificates. FAA did not act on 22 cases (38 percent). Table 3 shows the reasons FAA did not act on foreign referrals.

**Table 3: Reasons FAA Did Not Act on Foreign Referrals**

Reason	Number of cases
Too much time elapsed since violation date	11
No violation found	7
Lacked legal authority to prosecute	2
FAA unable to provide explanation	2
<b>Total</b>	<b>22</b>

FAA field inspectors either did not investigate or terminated their investigations of 11 cases because too much time had elapsed since the violation occurred. On average, the foreign government sent the cases to FAA within 72 days of the violation. However, the Special Programs Branch took an average of 444 days to acknowledge receipt of the 11 referrals and to send them to the Field Programs Division.<sup>3</sup> In some instances, Field Programs Division officials returned cases to the Branch because the violation reports were "simply too old for effective enforcement action." Division officials said that processing delays tend to strengthen the

<sup>3</sup>Branch officials told us that they send acknowledgement letters to foreign governments at the same time they forward cases to the Field Programs Division. Because some transmittal letters to the Division were not in the Branch's case files, we calculated the average days using the dates of the foreign government's referral letter to FAA and FAA's acknowledgement letter.

violator's case and deemphasize the seriousness of the violation. The Branch acknowledged its delay in processing cases and attributed the problem to such other agency priorities as litigating cases, formulating enforcement policy, coordinating enforcement actions with the regions, and staff shortages. However, in August 1992, FAA decided to close cases in its backlog involving violations prior to August 2, 1990, that were no longer legally prosecutable or had no deterrent value. Some foreign cases were included in this action. Subsequently, the Branch Manager said that Branch priorities were rearranged and attorney staffing increased, thereby allowing Branch attorneys to address the backlog of foreign referral cases.

FAA could not conclude that a violation occurred in seven cases because of a lack of supporting evidence or because of insufficient or conflicting data. FAA also did not act in two cases involving U.S. pilots because the aircraft were not U.S.-registered and because FAA lacked the legal authority to prosecute. In the first case, according to FAA officials, the country of aircraft registry was responsible for enforcement, and the referring country misdirected the case to FAA. FAA officials were less certain about the second referral because although the pilot had a U.S. license, the aircraft did not have a valid registration from any country. FAA could not act against the U.S. pilot's violation in international airspace because the aircraft was not U.S.-registered. Apparently no country could act because no country could be cited as the country of registry. Finally, FAA officials could not explain the reason why no action was taken in two cases because they could not locate the case files.

FAA's guidance for the Compliance and Enforcement Program directs both the Office of Chief Counsel and the responsible regional office to inform foreign aviation authorities about the disposition of referred enforcement cases. Also, in referring cases to FAA, foreign authorities frequently asked to be advised of the case disposition, and FAA, in acknowledging receipt of cases, frequently said that it would advise the foreign authority of the enforcement actions taken. Although FAA and one country's enforcement officials established a direct referral process to more effectively deal with each other, little, if any, interaction about cases occurs after the referrals. FAA notified that country's officials about the disposition of only 2 of the 55 cases referred. FAA took no action on either case because both were too old to investigate.

FAA headquarters officials could not explain why regional offices did not inform the foreign authorities about case disposition. Chief Counsel officials said that they did not notify foreign governments of case

disposition because the regional offices did not inform them of investigation results. An official from one country told us that the country's regional offices recently started using their working relationships with FAA's field offices to facilitate enforcement case processing, including direct field-to-field referrals and more frequent communication about case development and disposition.

## FAA Finds Enforcement Deficiencies When Conducting Foreign Country Assessments

As we reported in November 1992, FAA implemented a program in August 1991 to assess whether foreign countries meet international safety standards and found that 9 of the 15 countries assessed did not.<sup>4</sup> During its country assessments, FAA generally inquires about the civil aviation authority's organizational structure; number and types of inspectors; extent of regulations, handbooks, and guidance; pilot and aircraft licensing; and adequacy of carrier training and maintenance programs. FAA also asks whether the country's aviation regulations provide for enforcement actions against violators of those regulations and comments on general oversight and organizational weaknesses that hamper the country's enforcement capability. In some cases, FAA also reports on specific enforcement deficiencies.

As of September 1993, FAA had assessed 26 countries and found that 10 met international standards and 16 did not. FAA found such deficiencies as no operations or airworthiness inspectors to investigate violations, no surveillance program to identify safety problems, and no technical expertise to carry out a certification and surveillance program. These deficiencies weakened the countries' enforcement capabilities. The specific enforcement deficiencies FAA identified follow:

- Civil aviation regulations do not provide for enforcement actions or penalties (two countries).
- The government had limited enforcement expertise since it had no operations inspectors until just prior to FAA's assessment, or FAA could not verify that the civil aviation authority had an enforcement program, thereby causing FAA to question whether violations were investigated and enforcement action was taken (two countries).
- Enforcement cases were frequently dismissed because responsible officials were not knowledgeable about aviation regulations and their potential safety consequences (one country).
- FAA was not provided evidence to verify that inspectors identified violations during routine domestic surveillance (one country).

