



The View from Washington

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Finding Support for Global Opportunities in the Aviation Industry

Aviation today is a global business. As such, looking at global opportunities is necessary for every aviation business — whether it's importing foreign-produced aircraft and accessories; installing foreign-maintained components; maintaining foreign-registered aircraft; or selling to foreign companies.

Recent member inquiries regarding alterations on foreign-registered aircraft have raised a number of issues that should be discussed. This article is written from the U.S. perspective but isn't unique to U.S. operations as similar requirements exist in other countries.

FAA Involvement

The first issue is one of FAA involvement. The FAA has negotiated bilateral aviation agreements with 29 countries. Some of these agreements address maintenance and alteration issues; some do not.

According to the FAA, bilateral agreements facilitate the reciprocal airworthiness certification of civil aeronautical products imported/exported between two signatory countries. A bilateral airworthiness agreement (BAA) or bilateral aviation safety agreement (BASA) with implementation procedures for airworthiness provide for airworthiness technical cooperation between the FAA and its counterpart civil aviation authorities.

Prior to 1996, the United States would enter into bilateral airworthiness agreements with foreign countries. These BAAs were executive agree-

ments between the U.S. Department of State and its foreign counterpart based on FAA technical recommendations.

After 1996, the FAA negotiated bilateral aviation safety agreements with foreign governments. In addition to airworthiness certification, BASAs provide for bilateral cooperation in a variety of aviation areas, including maintenance, flight operations and environmental certification.

For aircraft certification, an additional document, implementation procedures for airworthiness (IPA), is developed to address specific areas such as design approvals, production activities, export airworthiness approval, post-design approval activities, and technical cooperation. There are also maintenance implementation procedures that address continued airworthiness issues and arrangements between two countries.

So, what do you do if your customer isn't from one of these 29 countries? Your maintenance arrangement is then with that country. Many repair stations specializing in maintenance and alterations of foreign-registered aircraft will need to become certified as a foreign repair station of the aircraft's host country.

The FAA looks at these BASAs critically, and often will restrict its support activities to aircraft from a country where the U.S. has a BASA.

For example, FAA Order 8110.4C, states the FAA will not issue an STC to manufacturers or applicants outside the United States, except under the terms of a bilateral agreement.

To research any agreement the FAA has with a foreign authority, visit the FAA's website for bilateral agreements at www.faa.gov/aircraft/air_cert/international/bilateral_agreements/baa_basa_listing.

State Department Support

The second issue is State Department support. Many of the avionics products and airport products we take for granted every day actually are considered controlled items by the U.S. government. In addition, there are numerous business opportunities to send technicians to work on aircraft in a foreign country.

The Office of Commercial and Business Affairs (CBA) can play a major role in coordinating trade and investment matters in support of U.S. firms doing business overseas. CBA can help answer questions and provide information on important issues such as:

- U.S. export controls on sensitive equipment and technologies.
- Business-related visas for employees, partners and clients of U.S. firms.
- Corruption and bribery in overseas markets.

CBA also coordinates State Department advocacy on behalf of American businesses and can provide assistance in opening markets, leveling the playing field, protecting intellectual property, and resolving trade and investment disputes.

U.S. Embassy officers are the eyes, ears and in-country advocates for U.S. business interests throughout the world.

CBA and the Department of State work with U.S. government trade promotion partners and U.S. embassies around the world to support American businesses by providing commercial information and identifying market opportunities for American firms, advocating on their behalf and encouraging corporate responsibility.

CBA can assist in answering questions such as:

Question: "My overseas customer tells me I need to provide them with documentation from the U.S. government. What paperwork is required?"

Answer: Fifteen agencies are involved in the issuance of certificates, export control licenses, and other documentation for purchasing from and selling to overseas partners.

The Department of Commerce, Bureau of Export Administration (BXA) provides assistance on export licensing requirements and required documentation for export transactions. Depending on your product, BXA might refer you to another agency, which could include:

- Defense Threat Reduction Agency, which serves as the U.S. government focal point for implementing arms control inspection and verification.
- Defense Trade Controls, which handles licensing application for matters of defense trade compliance; defense trade exports and re-transfer; and enforcement and reporting.
- Office of Foreign Assets Control of the Department of Treasury, which administers and enforces economic and trade sanctions against targeted foreign countries and foreign terrorists.
- Office of Arms Controls and Nonproliferation, Export Control Division of the Department of Energy, which licenses nuclear technology and technical data for nuclear power and special nuclear material.
- Office of Fuels Programs of the Department of Energy, which licenses natural gas and electric power.
- Chief Office of Management

Authority of the Department of the Interior, which controls the export of endangered fish and wildlife species.

