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ID 802529

THE WHITE HOUSE

WASHINGTON

DATE: 05 MAY 80

Concur 5/12/80

FOR ACTION: LLOYD CUTLER (DOUG HURON)

STU EIZENSTAT

INFO ONLY: THE VICE PRESIDENT

SUBJECT: ARROW AIRWAYS, INC., DOCKETS 32516, 32517; LAST DAY FOR,
ACTION MAY 25; SOCIETE ANONYME BELGE D'EXPLOITATION DE LA
NAVIGATION AERIENNE, DOCKET 37306, LAST DAY: MAY 27, 1980

+++++
+ RESPONSE DUE TO DOUG HURON +
+ BY: 1200 PM WEDNESDAY 07 MAY 80 +
+++++

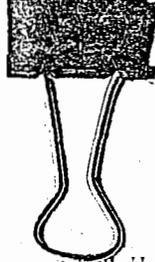
ACTION REQUESTED: YOUR COMMENTS

STAFF RESPONSE: () I CONCUR. () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

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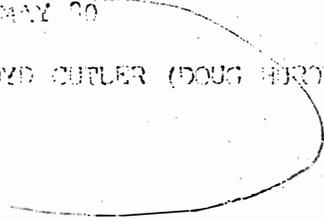
ID 302520

THE WHITE HOUSE

WASHINGTON

DATE: 05 MAY 80

FOR ACTION: LLOYD CUTLER (DOUG HERON) STU EIZENSTAT



INFO ONLY: THE VICE PRESIDENT

SUBJECT: ARRON AIRWAYS, INC., DOCKETS 32516, 32517; LAST DAY FOR,
ACTION MAY 25; SOCIETE ANONYME BELGE D'EXPLOITATION DE LA
NAVIGATION AERIENNE, DOCKET 17206, LAST DAY: MAY 27, 1980

+++++
+ RESPONSE DUE TO DOUG HERON +
+ BY: 1200 PM WEDNESDAY 07 MAY 80 +
+++++

ACTION REQUESTED: YOUR COMMENTS

PLEASE REPLY: I CONCUR. () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

*Concur 5/12/80
D. Heron*



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

MAY 2 1980

ACTION

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decisions:

Arrow Airways, Inc.	Societe Anonyme Belge d'Exploitation de la Navigation Aerienne (SABENA)
Dockets 32516, 32517	Docket 37306
Due Date: May 25, 1980	Due Date: May 27, 1980

The Civil Aeronautics Board proposes to take the following actions with regard to the above international aviation cases:

- A certificate of public convenience and necessity will be issued to Arrow Airways, Inc. authorizing the firm to engage in foreign charter air transportation of persons, property and mail (except for cargo air charters in interstate and Transatlantic service). Arrow Airways Inc. is one of the approximately sixty applicants for domestic and international charter authority in the Former Large Irregular Air Service Investigation (Docket 33361). This proposed certificate issuance to Arrow is consistent with the Board's policy to respond favorably to charter service applicants so that these new firms will act as a competitive spur to the rest of the air transport industry.
- The foreign air carrier permit of Societe Anonyme Belge d'Exploitation de la Navigation Aerienne (SABENA) is amended to authorize new air transportation services from a point or points in Belgium, via intermediate points, to Detroit, Michigan and Chicago, Illinois. In addition, SABENA will be permitted to provide air service beyond one of its designated U.S. cities to Mexico City and to provide air service beyond each of its designated U.S. cities to points in Canada. This expansion of air service rights to SABENA is consistent with the 1978 amendment of the U.S.-Belgium Air Services Agreement. The 1978 amendment represented one of the first major accomplishments in U.S. efforts to introduce competition into international air transportation.

The Departments of State, Defense, Justice and Transportation and the National Security Council have not identified any foreign policy or national defense reasons for disapproving the orders in whole or in part.

The Office of Management and Budget recommends that you approve the Board's decisions by signing the attached letter to the Chairman which indicates that you do not intend to disapprove the Board's orders within the 60 days allowed by statute for your review.

/s/ R. O. Schlickeisen

R.O. Schlickeisen
Associate Director for
Economics and Government

Attachments:

CAB letters of transmittal
CAB orders
Letter to the Chairman

Options and Implementation Actions:

- 1) Approve the Board's orders. (DOS, DOD, DOJ, DOT, NSC, OMB).
-- Sign the attached letter to the Chairman.
- 2) Disapprove the Board's orders.
-- Implementation materials to be prepared.
- 3) See me.

THE WHITE HOUSE

WASHINGTON

To Chairman Marvin Cohen

I have reviewed the following orders proposed by the Civil Aeronautics Board:

Arrow Airways, Inc.

Societe Anonyme Belge
d'Exploitation de la Navigation
Aerienne (SABENA)

Dockets 32516, 32517

Docket 37306

I do not intend to disapprove the Board's orders within the 60 days allowed by statute.

Sincerely,

The Honorable Marvin S. Cohen
Chairman
Civil Aeronautics Board
Washington, D.C. 20428

FOR OFFICIAL USE ONLY

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D C.

Adopted by the Civil Aeronautics Board
at its office in Washington, D.C.
on the 14th day of March, 1980

Application of	:	
	:	
ARROW AIRWAYS, INC	:	Dockets 32516
	:	32517
	:	
for charter air transportation certificate	:	
	:	
-----	:	
-----	:	
FORMER LARGE IRREGULAR AIR SERVICE	:	Docket 33361
INVESTIGATION	:	
	:	
-----	:	

ORDER

By Order 80-3-74, adopted March 14, 1980, the Board accepted Administrative Law Judge Marvin H. Morse's resolution of the issues in this case and issued Arrow Airways, Inc. a certificate to engage in interstate and overseas charter air transportation. By this order we are issuing a companion certificate authorizing Arrow Airways, Inc. to engage in foreign air transportation. Our findings and conclusions in Order 80-3-74 are incorporated by reference. Order 80-3-74 and the Judge's decision are attached as appendices.

ACCORDINGLY:

1. We issue a certificate of public convenience and necessity in the attached form, authorizing Arrow Airways, Inc. to engage in foreign charter air transportation;

2. This certificate shall be signed on behalf of the Board by its Secretary, shall have the seal of the Board affixed, and shall be effective upon the effective date of this order;

3. Unless disapproved by the President of the United States under Section 801(a) of the Act, this order shall become effective on the 61st day after submission to the President or upon the date we receive advice from the President that he does not intend to disapprove the Board's order whichever is earlier. 1/

1/ This order was transmitted to the President on March 26, 1980. The 61st day is May 26, 1980.

4. Except to the extent granted here or in Order 80-3-74, all motions, applications, and requests are denied.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR
Secretary

(SEAL)

All Members concurred.

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D.C.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
FOR CHARTER AIR TRANSPORTATION

ARROW AIRWAYS, INC.

is authorized, subject to the following provisions, the provisions of Title IV of the Federal Aviation Act of 1958, as amended, and the orders, rules and regulations issued under it, to engage in foreign charter air transportation (including inclusive tour charters) of:

1. Persons, property and mail between any point in any State of the United States or the District of Columbia or any territory or possession of the United States, and
 - a. Any point in Canada;
 - b. Any point in Mexico;
 - c. Any point in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands and any other foreign place in the Gulf of Mexico or the Caribbean Sea;
 - d. Any point in Central or South America; and
 - e. Any point in Australasia, Indonesia or Asia as far west as longitude 70 degrees east via a transpacific routing.
2. Persons and their accompanied baggage and mail between any point in any State of the United States or the District of Columbia or any territory or possession of the United States, and any point in Greenland, Iceland, the Azores, Europe, Africa and Asia as far east as, and including, India.
3. Persons and property pursuant to contracts with the Department of Defense.

This authority is subject to the terms, conditions and limitations prescribed by the Board's Regulations for charter air transportation and to the following additional conditions:

(1) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any orders of the Board issued under them or for the purpose of requiring compliance with them.

(2) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign government such operating rights as may be necessary.

(3) Charter services for the Department of Defense shall be furnished at rates and compensation computed on a basis no lower than the basis now or later specified by the Board in applicable rules, regulations or orders.

(4) The exercise of the privileges granted by this certificate is subject to any other reasonable terms, conditions and limitations that the Board may from time to time prescribe in the public interest.

This certificate shall be effective on

The Civil Aeronautics Board has directed its Secretary to execute this certificate and to affix the Board's seal on March 14, 1980.

PHYLLIS T. KAYLOR
Secretary

(SEAL)

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D.C.

Adopted by the Civil Aeronautics Board
at its office in Washington, D.C.
on the 14th day of March, 1980

Application of :
 ARROW AIRWAYS, INC. : Dockets 32516
 : 32517
 for charter air transportation :
 certificates :

FORMER LARGE IRREGULAR AIR SERVICE :
 INVESTIGATION : Docket 33361
 :
 :

ORDER DECLINING REVIEW

Arrow airways Inc. is one of approximately sixty (60) applicants for domestic and international charter authority in the Former Large Irregular Case. Under the procedures established for this proceeding, we first determined, as a policy matter, that "there is a continuing need for additional supplemental [now charter] entry which can be satisfied by selection of entrants on a non-comparative basis." ^{1/} We then directed that applications be set for hearings before administrative law judges to determine whether the applicants are "fit, willing, and able" within the meaning of section 401 of the act and, if so, what should be the scope of the authority awarded.