<sup>4</sup>Aviation Safety: Increased Oversight of Foreign Carriers Needed (GAO/RCED-93-42, Nov. 20, 1992).

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As previously discussed in our November 1992 report, FAA officials are helping countries to compensate for the lack of home government oversight through such means as providing technical assistance to civil aviation authorities to address the deficiencies found.

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## DOT Decides to Revoke Two Foreign Carriers' Operating Authority

Carriers that operate without route approval, do not file required flight data reports, or do not comply with consumer protection measures violate DOT regulations. Moreover, a foreign carrier's authority to fly into the United States is specifically conditioned on compliance with applicable U.S. regulations. Between 1989 and 1992, DOT assessed 28 civil penalties against foreign carriers totaling \$1.25 million. DOT assessed 14 penalties for unauthorized flights into the United States, 12 for failing to report or delinquent reporting of required flight information, and 2 for such consumer issues as false advertising. Violators in 26 of these enforcement actions have paid their fines.

Two violators are seriously delinquent in paying their assessed penalties. DOT's consent order in January 1991 with one carrier for reporting violations included a \$16,000 civil penalty. By April 1991, the carrier was delinquent on its payment schedule and had additional reporting violations. As of September 1993, this carrier had not flown into the United States since February 1993 but continued to file required monthly reports as if it planned to resume U.S. operations. In the second instance, DOT issued a consent order in April 1992 for 71 unauthorized operations; in which the carrier agreed to a \$125,000 civil penalty. By May 1992, the carrier had failed to meet the payment terms. By December 1992, the carrier had only made partial payment and had committed additional reporting violations. The carrier flew into the United States in September 1993.

DOT used the methods prescribed in the Federal Debt Collection Act to collect payments from the two delinquent carriers, including using a collection agency and referring the cases to the Department of Justice. However, DOT's efforts were unsuccessful. DOT warned both carriers that if they did not pay by February 26, 1993, DOT would revoke their authority to operate into the United States. The U.S. embassies, at DOT's request, informed the first carrier's government in January 1992 and again in February 1993 and the second carrier's government in February 1993 that DOT would revoke the carriers' U.S. authority if they did not pay their outstanding balances. DOT officials told us that they proceeded cautiously

in initiating revocation actions because of ongoing bilateral negotiations with one country and tax obligations owed to the United States by the other country's carrier. Furthermore, revoking a carrier's authority for civil penalty delinquency would set a precedent, and DOT wanted to be certain it could withstand any challenges to the revocation. DOT revoked both carriers' operating authority, one effective November 30, 1993, and the other effective February 4, 1994.

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## Conclusions

Although foreign enforcement of aviation safety regulations is a sensitive issue, deficiencies in the enforcement referral process demonstrate that FAA and foreign governments cannot and do not always address referred safety problems. Although governments acted on some FAA-referred enforcement cases, they did not act on others. In extreme cases, some governments did not have the personnel, regulations, or procedures to implement an enforcement program. Foreign governments' and FAA's inability to act can mainly be attributed to the length of time FAA took to process cases, which FAA attributed to staffing shortages and other priority work. Furthermore, FAA did not follow up on foreign referrals and, consequently, could not identify which governments were not acting or why. Delays in processing violations and following up have resulted in cases being closed without being investigated, giving the impression that FAA is not serious about enforcement.

Instead of enhancing the enforcement referral process, the State Department viewed its responsibilities as being a conduit and served a limited role in ensuring that safety problems were addressed. The State Department—headquarters and embassies—could not demonstrate that it delivered all FAA-referred violations to responsible foreign officials. Furthermore, the Department rarely followed up. As a result, some governments may not have been able to address the safety problems.

Foreign governments and FAA are not working closely to ensure that violations are addressed. One reason some foreign governments gave for not acting was that they lacked the legal authority to prosecute certain cases, even though the aircraft involved were registered in their countries. That reason, however, contradicts the Chicago Convention, in which the signatories agreed to take enforcement responsibility for their registered aircraft. FAA itself has an obligation to investigate and enforce foreign violations by U.S.-registered aircraft and did not always do so because of case processing delays.

Although foreign carriers' operating authority is specifically conditioned upon compliance with U.S. regulations, DOT acted cautiously in initiating revocation action against two carriers delinquent in their payment obligations in part because of its concerns in setting a precedent. Now that DOT has established the precedent, it should be better prepared to handle similar cases in the future.