- International Drug Unit of the Drug Enforcement Administration, which oversees the export of controlled substances.

- International Chemical Control Unit of the Drug Enforcement Administration, which controls the import and export of listed chemicals used in the production of controlled substances.

- Environmental Protection Agency, Office of Solid Waste, International and Special Projects Branch, which regulates toxic waste exports.

- Food and Drug Administration: Office of Compliance, which licenses medical devices; or Import/Export, which licenses drugs.

(For more information regarding the laws of export, see "News from the Hill" on page 26.)

Department of Commerce Support

The third support structure is the Department of Commerce. The Department of Commerce, International Trade Administration provides detailed support of international business.

The defining purpose of the International Trade Administration (ITA) is to help create economic opportunities for American workers and businesses. To increase trade and investments, ITA helps U.S. companies navigate foreign markets.

The U.S. Commercial Service is the trade promotion arm of the U.S. Department of Commerce's ITA. The Commercial Service has 109 offices throughout the country and 150 around the world, covering 96 percent of U.S. export markets. Its Web-based services are provided through the U.S. government's export portal, www.export.gov.

The Manufacturing and Services (MAS) unit of the ITA is dedicated to enhancing the global competitiveness of U.S. industry, expanding its market access, and increasing its exports. MAS

industry experts and economists perform strategic research and analysis to shape and implement trade policy, create conditions that encourage innovation, lower the cost of doing business, and promote U.S. economic growth.

Trade Support

Other federal agencies, such as the United States Trade and Development Agency, also can help support international business.

The United States Trade and Development Agency's mission is to advance economic development and U.S. commercial interests in developing middle-income countries. To this end, the agency funds various forms of technical assistance, investment analysis, training, orientation visits and business workshops, which support the development of a modern infrastructure and a fair and open trading environment.

In carrying out its mission, the USTDA gives emphasis to economic sectors that may benefit from U.S. exports of goods and services. For more information, visit www.tda.gov.

Not for the Faint of Heart

Aviation allows people and goods to rapidly cross borders, oceans and continents, and allows a business to supply goods and services to a customer halfway around the world. As such, the aircraft itself is not bound to territorial boundaries.

Aircraft maintenance is a global industry creating opportunities to work on aircraft in a foreign country or have a foreign aircraft brought to your facility. The globalization of aircraft maintenance is creating business opportunities — but not without challenges.

Barry Aylward, president of Kitchener Aero in Canada and vice chairman of the AEA board of directors, said there are several issues a repair station should consider when venturing into the foreign aircraft market.

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Aylward raised issues of language, both in communications and contracts. He also raised issues of logistics and the need for foreign business agents, as well as the ultimate cost of their support. And he warned of contractual clauses.

“You can live and die on contractual clauses,” Aylward said. “Extreme diligence is required, and every scenario must be contemplated, particularly on warranty issues.”

The bottom line is, companies need to have “critical mass” before venturing into international business, meaning they have enough people on staff to dedicate a great deal of time to contracts, communications, logistics and program management — which is a lot of time on matters other than actual production.

“International business is not for the faint of heart or for the overly aggressive small company,” Aylward said.

Regulatory Update

United States

New Repair Station NPRM Leaves DOT for OMB

The latest proposed regulatory change for repair stations (14 CFR Part 145) finally has finished its review at the Department of Transportation and has moved to the White House Office of Management and Budget (OMB) for its review. OMB’s review is limited to not exceed 90 days.

Unless the proposal is sent back to the FAA for revision, industry should have a new repair station notice of proposed rulemaking (NPRM) to review and comment on no later than mid-November; however, the NPRM could be received any time between

now and mid-November.

What is known about the NPRM is it contains a proposal for a revised rating system and a revised quality assurance requirement.

Revision ‘D’ to FAA Order 8110.37 Cancels Previous Orders

FAA Order 8110.37D is a handbook of procedures, technical guidelines, limitations of authority, and tools and resources for designated engineering representatives (DER). This order prescribes the working procedures to be used by aircraft certification office staffs and the DERs they appoint to represent the FAA administrator.

Order 8110.37C, Designated Engineering Representatives Guidance Handbook, dated Sept. 30, 1998, Order 8110.45, Use Of Data Approved By Designated Engineering Representatives to Support Major Alterations, and Order 8110.47, DER Data Approvals Related to Repair and Alteration of Foreign Registered Aircraft, dated Sept. 30, 2002, have been cancelled with the publication of revision “D” on Aug. 10, 2006.