Domestic and world-wide international authority is in issue except the following: (a) transatlantic cargo charters; (b) charters between the U.S. and the polar regions; (c) intra-Alaska charters; and (d) interstate all-cargo charters.

On December 21, 1979, Administrative Law Judge Marvin H. Morse

^{1/} Order 78-7-106, July 21, 1978, and Order 78-11-78 November 16, 1978.

issued his decision in this case finding Arrow Airways fit, willing, and able, and recommending that it be licensed to engage in charter air transportation in domestic markets, Canada, Mexico, Bermuda and the Caribbean, Central and South America, and the Transpacific and Transatlantic markets, subject to the pre-trial restrictions noted above. In reaching this decision he applied the Board's four standards for testing an applicant's qualifications (i.e., managerial expertise, financial capability, operating plans, and compliance disposition), and concluded that Arrow Airways met all the tests.

The judge also determined that Arrow Airways should be exempted from sections 408 and 409 of the Act to the extent necessary to permit the continuation of the existing common control and interlocking officer, director, and stock holder relationships among Arrow Airways Inc., George E. Batchelor, International Air Leases, Inc., Batch Air, Inc., and Aero Finance, Inc. George E. Batchelor controls all four corporations. International Air Leases, Inc. is engaged in aircraft leasing; Batch Air, Inc. is engaged in aircraft maintenance; and Aero Finance, Inc. provides short-term finance for air carriers. The Administrative Law Judge found no evidence that the common control would be anticompetitive, would deplete the resources of the applicant or otherwise be inimical to the public interest. 2/

No petitions for discretionary review of the judge's decision have been filed, and we have decided not to take review on our own initiative. Therefore, we accept the judge's resolution of the issues. His recommended decision is attached as an appendix.

ACCORDINGLY,

1. We issue a certificate of public convenience and necessity in the attached form, authorizing Arrow Airway, Inc. to engage in interstate and overseas charter air transportation;

2. The certificate shall be signed on the Board's behalf by its Secretary, shall have the seal of the Board affixed, and shall be effective on the date of service of this order;

3. We exempt Arrow Airways, Inc. and Mr. George E. Batchelor from the provisions of sections 408 and 409 of the Act to the extent necessary to permit the continuation of the existing common control and interlocking officer, director, and stockholder relationships among Arrow Airways, Inc., George E. Batchelor, International Air Leases, Inc., Batch Air Inc., and Aero Finance, Inc.;

4. We waive all license fees for which Arrow Airways, Inc. might otherwise be liable under 14 C.F.R. Part 389; and

5. Except to the extent granted, we deny all applications, motions, and requests for relief in Docket 32516 and, insofar as they relate to overseas air transportation, in Docket 32517.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR
Secretary

(SEAL)

All Members concurred.

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D.C.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
FOR CHARTER AIR TRANSPORTATION

ARROW AIRWAYS, INC.

is authorized, subject to the following provisions, the provisions of Title IV of the Federal Aviation Act of 1958, as amended, and the orders, rules and regulations issued under it, to engage in interstate and overseas charter air transportation (including inclusive tour charters) of persons, property and mail:

1. Between any point in any State of the United States or the District of Columbia or any territory or possession of the United States, and any other point in any State of the United States or the District of Columbia or any territory or possession of the United States; and
2. Pursuant to contracts with the Department of Defense.

This authority is subject to the terms, conditions and limitations prescribed by the Board's Regulations for charter air transportation and to the following additional conditions:

- (1) Charter services for the Department of Defense shall be furnished at rates and compensation computed on a basis no lower than the basis now or later specified by the Board in applicable rules, regulations or orders.
- (2) The holder is not authorized to engage in air transportation between points within the State of Alaska.
- (3) The holder is not authorized to engage in all-cargo service as defined in section 101(11) of the Act.
- (4) The exercise of the privileges granted by this certificate is subject to any other reasonable terms, conditions and limitations that the Board may from time to time prescribe in the public interest.

This certificate shall be effective on March 18, 1980.

The Civil Aeronautics Board has directed its Secretary to execute this certificate and to affix the Board's seal on March 14, 1980.

PHYLIS T. KAYLOR
Secretary

(SEAL)

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D.C.

FORMER LARGE IRREGULAR AIR SERVICE INVESTIGATION
(APPLICATIONS OF ARROW AIRWAYS, INC.)

DOCKETS 33361, 32516 AND 32517

RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE MARVIN H. MORSE

*Served: December 21, 1979

Recommended: That Arrow Airways, Inc., be authorized to engage in charter air transportation of persons, property and mail (except for cargo air charter transportation in interstate and Transatlantic service):

(1) Between any point in any state of the United States, or the District of Columbia, or any United States territory or possession, and any other point in any state of the United States, or the District of Columbia, or any United States territory or possession, except between points within the State of Alaska;

(2) Between any point in any state of the United States, or the District of Columbia, or any United States territory or possession and

(a) points in Canada;

(b) points in Mexico;

(c) points in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands, and any other foreign place located in the Gulf of Mexico or the Caribbean Sea, including the right to operate between Puerto Rico and the Virgin Islands and other points in the Caribbean area described;

(d) points in Central and South America;

Review by the Board of this recommended decision may be requested by the filing of a petition for discretionary review within 21 days after the service hereof in accordance with Rule 28 of the Rules of Practice in Economic Proceedings.

*Service List appears as the Appendix.

- (e) points in Australasia, Indonesia, and Asia as far west as longitude 70 degrees east via a Transpacific routing, including the right to operate between the U.S. Trust Territory and possessions located in the Pacific and the above-described foreign Transpacific places; and
- (f) points in Greenland, Iceland, the Azores, Europe, Africa, and Asia as far east as (and including) India.

(3) Interstate, overseas, and foreign air transportation pursuant to contracts with the Department of Defense.

That Arrow Airways, Inc., be exempted from the provisions of Sections 408 and 409 of the Act to the extent necessary to permit continuation of the existing common control and interlocking officer, director, and stockholder relationships among Arrow Airways, Inc., George E. Batchelor, International Air Leases, Inc., Batch Air, Inc., and Aero Finance, Inc.

*Appearances:

Mr. Paul Reiber, for Arrow Airways, Inc.

Mr. Nicholas Lowry, for the Bureau of Domestic Aviation, Civil Aeronautics Board.

*This decision includes only those appearances made in proceedings on the Arrow application and omits all others in the general docket styled Former Large Irregular Air Service Investigation (Docket 33361). Representatives of the other parties in Docket 33361 are included in the service list.

I. Background of the Proceeding

This proceeding was instituted by Order 78-3-159, dated March 31, 1978, in response to two applications filed by former large irregular air carriers for exemption authority to engage in supplemental air transportation domestically and between the U.S. and numerous other points around the globe. In that order the Board decided that consideration of the charter authority sought by the two applicants would be more appropriate under Section 401(d)(3) of the Act, 1/ and it thereupon invited applications for charter authority from former large irregular air carriers and others. By Order 78-7-106, dated July 21, 1978, the Board established certain procedures to be followed in the handling of these applications and tentatively found a need for additional entry into supplemental air transportation within the U.S., and between the U.S. and Canada, Mexico, any Transatlantic point, and numerous Transpacific, Caribbean, and Central and South American points. 2/ Order 78-11-78, dated November 16, 1978, made this tentative conclusion final.

In assessing the need for additional charter air carriers, the Board noted the continuing demand by consumers for low-cost air travel. Removing entry barriers into the market was viewed as one way

1/ The Federal Aviation Act of 1958, as amended. Under the Airline Deregulation Act of 1978, P.L. 95-504 (October 24, 1978), the word "supplemental" was replaced by the word "charter". The words are synonymous and are used interchangeably throughout this decision.

2/ The only authority which the Board excluded was between points within Alaska, between the U.S. and the polar regions or in outer space, and the Transatlantic charter transportation of cargo. Former Large Irregular Air Service Investigation, Order 78-7-106, at 22-23. By a later order the Board excluded from consideration requests for all-cargo authority as defined in Section 101(11) of the Act. Order 78-9-153, at 2-3, 7.

of increasing price and service competition in air transportation to the benefit of the public. In addition, the Board saw charter service as a parallel to scheduled service with the ability to act as a competitive spur to the rest of the industry. By easing entry into the charter industry, the marketplace, rather than the Board, would become the arbiter of the relative benefits offered by a particular segment of the industry or by a particular carrier vis-a-vis other segments or other carriers. The Board directed that the charter applications submitted in this proceeding be evaluated on a non-comparative basis. The Board determined also that certificates of charter authority be awarded to all who could satisfy specified evidentiary requirements and who could meet not-too-burdensome tests of public convenience and necessity and of fitness.

The evidentiary requirements are designed to assist in making the necessary findings of public convenience and necessity and of fitness. The parameters of the evidence, as set out in Attachment B to Order 78-7-106, require each applicant to provide general information about itself, its history, stock ownership, financial posture (including historic balance sheets and profit and loss statements), an illustrative service proposal showing the major markets to be served, and a projection of financial position as of the end of the first year of charter operations.