## Recommendations

We recommend that the Secretary of Transportation direct the Administrator, FAA, to (1) determine the final disposition of enforcement cases referred to foreign governments, (2) inform foreign governments of the disposition of enforcement cases that they refer to FAA, and (3) raise to ICAO's attention the legal or policy impediments that affect FAA's and foreign countries' enforcement capabilities.

In addition, we recommend that the Secretary of Transportation and the Secretary of State work together to reach agreement on the best way to facilitate FAA's efforts to address regulatory violations, including (1) developing direct contacts between FAA and foreign aviation authorities, where appropriate and when countries are willing to do so; (2) ensuring that foreign governments are apprised of violations in sufficient time to act within the appropriate statute-of-limitation period; and (3) following up to determine whether foreign governments addressed safety violations and ensuring that responses are communicated to FAA.

## Agency Comments and Our Evaluation

As requested, we did not obtain written agency comments on a draft of this report. We did, however, discuss the findings and recommendations with DOT's Assistant General Counsel for Aviation Enforcement and Proceedings; DOT's Chief, Foreign Carrier Licensing Division, Office of International Aviation; FAA's Deputy Director, Flight Standards; FAA's Manager, Special Programs Branch, Office of the Chief Counsel; and other DOT and FAA officials. We also discussed the findings and recommendations with the State Department's Director and Deputy Director, Office of Aviation Programs and Policy; and other State Department officials.

DOT officials generally agreed with the facts contained in the report. However, a Foreign Carrier Licensing Division official provided an update regarding DOT's effort to revoke the authority of a foreign carrier delinquent in its payment obligations, which we incorporated in the report.

FAA's Special Programs Branch Manager told us that in 1991, the Branch began to process foreign case referrals within 30 to 60 days of receipt, thereby correcting the problem of untimely referrals. Furthermore, the Branch Manager said that Branch priorities were rearranged and attorney staffing increased, thereby allowing Branch attorneys to address the backlog of foreign referral cases. Data that FAA provided during our review to illustrate case processing timeliness showed that of 24 enforcement cases that foreign governments referred to FAA beginning in 1991 through August 1992, 14, or about 60 percent, were not referred to the field for investigation within 2 months of the referral. However, the Branch did meet its specified processing time frame for the five cases referred between September 1992 and September 1993. As long as the Branch continues to process foreign case referrals within 30 to 60 days of receipt, case processing timeliness should improve. This, in turn, should enhance the prospects of FAA field inspectors' or foreign governments' receiving the referrals in sufficient time to act.

The Special Programs Branch Manager was concerned with the statement in the report that FAA was unaware that certain countries lacked the requisite authority to prosecute their airmen for committing violations over or within U.S. airspace. According to the Branch Manager, we implied that lacking such knowledge negatively impacts FAA's enforcement responsibilities. This FAA official added that a lack of authority is uniquely a problem of the foreign governments. We explained that during our review, we found that FAA did not routinely follow up to determine case disposition and, consequently, was not aware that certain countries did not act or why they did not act. We believe that part of FAA's enforcement responsibility includes determining the disposition of enforcement cases referred to foreign countries, which is necessary to ensure that FAA-cited regulatory violations are addressed. We also believe that FAA has an obligation to clarify with an ICAO member its position and rationale for asserting a lack of authority to take enforcement action on referred cases, especially since member countries are obligated to act. If FAA finds that a member country does not comply with ICAO, then FAA should notify ICAO.

The Special Programs Branch Manager also said that the Branch must rely on the State Department to determine enforcement case disposition. The Branch initially asks that it be notified of the actions taken to resolve the safety problems that are the subject of a referral. The Branch Manager said that FAA did not believe that it should prod the State Department to handle referrals to foreign governments more expeditiously. The official said that FAA would welcome the opportunity to meet with State Department

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officials to formulate a plan of action that ensures that FAA is timely informed of case disposition. We believe that FAA should follow up with the State Department to ensure that referrals to foreign governments are handled expeditiously. At the completion of our review, a State Department official told us that enforcement case tracking would have been better had FAA shown more interest in following through on referred cases.

State Department officials said that they found the report to be accurate and agreed with the recommendation made to the Department. Both State Department and FAA officials made technical suggestions for clarifying the report, and we have incorporated them where appropriate.

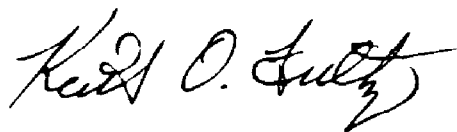
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We conducted our review between December 1992 and February 1994 in accordance with generally accepted government auditing standards. Our objectives, scope, and methodology are discussed in appendix I.

Unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after the date of this letter. At that time, we will send copies to the Secretaries of Transportation and State; the Administrator, FAA; and the Director, Office of Management and Budget. We will also make copies available to others upon request.

This work was performed under the direction of Kenneth M. Mead, Director, Transportation Issues, who can be reached at (202) 512-2834. Major contributors to this report are listed in appendix II.

Sincerely yours,



Keith O. Fultz  
Assistant Comptroller General





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# Objectives, Scope, and Methodology

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The Chairman, Subcommittee on Investigations and Oversight, House Committee on Public Works and Transportation, asked us to determine whether (1) foreign governments acted on enforcement cases that the Federal Aviation Administration (FAA) referred to them and, conversely, whether FAA acted on enforcement cases that foreign governments referred to it; (2) FAA's assessments of foreign countries' compliance with international safety standards identified enforcement system weaknesses; and (3) the Department of Transportation (DOT) acted against foreign air carriers that violated departmental aviation regulations. Due to the sensitivities involved with FAA's foreign country assessment program, we agreed with the Subcommittee not to name countries or air carriers in our report.

We reviewed U.S. and international aviation laws and DOT and FAA regulations, policies, and procedures governing foreign air carriers and crews, particularly those related to enforcement, and discussed them with DOT and FAA headquarters officials. In addition, we discussed our work with DOT Office of Inspector General officials and reviewed its reports on FAA's enforcement program. We also interviewed DOT, FAA, and Department of State officials in Washington, D.C.; FAA Eastern Region officials in New York, N.Y.; U.S. embassy officials in Ottawa, Canada, and Mexico City, Mexico; Transport Canada headquarters officials in Ottawa, Canada; and officials in the Mexican Civil Aviation Authority, Mexico City, to understand their roles and responsibilities and the enforcement process. We visited Canada and Mexico because these countries had the largest number of enforcement cases and FAA's Eastern Region because it handles all referrals from the eastern half of Canada.

We identified 320 enforcement cases against foreign carriers, commercial and private pilots, mechanics, and passengers that FAA closed between fiscal years 1990 and 1992. Of these cases, FAA acted directly on 97 and referred 223 to foreign governments for action. FAA sent 154 cases through the Department of State and the remaining 69 directly to Canadian aviation officials. We focused on the 223 referred closed cases to determine the actions foreign government officials took to remedy the safety problems. We found 48 foreign government responses to the 223 referrals—40 in FAA's Special Programs Branch files and 8 in State Department files (that were not in FAA's files)—that indicated the action taken or explaining why action was not taken. We asked State Department officials to assist us in determining whether foreign governments acted on the remaining 175 cases. State Department officials agreed to assist us but asked that we limit the number of cases to minimize the burden on embassy personnel

and foreign government officials. We agreed and omitted 77 cases because they were not current or generally dealt with passenger security violations. Of the remaining 98, we discussed 45 enforcement cases with Canadian officials and 19 cases with Mexican and U.S. embassy officials and sent questionnaires on 34 other cases to U.S. embassies in 17 other countries. Department of State officials assisted us in developing and processing the questionnaires. Overall, we analyzed these 98 cases, plus the 48 cases that had a response in the files, for a total of 146 enforcement cases that FAA referred to foreign governments.

Furthermore, we identified and reviewed 58 enforcement cases referred to FAA from foreign countries to determine whether FAA acted on violations that U.S. carriers and pilots committed outside the United States. We identified these cases primarily using FAA's Special Programs Branch records of cases closed between fiscal years 1990 and 1992 and FAA acknowledgement letters to foreign governments. In addition, we reviewed FAA headquarters Field Programs Division's log of foreign referrals to identify additional cases.

We examined trip reports and related documents to determine whether FAA's foreign country assessments identified enforcement system weaknesses. We discussed country assessments with FAA headquarters and New York field office officials to better understand their findings and conclusions. Also, we interviewed DOT Foreign Carrier Licensing Division officials and obtained pertinent documents to determine how the country assessments impact foreign carrier licensing issues.

To determine whether DOT acted against foreign air carriers that violated DOT regulations, we interviewed DOT Aviation Enforcement and Proceedings officials and reviewed consent orders DOT issued against foreign carriers from 1989 through 1992. At our request, DOT's Accounting Services Division officials identified foreign carriers delinquent in paying assessed penalties. We then reviewed pertinent documents to determine the process DOT followed to collect delinquent debts. Finally, we discussed with officials of DOT's Offices of International Aviation and Aviation Enforcement and Proceedings the actions that DOT can take against foreign carriers that do not pay assessed penalties.

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