The major changes contained in this revision include the removal of all DER selection, appointment, oversight and termination processes. Those processes now are included in FAA Order 8100.8. This revision also incorporates policy related to proper and improper use of DERs, use of software DERs in the TSOA process, DER approval of flammability data, and DER approval of an alternative method of compliance with an airworthiness directive. Finally, the language has been edited per plain-language principles.

OEM Repair Data Can Be Used for Certain Repairs Without Further Field Approval

FAA Notice 8300.122, Use of Manufacturer’s Repair or Service Data as FAA-Approved Data for Major Repairs for Aircraft Issued a Type

Certificate Prior to Jan. 1, 1980, allows for the use of OEM repair data for certain repairs without further “field approval.”

The FAA states the service and repair data provided by small airplane manufacturers — although, in most cases, not specifically approved — has provided for continued airworthiness of their products. Service experience in using this data when performing major repairs to non-pressurized airplanes 12,500 pounds or less maximum-certificated takeoff weight and originally TC’d before Jan. 1, 1980, has proven to be reliable if followed and not deviated from.

In recognition of the reliable service experience provided when using the original manufacturer’s data for small airplanes, authorized persons may use service and repair data in accordance with existing regulations as approved data for major repairs on non-pressurized areas of airplanes 12,500 pounds or less maximum-certificated takeoff weight and originally TC’d before Jan. 1, 1980, provided the requirements listed in FAA Notice 8300.122 are followed.

Before taking advantage of this provision, AEA members are encouraged to download a copy of this order at www.airweb.faa.gov/Regulatory_and_Guidance_Library/rgOrders.nsf/0/4160886D80D02710862571A80065DCA5?OpenDocument.

Europe

EASA

EASA currently is reviewing Part 21 Subpart J. The task of a recently issued terms of reference (TOR) is to revise Part 21 and/or the general guidelines (AMC/GM) to:

- Predetermine the involvement of the agency in the verification of compliance documents provided by the Design Organisation. This should pro-

vide more legal certainty to the applicant and consistency regarding the level of involvement of the agency.

- Review and modify, as necessary, the wording of the privilege and the guidance material associated with the procedures for the approval of documentary changes to aircraft flight manuals contained in GM 21A.263(c)(4).

The plan is to issue a NPA containing the proposed changes within nine months.

The comment response document to NPA 09-2005 in regards to the definition of the “principal place of business” referenced in Part 145 was issued, and an agency opinion should be issued within the next two months.

Decision 2006/04/R, issued July 11, amends CS-ETSO with a few new European technical standards and the revised ETSO 2C112b for Mode S transponders implementing ED-73B standards.

RTCA

RTCA recently approved a new committee to develop a document to establish performance standards for a terrain awareness and warning system (TAWS) for helicopter operations. □

Frequently Asked Questions

TOPIC:

Maintenance and alterations of foreign-registered aircraft

The following information is from the Federal Aviation Administration.

QUESTION:

My customer has a Mexican-registered aircraft in which they would like me to install some avionics. What rules do I follow?

ANSWER:

The Mexican aviation regulations. There is no bilateral aviation agreement between the U.S. and Mexico; therefore, any work performed on a Mexican-registered aircraft must be performed completely in accordance with Mexican regulations.

14 CFR Part 145.1 states that Part 145 contains the rules a certificated repair station must follow related to its performance of maintenance, preventive maintenance or alterations of an aircraft, airframe, aircraft engine, propeller, appliance or component part to which Part 43 applies.

According to Section 43.1, Part 43 — with a couple exceptions — prescribes the rules governing:

- the maintenance, preventive maintenance, rebuilding and alteration of any aircraft having a U.S. airworthiness certificate;
- a foreign-registered civil aircraft used in common carriage or carriage of mail under the provisions of Part 121 or 135 of this chapter; and
- any airframe, aircraft engines, propellers, appliances and component parts of such aircraft.

Without a bilateral aviation agreement with Mexico, there is no official recognition of U.S. repair stations, personnel, maintenance procedures or forms.

Any recognition of the maintenance business is strictly with the Mexican government, and any approval of alteration data is with the Mexican authorities. In addition, there is no automatic approval of STCs or any other data approvals other than those approved by the Mexican authorities.

(Note: The AEA offers "Frequently Asked Questions" to foster greater understanding of the Federal Aviation Administration regulations and the rules governing our industry. The AEA strives to ensure FAQs are as accurate as possible at the time of publication; however, rules change. Therefore, information received from an AEA FAQ should be verified before being relied on. This information is not meant to serve as legal advice. If you have particular legal questions, they should be directed to an attorney. THE AEA DISCLAIMS ANY WARRANTY FOR THE ACCURACY OF THE INFORMATION PROVIDED.)