The test of public convenience and necessity, under Section 401(d)(3) of the Act, is satisfied in these proceedings by an applicant's showing (1) that its service proposal is reasonably cal-

culated to meet some portion of the demand for charter service, and (2) that its proposal will not hinder an existing air carrier's ability to perform its certificated obligations. 3/ This inquiry is best dealt with through an examination of the applicant's operating proposal, which is one of the four elements of the test of fitness adopted by the Board. Thus, for these proceedings, the test of public convenience and necessity is largely subsumed within the fitness test and fitness becomes the principal focus here. Order 78-7-106, at 8.

II. Elements of Fitness

Since its inception, the Board has been charged by statute with insuring that applicants for certificate authority are "fit, willing and able" to perform properly the transportation covered by a pending application and can conform to the requirements of the Federal Aviation Act and to the rules and regulations of the Board. 4/ Although the Federal Aviation Administration is responsible for assuring that commercial airlines operate safely, the Civil Aeronautics Board believes that its "fit, willing and able" requirement assures additional protection for air travelers 5/:

3/ Order 78-7-106, at 8. For interstate and overseas domestic air transportation, the proposed service must only be consistent with the public convenience and necessity, and it is for any opponents of such service to demonstrate, by a preponderance of the evidence, that an award would not be consistent with the public convenience and necessity. Arrow has proposed both domestic and foreign service, and as to the foreign service, it has the burden to show that such air transportation is required by the public convenience and necessity.

4/ See, Section 401(d)(9)(A) of the Act. The term "fitness" is often used as a short-hand reference to the "fit, willing and able" test.

5/ Transcontinental Low-Fare Route Proceeding, Order 79-1-75, January 12, 1979, at 25.

[T]he consumer may reasonably assume that the issuance of a certificate by the CAB means that we have made a determination that a new carrier has, or will have, the necessary personnel, compliance disposition, and financial stability to operate properly.

No mechanical definitions of fitness have been developed, but the Board has identified four general areas of inquiry as part of every fitness investigation: 6/

...[A]n applicant can qualify for a certificate if it can demonstrate that it: (1) will have the necessary managerial skills and technical ability, before beginning service, to operate safely; (2) if not internally financed, has a plan for financing that, if carried out, will generate resources sufficient to commence operation without undue risk to consumers; (3) has a proposed operation reasonably suited to meeting a part of the demand for service in the ... markets covered by its application; and (4) will comply with the Act and the regulations imposed by Federal and state regulatory agencies.

The first requirement, that the applicant have adequate managerial expertise to operate safely, requires little explanation. In the past, the Board has looked to the qualifications and experience of those whom the applicant has named as its key operating personnel. Often these people would have substantial aviation or air transportation experience, and an applicant would easily pass this portion of

6/ Id. This four-part examination has been used as the basic format in all the dockets of the Former Large Irregular Air Service Investigation. See, for example, Recommended Decision of Administrative Law Judge Joseph J. Saunders on the Application of Zantop International Airlines, Inc., Dockets 33362 and 32636, served June 27, 1979, affirmed, August 31, 1979, Order 79-8-181; and Partial Recommended Decision (No. 2) of Administrative Law Judge Rudolf Sobernheim on the Application of Air America, Inc., Dockets 33363, 33686, and 333687, served July 17, 1979, affirmed November 21, 1979, Order 79-11-149. See also, my Recommended Decision on the Application of Conner Air Lines, Inc., served June 6, 1979, Dockets 33361, 32393, 32394, and 32395, affirmed, October 4, 1979, Order 79-10-18.

the fitness test. Recently, the Board liberalized this management-expertise requirement when it found that an applicant could be certified fit where certain of its operating personnel had substantial airline industry experience, but where its president and chairman did not have specific aviation experience. These latter two did possess an overall sound business acumen and demonstrated records of business success in enterprises outside the area of air transportation. The Board stated that where an applicant has demonstrated in a non-aviation industry that it possesses "good business judgment, management skills, and a strong desire to succeed," and has also demonstrated on the record that those who will supervise the carrier's proposed operations are competent, then the applicant satisfies the management-expertise aspect of fitness. 7/

The second requirement, that an applicant have adequate financing, has recently been the subject of further explication by the Board. In Horbach, the Board found the applicant financially fit based on its conclusion that the carrier had the funds necessary to operate the proposed service and would be able to secure whatever additional funding was necessary. 8/ The Board has since emphasized, however, that to require an applicant to show that it is either internally financed or has firm commitments from investors for financial assistance is to create a barrier to entry into the airline industry which is unnecessary to protect the public. 9/ The Board stated that henceforth it

7/ Eugene Horbach Acquisition of Modern Air Transport, Inc., Order 77-3-88/89, March 16, 1977, at 9.

8/ Id. at 7.

9/ Note 5, supra, at 26.

would only require an applicant to show that it has a "credible financial plan" which would provide the necessary financing if carried out as proposed. If inadequate funding were subsequently encountered, the Board reasoned, the carrier would simply not initiate service, a consequence which could not conceivably have adverse effects on the public. As presently formulated, the requirement of submitting a financial plan seems calculated not to determine whether an applicant will be able to obtain the financing necessary to implement its proposal, but only to determine whether the proposal, if carried out, will present consumers with unacceptable financial risks. In this regard, the Board has stated: 10/

Thus, while we no longer require applicants to prove they can finance their proposed operations, we do expect them to carefully consider and determine how much money would be required to institute service, how that money might be obtained, and to present information that would permit a potential investor to assess the merits of their financial plans.

Closely related to the financial plan prerequisite is the third requirement which calls for an applicant to submit an operating proposal calculated to meet some demand in the market. Obviously, a relationship exists between the proposed operating plan and financial fitness since in assessing how to finance its proposed operations the applicant will have to take into account the contemplated scope of its operations. While the Board has, in the past, relaxed the evidentiary burdens that have applied to other aspects of fitness issues, it has continued to require operating proposals. In recent discussion of

10/ Id. at 29.

this topic, the Board said: 11/

The purpose of this requirement is to provide some basis for judging whether a particular applicant is qualified to provide the transportation covered by its application and whether such application is consistent with the public convenience and necessity. Illustrative proposals are generally deemed sufficient if they show that they are reasonably calculated to meet some present or future demand in the markets at issue.

In the instituting order in this docket the Board further defined what is required for the operating proposals submitted in this proceeding. The Board noted that, because of the nature of charter service, in most cases it would be unrealistic for an applicant to submit detailed service proposals for every area which it might conceivably serve. As stated by the Board, "The actual service patterns that may eventually be offered will be established by competitive conditions which cannot be forecast." 12/ Nonetheless, the Board directed the submission of service proposals which reflect the applicant's proposed first year of operations and the assumptions upon which these proposals are based. The Board stated, however, that it does not mean to bind or restrict applicants to the markets set out in their illustrative service proposals. 13/ And while the Board believes that some operating proposal is necessary in order to insure that the proposed service would meet some anticipated demand in the market, it does not require the applicant to show that it would be

11/ Id. at 27.

12/ Order 78-7-106, at 20.

13/ Order 78-7-106, Attachment B, at 10, n.4.

able to earn a profit on the proposed service. Rather, the Board has stated, "[e]vidence would be sufficient if it shows that an applicant's proposed operations would be economically feasible in a market with aircraft suitable for the traffic density and stage length." 14/

The final criterion for determining fitness is an indication of the applicant's willingness and ability to operate within the Act and regulations imposed by the CAB, FAA, other Federal and state regulatory agencies. This is commonly called "compliance disposition". Since the Act requires that carriers be "fit, willing and able ...to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder," 15/ an applicant's past history of compliance with FAA and Board regulations is relevant to forming a judgment as to whether it will operate properly in the future. Where an applicant has not held a certificate for a long period of time, it is also relevant here to consider the applicant's willingness to comply with the requirements of these proceedings and to examine violations it may have committed in non-aeronautical enterprises. In this latter area it is particularly important to have on the record all charges of unfair, deceptive, or anti-competitive business practices, or of fraud, felony, or antitrust violations brought against the applicant or against key personnel or holders of a major interest in the applicant. In this area of inquiry, however, the Board has made

14/ Note 12, supra.

15/ Section 401(d)(3).

clear that it does not intend to go beyond clearly described historical time frames to inquire into prior conduct. Order 78-7-106 at 19, particularly n. 16.

III. Description of the Applicant

Arrow Airways is one of a group of Miami-based aeronautical enterprises owned by Mr. George E. Batchelor. The others are Batch Air, Inc., an aircraft maintenance firm, International Air Leases, Inc. (IAL), an aircraft leasing operation, and Aero Finance, Inc., a finance company which discounts accounts receivable of small airlines. 16/ Mr. Batchelor owns 100% of the stock of Arrow, Batch Air and IAL and 30% of Aero Finance, with the remainder of Aero Finance held by his three sons. 17/ Arrow, the applicant here, is a dormant corporation in California, but Mr. Batchelor intends to activate the enterprise in Delaware upon issuance of the CAB certificate. 18/ Mr. Batchelor also intends to provide the financial and managerial support for Arrow from Batch Air and IAL, both profitable enterprises. As noted by the Bureau of Domestic Aviation, the combined earnings of

16/ Arrow Information Responses, pp. 1-2. Mr. Batchelor testified that Aero Finance, Inc. was not related to another applicant in Docket 33361, Aero Finance Corp., also based in Miami. Mr. Batchelor had no knowledge of Aero Finance Corp. Tr. at 29.

17/ Arrow Information Responses, pp. 1-2, and Tr. at 29.

18/ Arrow PH-2. On September 6, 1979, Arrow Airways, Inc., received a Delaware certificate of incorporation, and on September 10 officers and directors were elected and it was agreed that for 100% of the stock, G.E. Batchelor would provide to Arrow sufficient Fan Jet Aircraft "to allow Arrow to undertake its proposed operations". Id., at 19. It is here found from the documents comprising Arrow PH-2 that G.E. Batchelor is one and the same as the witness, George E. Batchelor.

those companies and IAL's aircraft form the economic basis for the proposed charter enterprise. BDA Brief, p. 3.

A. Managerial Expertise

In addition to his own aviation-related experience, Mr. Batchelor has selected a group of technicians and businessmen with many years of aviation experience. Mr. George Kamats, Arrow's vice president for operations, has been a financial manager for Alaska International Airlines and Saturn Airways. The vice president for maintenance, Mr. Thomas Beavers, has served as director of maintenance for several foreign carriers and will be assisted by Mr. John Muir, formerly director of maintenance, engineering and quality control for Airlift International. The applicant's vice president for finance will be Mr. William Penkosky, currently a director and vice president of a IAL responsible for financial planning. Mr. Burton Pagnam, slated to be the applicant's vice president for marketing, is also currently with IAL, and has a background in selling aircraft. While he has no experience selling charters, his contacts in Latin America should prove valuable in the sale of charters to that area (an area where Arrow intends to fly much of its operations). In addition, Mr. Batchelor stated that Arrow has interviewed another person with charter experience to assist in this area. 19/

Mr. Batchelor can also provide other competent personnel from IAL and Batch Air on an "as needed" basis. 20/ Therefore, the record

19/ Tr. at 44.

20/ Arrow 103-A provides resumes of all of Arrow's anticipated management personnel.

discloses an extensive aviation management track record, establishing that Arrow has, or will soon have, sufficient managerial competence to meet statutory requirements.

B. Financial Capability

For the year ending March 31, 1979, Batch Air showed a profit of \$800,000, and IAL's profits were approximately \$6 million. 21/ From these more than ample resources will come the bulk of the initial capital for the start-up of Arrow. The financial plan calls for Arrow to issue all its stock in exchange for ownership of two DC-8-40 aircraft valued at \$3 million. Mr. Batchelor, sole owner of Batch Air and IAL, will, through IAL, have complete ownership of the applicant carrier. In addition to these aircraft, Mr. Batchelor intends to personally extend to Arrow a line of credit up to \$1.5 million to cover its start-up costs and working capital for its first year. 22/ Mr. Batchelor's personal financial statement reveals a net worth of over \$6 million. 23/ Finally, it is expected that IAL will lease to Arrow one additional aircraft, bringing to three the total number of aircraft immediately available to it. 24/ The two purchased aircraft would be used in passenger service while the leased equipment would be used for cargo transport.

Because of the established reputation of its affiliates, Arrow anticipates no need for deposits or prepayments on ground maintenance contracts. 25/ And some of the preoperating expenses often

21/ Tr. at 25.

22/ Arrow T-1, p. 3. See n. 18, supra.

23/ Arrow 101.

24/ Arrow T-1, p. 3.

25/ Tr. at 73.

associated with FAA certification will be avoided since the aircraft are currently all maintained by IAL in FAA-certifiable condition with flight manuals prepared. 26/ Total preoperating expenses are estimated at about \$500,000, well within the means of Mr. Batchelor and his aviation enterprises. The foregoing facts lead to the conclusion that Arrow will have sufficient capital to begin operations safely and without undue risk to consumers.

C. Operating Proposal

From its base in Miami, for its initial operations Arrow expects to provide interstate, Transatlantic, Caribbean, Central and South American passenger charter transportation and cargo charter to South American markets. 27/ The DC-8s which the applicant will utilize are capable of flying these routes in a reasonably fuel efficient manner. Because of its experienced personnel, the applicant demonstrates ample knowledge of the costs and revenues to be expected in the markets it has chosen. The Bureau of Domestic Aviation estimates that Arrow's first year of operations will approximate the break-even point, 28/ and this estimate is unchallenged on the record. Although an applicant in these proceedings is not required to show a profit, it is certainly a positive sign when a new entrant in the charter air transportation industry can be expected to break even, or make money, in its first year. Whether or not Arrow in fact generates a net profit, its plan of operations is found sufficiently viable and adequate to predicate a finding that it is reasonably calculated to meet some of

26/ Tr. at 23.

27/ Arrow Information Responses, Appendix II (rev.).

28/ Brief of BDA at 4-5.

the market demand. For the reasons outlined above, there being no contradictory evidence, it is found that the operating proposal submitted by Arrow is sufficient to show the applicant's fitness for the operations it proposes. The record is barren of any evidence that an existing air carrier's ability to perform its certificate operations would be hindered certification of Arrow.

D. Compliance Disposition

In the exhibits and at the hearing of this case, three incidents of alleged FAA violations were ventilated. Two involved lessees of IAL aircraft who utilized these aircraft in commercial service without proper operating authority. In neither case did IAL pay any fine, but since the FAA seized the aircraft as a basis for in rem jurisdiction, IAL was forced to become involved in the FAA actions in order to get the planes back. In one case, a settlement and consent judgment was reached in which IAL paid no part of the \$75,000 fine. In the second, still being considered for appeal, IAL is attempting to recover the \$10,000 it paid for a bond posted for release of the aircraft, paid when it was learned that the lessees could not pay the fine levied. 29/ However, neither of these incidents led to any finding of liability against IAL nor was IAL found guilty of any violation of FAA regulations. Furthermore, subsequent to these incidents in 1974 there has been no repetition of such problems with

29/ Arrow 107 and Tr. at 45-49.

lessees, plausibly because, as witness Batchelor testified, IAL adequately investigates those who enter into leases with it.

The third incident involved Batch Air's maintenance on a Convair 880 aircraft owned by a foreign carrier. Batch Air completed work begun by another fixed base operator, and responsibility for the maintenance problem -- which concerned improper installation of a cargo bulk head -- could have been disputed amongst this other maintenance outfit, Batch Air, and the carrier. Mr. Batchelor testified that Batch Air was found in violation of FAA regulations, pleaded nolo contendere, and paid \$1,000, rather than pay much more in contesting the charge. 30/ In view of the large volume of maintenance work performed by Batch Air, a single violation, of this nature, does not cast doubt on the reliability of its work and should not call into question the probable performance of Arrow. The FAA submitted a letter stating that it has no objection to the grant of the authority applied for here by Arrow and the record discloses no evidence that the applicant, its principal, major officers, or predecessors have acted deceptively, fraudulently, or otherwise illegally in such a manner as to poorly reflect on their ability to run an airline properly. Accordingly, Arrow is found qualified to conform to the provisions of the Act and the rules, regulations and requirements of the Board, and is found fit, willing and able to perform the charter air transportation for which it seeks a certificate. The Bureau, the only participant active on this application in addition to Arrow, fully supports certification.

30/ Tr. at 58-60.

IV. Common Control and Interlocking Relationships

Section 408(a) of the Act prohibits the maintenance, without approval of the Board, of a relationship in which a person engaged in the business of aeronautics acquires control of an air carrier. Section 409 prohibits interlocking controlling stock interests, again, without Board approval, between an air carrier and another firm engaged in the business of aeronautics. The applicant requires approval, under both sections, of the common control by Mr. Batchelor of Batch Air, IAL, Aero Finance and Arrow.

Both Batch Air and IAL have numerous competitors. As to maintenance, Batch Air competes at Miami with Eastern Airlines, United Airlines, Aero Facilities, Esco, Aces Aircraft Engine Service, Cooper Aeromotive, and numerous others. 31/ IAL faces competition from Charlotte Air Leasing, National Air Lease Finance, America Jet, Frederick B. Ayers and Associates and others. 32/ As stated by the Bureau (brief p. 9) the breadth of services offered by competitors of IAL and Batch Air in maintenance and leasing suggests there would be little reason to motivate a preference to Arrow. If preferences were to occur they would be harmless to competing carriers. A preference to Arrow would lose IAL and Batch Air revenue otherwise attainable by charging the market rate, while the supply of maintenance and leasing services available to other air carriers would not appreciably diminish.

31/ Tr. at 30, and Brief of Arrow at 19.

32/ Tr. at 31, and Brief of Arrow at 20.

Aero Finance, the remaining aeronautical enterprise involving Mr. Batchelor, is not expected to do business with Arrow, since it is primarily engaged in providing short-term financing to other small airlines.

In view of the foregoing, the 408 relationship in this case is approved, in view of the fact that there is no evidence that Mr. Batchelor's common control would be anticompetitive, would deplete the resources of the applicant carrier, or would otherwise be inimical to the public interest.

The corporate board of directors for Arrow had not been finalized at the time of the hearing, but the same positive findings as to Section 409 interlocks as has already been found for common control under 408 can still be made. None of the prospective officers or directors -- Mr. Kamats, Mr. Penkosky, or others 33/ -- have aviation interests outside of those companies controlled by Mr. Batchelor, limiting any chance that significant conflicts of interest could develop. More importantly, the overall relationship of the applicant to the Batchelor air enterprises promises to be beneficial for the applicant with respect to its finances and aircraft maintenance. The community of interests shared by all of these entities would support the Board's objective of encouraging new entry into charter air transportation.

The foregoing brief summary, consistent with the Bureau's and the applicant's briefs, leads to the conclusion that any interlocking

33/ Tr. at 40. The persons identified at hearing do now appear as the officers and directors of the new entity. See Arrow PH-2.

relationship under 409 should be approved, and approval is recommended. Both as to the interlock and the common control question under 408 this approval should be without antitrust immunity, no such immunity having been sought by the applicant.

V. Environmental and Energy Considerations

BDA submitted a notice of Environmental Rejection which set forth findings pursuant to sections 312.8 and 312.15 of the Board's procedural regulations, to the effect that Board action on this application would not constitute a major federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA). The Bureau's assumptions and conclusions are unchallenged on this record and, absent any basis for a contrary finding, accordingly, it is found that the award of the charter authority in this proceeding will not significantly affect the quality of the environment within the meaning of NEPA.

Calculations made from the applicant's exhibits indicate that in its first year of operations it will consume slightly over 13 million gallons, and thus a further finding is required (as in every instance where the projected net increase in aircraft fuel consumption exceeds 10 million gallons per year, said increase being construed as a major regulatory action within the meaning of the Energy Policy and Conservation Act, 42 U.S.C. 6201, et seq.) See, 14 C.F.R. 313.4.

The Board instituted these proceedings for supplemental authority because of a significant need for charter service in domestic, overseas, and foreign markets. It is therefore appropriate to find that

consumption of a volume of fuel not greatly above the 10 million gallon "triggering" usage is warranted in the interest of providing convenient service to the traveling public and is consistent with the Energy Policy and Conservation Act.

VI. License Fees

The customary license fees charged to a carrier before its start of operations have been, and are, waived in these former large irregular air carrier proceedings. This is consistent with the findings of Order 78-7-106, which are to eliminate, wherever possible, barriers to entry into the charter air transportation business (as reiterated in subsequent Board orders in cases in Dockets 33361, 33362, and 33363).

Recommendations

On the basis of the foregoing findings and conclusions, the contentions of the parties, and all the facts of record, it is recommended that the Board determine that:

1. Arrow Airways Inc., is a citizen of the United States within the meaning of the Federal Aviation Act, is controlled by individuals who are citizens of the United States, and is fit, willing and able to perform the charter air transportation of passengers, mail and property for which it seeks authority herein and to conform to the provisions of the Federal Aviation Act of 1958, as amended, and the rules, regulations and requirements of the Board thereunder.

2. Arrow's service proposals are reasonably calculated to meet a portion of the demand for charter service and its proposals will not hinder an existing air carrier's ability to perform its certificated obligations.

3. Arrow Airways Inc., should be granted authority to provide charter air transportation service for passengers, mail and property in interstate, overseas and foreign air transportation, as more specifically set forth in the certificates attached hereto and subject to the limitations set forth in Order 78-7-106.

4. To the extent that the applications of Arrow Airways Inc., have not been granted, they should be denied.

5. Arrow Airways should be exempted from the prohibitions of Sections 408 and 409 of the Act to the extent necessary to permit continuation of the existing common control and interlocking officer, director and stockholder relationships among Arrow Airways, Inc., George E. Batchelor, International Air Leases, Inc., Batch Air, Inc., and Aero Finance, Inc.

6. Action in accordance with the foregoing recommendations does not affect significantly the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. The award of the certificate would be a major federal regulatory action within the meaning of the Energy Policy and Conservation Act, and while the forecast net additional energy consumption for the applicant is above the triggering determinant, nevertheless the convenience to the public to be obtained from the service proposed would outweigh the added energy consumption and would be in the public interest, particularly where the forecast is only moderately above the triggering consumption figure of ten million gallons annually.

Orders and proposed certificates of authority for Arrow Airways
are attached.



Marvin H. Morse
Administrative Law Judge

December 13, 1979

Attachments

Orders

Proposed Certificates

Appendix

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D.C.

Issued Under Delegated Authority

----- :
FORMER LARGE IRREGULAR AIR : Docket 33361
SERVICE INVESTIGATION :
----- :
----- :
Application of :
 :
ARROW AIRWAYS, INC. :
 : Dockets 32516
for certificate of public : 32517
convenience and necessity to :
engage in interstate and :
overseas charter air trans- :
portation :
----- :

ORDER

A full public hearing having been held in the above-entitled proceeding and the Administrative Law Judge, upon consideration of the record, having issued a decision containing his findings and conclusions, pursuant to authority delegated to Administrative Law Judges under Rule 27 of the Rules of Practice in Economic Proceedings, which decision is attached hereto and made a part hereof;

IT IS ORDERED THAT:

1. The Board issue a certificate of public convenience and necessity in the form annexed hereto to Arrow Airways, Inc., authorizing it to engage in charter air transportation of persons, their accompanying baggage, and mail between any point in any state of the United States, or the District of Columbia, or any United States territory or possession, and any other point in any state of the United States, or the District of Columbia, or any United States territory or possession (except between points within the State of Alaska).
2. The Secretary of the Board shall sign and affix the Board's seal to the certificate issued hereunder.
3. The certificate shall be effective 30 days after service of this order, subject to the provisions of Section 302.27(c) of the Board's Procedural Regulations; and its continued effectiveness shall be conditioned upon payment of such license fees as may be required pursuant to the rules of the Board.

4. Arrow Airways, Inc., is exempted from the prohibitions of Sections 408 and 409 of the Federal Aviation Act of 1958, as amended, to the extent necessary to permit continuation of the existing common control and interlocking officer, director and stockholder relationships among Arrow Airways, Inc., George E. Batchelor, International Air Leases, Inc., Batch Air, Inc., and Aero Finance, Inc.

5. The Board denies, except as granted herein, all other motions and requests of, and terminates these proceedings as to, Arrow Airways, Inc. (including Dockets 32516 and 32517 insofar as they relate to overseas air transportation authority).

6. This order shall become effective as the final order of the Board 30 days after service hereof, provided that, if within 21 days after service of this order a petition for discretionary review is filed or action to review is taken by the Board upon its own initiative, the effectiveness of the decision herein and of this order is stayed until further order of the Board.



Marvin H. Morse
Administrative Law Judge

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D.C.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
FOR CHARTER AIR TRANSPORTATION

ARROW AIRWAYS, INC.

is authorized, subject to the provisions hereafter set forth, the provisions of Title IV of the Federal Aviation Act of 1958, as amended, and the orders, rules, and regulations issued thereunder, to engage in charter air transportation with respect to persons, their accompanying baggage and mail as follows:

1. Between any point in any state of the United States, the District of Columbia, or any U.S. territory or possession, on the one hand, and any other point in any state of the United States or the District of Columbia or any U.S. territory or possession, on the other hand.
2. In interstate or overseas air transportation pursuant to contracts with the Department of Defense.

The service herein authorized is subject to the terms, conditions, and limitations prescribed by the Board's Regulations for charter air transportation and to the following additional terms, conditions, and limitations:

1. Nothing in this certificate shall be construed as authorizing air transportation within the State of Alaska.
2. Charter services performed by the holder for the Department of Defense shall be furnished at the rates and compensation computed on a basis no lower than the basis now or hereafter specified by the Board in applicable rules, regulations or orders.

The exercise of the privileges granted by this certificate shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This certificate shall be effective on

In witness whereof, we have caused this certificate to be executed
by our Secretary, and our seal to be attached to it, on the day of
1979.

PHYLLIS T. KAYLOR
Secretary

(SEAL)

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D.C.

Adopted by the Civil Aeronautics Board
at its office in Washington, D.C.
on the

----- :
FORMER LARGE IRREGULAR AIR : Docket 33361
SERVICE INVESTIGATION :
----- :

----- :
Application of :
 :
 ARROW AIRWAYS, INC. :
 : Dockets 32516
 for certificates of public : 32517
 convenience and necessity to :
 engage in foreign charter air :
 transportation :
----- :

ORDER

A full public hearing having been held in the above-entitled proceeding and the Administrative Law Judge, upon consideration of the record, having issued a recommended decision containing his findings and conclusions, pursuant to authority delegated to Administrative Law Judges under Rule 27 of the Board's Rules of Practice in Economic Proceedings, which recommended decision is attached hereto and made a part hereof;

IT IS ORDERED THAT:

1. The Board will issue a certificate of public convenience and necessity in the form annexed hereto to Arrow Airways, Inc., authorizing it to engage in charter air transportation of persons, property and mail (in Transatlantic charter transportation limited to persons, their accompanying baggage, and mail) between any point in any state of the United States, or the District of Columbia, or any territory or possession of the United States, and any point in each of the following areas: Canada, Mexico, the Caribbean, Central and South America, the Transatlantic and the Transpacific.

2. The Secretary of the Board shall sign and affix the Board's seal to the certificate issued hereunder.

3. Arrow Airways, Inc., is exempted from the prohibitions of sections 408 and 409 of the Federal Aviation Act of 1958, as amended, to the extent necessary to permit continuation of the existing common control and interlocking officer, director and stockholder relationships among Arrow Airways, Inc., George E. Batchelor, International Air Leases, Inc., Ratch Air, Inc., and Aero Finance, Inc.

4. The Board denies, except as granted herein, all other motions and requests of, and terminates the proceedings as to, Arrow Airways, Inc. (including Docket 32517 insofar as it relates to foreign air transportation authority).

5. This order shall become effective on the 61st day after its submission to the President of the United States or upon the date of receipt of advice from the President that he does not intend to disapprove the order under Section 801(a) of the Act, whichever is earlier, unless the President disapproves under that section.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR
Secretary

(SEAL)

Service List

Newell P. Davis, 8401 Ranier Avenue, S., Seattle, Washington 98118, for Air Specialties Corp.

Richard O. Neumann, 1796 E. La Paz Road, Altadena, CA. 91001, for Air United States.

Paul Reiber, Adams, Reiber & Drury, Suite 921, 1625 Eye Street, N.W., Washington, D.C. 20006, for Arrow Airways.

Edna K. Sherman, P.O. Box 7044, Burbank, CA. 91505, for California Hawaiian Airlines.

Harry A. Bowen, 2233 Wisconsin Avenue, N.W., Washington, D.C. 20007, for Conner Air Lines, Inc., and F.A. Conner.

John J. Higgins, Black, Kendall, Tremaine, Boothe & Higgins, 3100 First National Bank Tower, Portland, Oregon 97201, for General Airways, Inc.

Herbert A. Rosenthal, Hausman & Rosenthal, P.C., 1747 Pennsylvania Ave., N.W., Washington, D.C., 20006, for Aero Finance Corporation, Miami Airline, Inc., Peninsular Air Transport, Inc., and Royal Air Service Inc.

Ida H. Herrman, 12951 Blainwood Drive, Studio City, CA. 91604, for Great Lakes Airlines.

Douglas E. Hofmann, 12421 Littler Place, Granada Hills, CA. 91344, for Holiday Airways, Inc. and Joseph W. North.

E.J. Averman, RR2, Box 201, Uniontown, Alabama 36786, for Imperial Airlines.

J.W. Campion, V.P. Regulatory Proceedings, Northwest Airlines, Inc., Minneapolis/St. Paul International Airport, St. Paul Minnesota. 55111, for Northwest Airlines, Inc.

Eric C. Pearson, 401 W. 28th Street Hialeah, Fla. 33010, for Pearson Alaska Airlines.

A.R. Johansen, 10348 Ravenna Avenue, N.E., Seattle, Washington, 98125, for Sourdough Air Transport.

S.D. Craft, 20306 Hamlin Street, Canoga Park, CA. 91306, for Standard Airways.

Clayton L. Burwell, Federal Bar Building, 1815 H Street, N.W., Washington, D.C. 20001, for Trans International Airlines.

Orville G. Tigerman, P.O. Box 49316, Los Angeles, CA. 90049, for Transocean Air Lines, Inc.

Fritz Hutcheson, 1245-5 So. Orange Grove Boulevard, Pasadena, CA. 91105, for U.S. Aircoach.

Philip J. Hogan, Office of General Counsel, United Air Lines, Inc. P.O. Box 66100, Chicago, Illinois 60666, for United Air Lines, Inc.

R.W.E. Cox, Jr., 301 S. Shore Road, Rio Grande, New Jersey 08242, for United States Overseas Airlines.

Donald D. Duffy, 370 Arroyo Terrace, Pasadena, CA. 91103, for Virgin Island Air Service, Inc.

Roy C. Briten, 13427 S.E. 27th Place, P.O. Box 189, Bellevue, Washington, 98004, for Westair Transport.

Dockgt 33361
Appendix
Page 2 of 2

Elliott M. Seiden, Chief, Transportation Section, Antitrust
Division, U.S. Department of Justice, Box 481, Washington, D.C.,
20044, for the Department of Justice.

Nicholas Lowry, Civil Aeronautics Board, 1825 Connecticut Avenue,
N.W., Washington, D.C. 20428, for the Bureau of Domestic Aviation.

FOR OFFICIAL USE ONLY

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C.

Adopted by the Civil Aeronautics Board
at its office in Washington, D. C.
on the 27th day of March, 1980

Application of :
SOCIETE ANONYME BELGE D'EXPLOITATION :
DE LA NAVIGATION AERIENNE (SABENA) : Docket 37306
 :
for an amended foreign air carrier permit :
pursuant to section 402 of the Federal :
Aviation Act of 1958, as amended :

ORDER ESTABLISHING SIMPLIFIED PROCEDURES
AND ISSUING AN AMENDED FOREIGN AIR CARRIER PERMIT

On December 21, 1979, Societe Anonyme Belge d'Exploitation de la Navigation Aeriennne (SABENA) applied to amend its foreign air carrier permit to add new routes obtained under the December 14, 1978 Protocol between the United States and the Kingdom of Belgium. SABENA concurrently filed a Motion to Issue an Order to Show Cause and for Other Relief.

Motion for Order to Show Cause

Section 402(h) of the Airline Deregulation Act of 1978 directs the Board to promulgate rules establishing simplified procedures for disposing of foreign air carrier permit applications and requests for amendments or changes to existing permits. Such rules must provide for adequate public notice and an opportunity for the submission of appropriate written evidence, but need not provide for an oral evidentiary hearing. The Board may use the new procedures whenever such use is in the public interest. On April 23, 1979 the Board enacted Subpart Q of Part 302--Expedited Procedures for Processing Licensing Cases. 1/ Rule 1750 of Subpart Q of Part 302 requires that as soon as possible after the date that answers are due, the Board will issue an order establishing further procedures for processing the case. 2/ Under Rule 29(b)--assuming adequate service of documents, provision of an opportunity for interested parties to submit evidence and to object to the grant of authority under section 402 of the Act and notice of intent by the Board to grant authority--"The Board may also, in its discretion, omit a tentative decision in proceedings under Subpart Q."

1/ PR-201, 44 FR 24266, April 25, 1979.

2/ The Board may set the application for oral evidentiary hearing, dismiss the application, announce show cause procedures, or announce that it has begun to make a determination under simplified procedures.

We have decided to grant SABENA's application using this simplified procedure. 3/ SABENA's application included a certificate of service, and a service list showing that all required parties were informed of SABENA's application. The public was informed of SABENA's application by a Notice in the Federal Register on January 10, 1980 (45 FR 2075), describing the authority sought and giving interested persons an opportunity to submit evidence and objections to the award of the authority. The Notice constituted the notice and filing opportunity required by sections 402(d) and (h) of the Act. It informed the public that the Board might employ such expedited procedures, provided in Subpart Q, including adoption of a final order, its submission to the President for review under section 801(a) of the Act, and the subsequent issuance by the Board of an amended foreign air carrier permit. The use of the simplified procedure is appropriate in this instance because the authority conferred is congruent with rights formally exchanged in the Agreement, the applicant's fitness is established and unchallenged, and no person has objected to this award. We will, therefore, proceed directly to a final decision in accordance with Subpart Q simplified procedures. 4/

Background and Public Interest

SABENA holds a foreign air carrier permit, issued by the Board in Order 78-5-66, approved May 10, 1978, authorizing it to engage in foreign air transportation of persons, property and mail, as follows: 5/

1. Between the terminal point Brussels, Belgium; the intermediate points Manchester, England; Shannon, Eire; and Montreal, Canada; and the terminal point New York, New York.

3/ We, therefore, dismiss SABENA's Motion to the extent it requests an Order to Show Cause and grant it insofar as it seeks Other Relief.

4/ We have employed similar simplified procedures and issued certificate authority and restriction removal authority without a tentative decision for domestic route applications (see Orders 80-1-3 and 79-7-192).

5/ SABENA also holds a separate temporary permit issued by the Board in Order 75-3-68, approved March 19, 1975, authorizing it to engage in foreign air transportation between Brussels and Anchorage on its Brussels-Tokyo polar route. This authority is outside the route schedule of the Agreement, as amended, and the Protocol. SABENA is also authorized to engage in foreign charter air transportation originally authorized by Order E-12945, September 6, 1958 and affirmed in Order 78-5-66, approved May 10, 1978.

2. Between the terminal point Brussels, Belgium, and the coterminal points New York, New York and Atlanta, Georgia.

Segments 1 and 2 are separate routes and may not be combined on any single flight.

SABENA seeks, among other things, to amend its permit authority to add Detroit and Chicago, combine its current two route segments, without specifying intermediates, coterminalize its U.S. points, add beyond rights to Canada and Mexico and incorporate certain all-cargo rights.

On December 14, 1978 the United States and the Kingdom of Belgium exchanged diplomatic Notes to effect a Protocol amending the U.S.-Belgium Air Services Agreement of 1946 and its route schedule. SABENA's proposed amended permit is consistent with the provisions of the 1978 Protocol. ^{6/} Flexibility in scheduling, along with other liberalizations, including multiple permissive entry and a mutual disapproval pricing article, were exchanged between the United States and Belgium under the 1978 Protocol.

The 1978 Protocol represented one of the first major break-through in U.S. international aviation relations and acceptance by one of our major aviation trading partners of the United States goal to promote competition in international air transportation. Important public benefits have already been realized by the liberalization of aviation relations with Belgium. In order to take early advantage of newly gained rights, the Board granted exemptions to four U.S. carriers to serve Belgium, (Order 78-9-2, September 1, 1978). Thirteen U.S. carriers were recently awarded certificate authority to operate between an aggregate of twenty-four U.S. points and the coterminalized European points Brussels, Belgium, Amsterdam, The Netherlands and Luxembourg in the United States-Benelux Low Fare Route Proceeding, Docket 30790, Order 79-10-16, served October 19, 1979. The traveling public now has a wider variety of price and scheduled service options for travel between the United States and Europe. These considerations led us to conclude that there is a strong public interest in promptly granting SABENA the rights that have been exchanged in bilateral negotiations. ^{7/}

^{6/} The Protocol provides that the Government of Belgium may designate three new U.S. points which may be coterminalized with points for which Belgium already has rights. Two may be designated immediately upon the signing of the Protocol and the third upon the signing of the Agreement. In addition, the Protocol permits traffic operations beyond the United States to Mexico City from only one point in the United States, to be selected by the Belgian Government. Blind sector operations, i.e., without local traffic rights, are permitted from any of the U.S. points and full Fifth Freedom traffic rights are permitted on Canadian intermediate and beyond operations.

^{7/} On December 8, 1979 the Government of Belgium designated Detroit, Michigan and Chicago, Illinois as the two new U.S. gateways and SABENA as the carrier to serve them.

SABENA proposes to begin on or about April 6, 1980 to operate three round-trip flights per week between Brussels and Detroit, via the intermediate point Montreal using Boeing 747 and Boeing 707-329C aircraft. SABENA also proposes to begin four nonstop flights weekly between Brussels and Chicago, using DC-10-30 aircraft in August 1980. Since the time between the filing of the application and its proposed commencement of service is short, SABENA filed an application for a pendente lite exemption in Docket 37307 at the same time that it filed its permit amendment application in this docket. We found SABENA's request to be consistent with the public interest and granted SABENA the exemption in Order 80-2-40, February 5, 1980.

Ownership and Control

SABENA is a private corporation organized and existing since May 23, 1923, under the laws of the Kingdom of Belgium. All of its officers and directors are Belgian nationals. Approximately ninety percent of the aggregate issued shares are held by the Belgian Government, and the remainder are held by Belgian nationals.

Financial and Operational Fitness

SABENA's balance sheet as of December 31, 1978 shows total assets of approximately \$583 million and total liabilities of \$529 million with a resulting owner's equity of \$54 million. SABENA's profit and loss statement for the year ended December 31, 1978 shows an operating loss of approximately \$42 million, on operating revenues of \$728 million and an operating loss of approximately \$36 million on operating revenues of \$678 million for the preceeding year. Nonetheless, SABENA states that it has not been unable to meet its current financial obligations, has not defaulted on its transportation commitments, nor has it been refused long or short-term debt financing. SABENA states that it receives financial assistance from its Government. 8/

Although SABENA has not operated profitably in the last two years, the facts that it has substantial assets and is financially supported by the Belgian Government leads us to conclude that it is financially fit to perform the proposed operations. In addition, operating the proposed service to the new U.S. gateways should contribute to an improved financial outlook for SABENA.

8/ SABENA states that shares of stock have been issued to the Belgian Government for financial assistance given to the Company, particularly in guaranteeing loans for the financing of new flight equipment, initial spares, and for the establishment of maintenance and overhaul facilities with respect to such flight equipment, and in consideration of the cancellation and reduction of outstanding loans.

SABENA estimates it will carry 28,208 passengers and 2,680 tons of freight between Brussels and Chicago in its first year of operation and yield an operating profit of \$269,000 on operating revenues of \$29 million. SABENA further estimates that it will carry 28,208 passengers and 3,511 tons of freight between Brussels and Detroit in its first year of operation and yield an operating profit of \$170,000 on operating revenues of \$15 million.

No operating authority held by SABENA has ever been suspended, revoked, canceled or otherwise terminated, nor has SABENA been refused insurance in the last three years. SABENA has in effect airline liability insurance in amounts required by the Board.

SABENA has not been involved in any safety violations within the past five years and all of its key management personnel have had twenty-five years or more experience in the company.

Environmental Effects

The net environmental impact of SABENA's operations at Detroit and Chicago will be de minimis since they will amount to less than one landing and takeoff cycle per week. We conclude that SABENA's operations will not result in a significant increase in civil aviation operations at the U.S. points and will not result in a near-term annual increase in fuel consumption in excess of ten million gallons. Therefore, our action will not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 and will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975, as defined in section 313.4 of the Board's Regulations.

No answers to SABENA's application or the Federal Register Notice have been filed.

Upon consideration of the foregoing and all the facts of record, we find and conclude that:

1. It is in the public interest to issue a foreign air carrier permit to Societe Anonyme Belge d'Exploitation de la Navigation Aerienne (SABENA) in the form attached to this order;
2. SABENA is effectively owned by the Belgian Government and is controlled by nationals of the Kingdom of Belgium;
3. The public interest requires that the exercise of the privileges granted by the permit shall be subject to the terms, conditions, and limitations contained in the permit attached to this order, and to such other reasonable terms, conditions and limitations as may be prescribed by the Board:

4. SABENA is fit, willing and able properly to perform the transportation described in the attached permit, and to conform to the Federal Aviation Act of 1958, as amended, and the rules, regulations, and requirements of the Board;

5. The public interest does not require an oral evidentiary hearing; and

6. The issuance of the proposed foreign air carrier permit to SABENA will not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 and will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975, as defined in section 313.4(a)(1) of the Board's regulations.

ACCORDINGLY,

1. We are issuing an amended foreign air carrier permit to Societe Anonyme Belge d'Exploitation de la Navigation Aerienne (SABENA) in the form attached;

2. We dismiss SABENA's Motion to the extent it requests an Order to Show Cause and grant it insofar as it seeks Other Relief;

3. The public interest requires that the exercise of the privileges granted by the permit shall be subject to the terms, conditions and limitations contained in the permit attached to this order, and to such other reasonable terms, conditions, and limitations as may be prescribed by the Board;

4. The Secretary of the Board shall sign the permit on our behalf and shall affix the seal of the Board;

5. Unless disapproved by the President of the United States under section 801(a) of the Act, this order and the attached permit shall become effective on the 61st day after its submission to the President or upon the date of receipt of advice from the President that he does not intend to disapprove the Board's order under that section, whichever is earlier; 9/

6. We shall serve this order upon Societe Anonyme Belge d'Exploitation de la Navigation Aerienne (SABENA), the Ambassador of the Kingdom of Belgium in Washington, D.C. and the United States Departments of State and Transportation;

7. Except to the extent granted, the application of SABENA in Docket 37306 is denied; and

9/ This order was submitted to the President on *MAR 28 1980*
The 61st day is *MAY 28 1980*

8. The applicant, SABENA, shall be a party to the rulemaking proceeding for insurance requirements in EDR-395, Docket 37531 and the accompanying Show Cause Order 80-1-176, Docket 37532 (45 FR 7566, February 4, 1980).

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR

Secretary

(SEAL)

All Members concurred.

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C.

PERMIT TO FOREIGN AIR CARRIER
(as amended)

SOCIETE ANONYME BELGE D'EXPLOITATION
DE LA NAVIGATION AERIENNE (SABENA)

is authorized, subject to the provisions set forth, the provisions of the Federal Aviation Act of 1958, as amended, and to the orders, rules and regulations of the Board, to engage in foreign air transportation:

- A. Of persons, property and mail between a point or points in Belgium; via intermediate points; and
 - (i) the coterminal points Atlanta, Georgia; Chicago, Illinois; Detroit, Michigan; and New York, New York; and
 - (ii) beyond one United States coterminal point to be selected by Belgium from among Atlanta, Georgia; Chicago, Illinois; Detroit, Michigan; and New York, New York, to Mexico City; and
 - (iii) beyond United States coterminal points to points in Canada.
- B. Of property only between a point or points in Belgium; via intermediate points; and
 - (i) any point or points in the United States; and
 - (ii) beyond the point in the United States selected by Belgium under A.(ii) above to Mexico City; and
 - (iii) beyond United States coterminal points to points in Canada.

SABENA may engage in charter foreign air transportation:

- C. Of persons and/or property, separately or in combination,
 - (i) between any point or points in Belgium and any point or points in the United States, including intermediate and beyond points; and
 - (ii) between a point or points in the United States and a point or points in neither Belgium nor the United States, provided such charters stop over in Belgium for at least two consecutive nights.

- D. Of persons and/or property, separately or in combination, between any point or points in the United States and any point or points in neither Belgium nor the United States which do not stop over in Belgium for at least two consecutive nights.

The holder's permit authority is subject to the following terms, conditions, and limitations:

1. The holder may, on any or all scheduled flights at its option, operate flights in either or both directions; serve points on the routes in any combination and in any order; and omit stops at any point or points without loss of any right to uplift or discharge traffic otherwise permissible under this amended permit.

2. This permit shall be subject to the condition that all scheduled flights to/from the United States shall originate or terminate in Belgium.

3. The holder's beyond-United States traffic rights to Mexico shall not become effective until the Government of Belgium designates the United States point to be served on such segment. The Government of Belgium shall provide notice of its selection at least 30 days prior to SABENA's commencing such service. Changes in the selected points can be made without limitation, subject only to 30 days notice of intent to change points authorized.

4. The holder may at its option, operate on any segment or segments of the routes without any limitation as to change in type or number of aircraft operated.

5. Notwithstanding the provisions of the Board's regulations governing charters, Board approval (Statement of Authorization) shall not be required for charter trips that are authorized by paragraph C above. Nevertheless, the Board may require prior approval for individual charter flights authorized by paragraph C if it finds that such action is required by the public interest and either

- (a) that the requirement of such prior approval is authorized under the terms of a treaty, agreement or understanding, or amendments or protocols to such instruments in effect between the United States and Belgium, or
- (b) that the Government of Belgium has, over the objections of the United States Government, denied or failed to prevent the denial of, in whole or in part, the fair and equal opportunity to exercise the operating rights provided for in an air transport agreement between Belgium and the United States of any U.S. air carrier designated thereunder with respect to flight operations to, from through or over the territory of Belgium.

Any Board failure to approve charter flights under this condition (5) will be subject to stay or disapproval of the President of the United States within 10 days after the date of notification to him by the Board, provided that the application for such approval has been timely filed with the Board at least 30 days in advance of the proposed flight.

6. The authority of the holder to perform charters under paragraph C shall be subject to the charterworthiness rules of the Governments of either Belgium or the United States. Except as otherwise authorized by this permit, the holder shall operate U.S. originating charters in conformance with the Board's regulations governing charters.

7. Flights authorized by paragraph D shall comply with the Board's regulations governing charters, and must be individually approved by the Board unless this requirement is waived by Board order.

8. The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of Belgium for Belgian international air service.

9. This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Belgium shall be parties.

10. The holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

11. The holder shall not operate any aircraft under the authority granted by this permit unless the holder complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention.

12. The holder (a) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of \$1,000,000 or such other amounts as the Board may require by regulation to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (b) shall not provide foreign air transportation of persons unless there is in effect liability insurance sufficient to cover the obligations assumed in CAB Agreement 18900, and unless there is on file with the Docket Section of the Board a statement

showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers. 1/

13. By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against it in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of the operations by the holder under this permit.

14. The exercise of the privileges granted here shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

This permit shall be effective on _____, 1980. Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention or agreement, this permit shall terminate (1) upon the effective date of any treaty convention or agreement, or amendment which shall have the effect of eliminating the route authorized from the routes which may be operated by airlines designated by the Government of Belgium (or in the event of the elimination of any part of a route or routes authorized, the authority granted shall terminate to the extent of such elimination), or (2) upon the effective date of any permit granted by the Board to any carrier designated by Belgium in lieu of the holder, or (3) upon the termination or expiration of the Agreement Between the Government of the United States of America and the Belgian Government Relating to Air Services Between Their Respective Territories, effective April 5, 1946 as amended by the Protocol which entered into force on December 14, 1978. However, clause (3) shall not apply if, prior to the occurrence of the event specified in clause (3), the operation of the foreign air transportation authorized becomes the subject to any treaty, convention, or agreement to which the United States and Belgium are or shall become parties.

The Civil Aeronautics Board, through its Secretary, has executed this permit and affixed its seal on March 27, 1980.

PHYLLIS T. KAYLOR

Secretary

(SEAL)

1/ By EDR-395 and accompanying Show Cause Order 80-1-176, Dockets 37531 and 37532, 45 FR 7566, February 4, 1980, the Board proposed to adopt a new Part 205 of its regulations to require \$20,000,000 in third-party liability insurance, with \$300,000 per person passenger and third-party liability coverage, and to amend foreign air carrier permits to make them subject to the new regulations. The holder will be subject to the insurance requirements provided for in those regulations as they may be finally adopted.

ID 802505

THE WHITE HOUSE

WASHINGTON

DATE: 02 MAY 80

FOR ACTION: LLOYD CUTLER (DOUG HURON) STU ELZENSTAT

Concur 5/12/80

INFO ONLY: THE VICE PRESIDENT

SUBJECT: CAB DECISION: LAKER AIR TRAVEL, LTD, DOCKET: 28379;
CANADA LEARJET, LTD, DOCKET 35208; TRANSPORTE AERO
RIOPLATENSE, SAC E T, DOCKET 30053;

+++++
+ RESPONSE DUE TO DOUG HURON +
+ BY: 1200 PM MONDAY 05 MAY 80 +
+++++

ACTION REQUESTED: LAST DAY FOR ACTION: MAY 25, 1980

STAFF RESPONSE: () I CONCUR. () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

**Electrostatic Copy Made
for Preservation Purposes**

Long

ID 802506

THE WHITE HOUSE

WASHINGTON

DATE: 02 MAY 80

FOR ACTION: LLOYD CUTLER (DOUG HURON) (circled) STU ELZENSTAD

INFO ONLY: THE VICE PRESIDENT

SUBJECT: CAB DECISION: LAKER AIR TRAVEL, LTD, DOCKET: 28379;
CANADA LEARJET, LTD, DOCKET 35209; TRANSPORTE AERO
RIOPLATENSE, SAC E I, DOCKET 30053;

+ RESPONSE DUE TO DOUG HURON +

+ BY: 1200 PM MONDAY 05 MAY 80 +

ACTION REQUESTED: LAST DAY FOR ACTION: MAY 25, 1980

RESPONSE: CONCUR. () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

*Concur 5/12/80
D. Huron*



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

MAY 2 1980

ACTION

MEMORANDUM FOR THE STAFF SECRETARY

SUBJECT: Civil Aeronautics Board Decisions:

Laker Air Travel Limited	Canada Learjet Ltd.
Docket 28379	Docket 36208
Due Date: May 16, 1980	Due Date: May 23, 1980
Transporte Aereo Rioplatense, S.A.C. e I.	
Docket 30053	
Due Date: May 25, 1980	

You will find attached a memorandum for the President about the above international aviation cases. The interested executive agencies have reviewed the Board's decisions and have no objection to the proposed orders.

These are routine, noncontroversial matters. No foreign policy or national defense reasons for disapproving the Board's orders have been identified. I recommend that the President sign the attached letter to the Chairman which indicates that he does not intend to disapprove the Board's orders within the 60 days allowed by statute. Otherwise, the Board's orders become final on the 61st day.

/s/ R. O. Schlickeisen

R. O. Schlickeisen
Associate Director for
Economics and Government

Attachments:

Memorandum to the President
CAB letters of transmittal
CAB orders
Letter to the Chairman



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

MAY 2 1980

ACTION

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decisions:

Laker Air Travel Limited

Canada Learjet Ltd.

Docket 28379

Docket 36208

Due Date: May 16, 1980

Due Date: May 23, 1980

Transporte Aereo Rioplatense, S.A.C. e I.

Docket 30053

Due Date: May 25, 1980

The Civil Aeronautics Board proposes to take the following actions with regard to the above international aviation cases:

- An indirect foreign air carrier permit will be issued to Laker Air Travel Limited. The firm, a United Kingdom tour operator, will be allowed to organize charter flights of passengers from any point or points in the United States to any point or points outside the United States and return, for a period of five years.
- A foreign air carrier permit will be issued to Canada Learjet Ltd. This Canadian firm, using small aircraft, will be authorized to provide charter air transportation services between any point or points in Canada and any point or points in the United States.
- The foreign air carrier permit held by Transporte Aereo Rioplatense, S.A.C. e I., an Argentinian firm, will be renewed until October 31, 1983. This carrier's permit also will be amended to allow nonscheduled transportation of cargo between any point or points in Argentina and the coterminal points Miami, Florida; Houston, Texas; Chicago, Illinois; New York, New York; and Los Angeles, California via specified intermediate countries. Further, the carrier will be authorized to operate charter flights of cargo provided that these flights conform to the Board's Regulations.

The Departments of State, Defense, Justice and Transportation and the National Security Council have not identified any foreign policy or national defense reasons for disapproving the orders in whole or in part.

The Office of Management and Budget recommends that you approve the Board's decisions by signing the attached letter to the Chairman which indicates that you do not intend to disapprove the Board's orders within the 60 days allowed by statute for your review.

/s/ R. O. Schlickeisen

R. O. Schlickeisen
Associate Director for
Economics and Government

Attachments:

CAB letters of transmittal
CAB orders
Letter to the Chairman

Options and Implementation Actions:

- 1) Approve the Board's orders. (DOS, DOD, DOJ, DOT, NSC, OMB.)
-- Sign the attached letter to the Chairman.
- 2) Disapprove the Board's orders.
-- Implementation materials to be prepared.
- 3) See me.

THE WHITE HOUSE

WASHINGTON

To Chairman Marvin Cohen

I have reviewed the following orders proposed by the Civil Aeronautics Board:

Laker Air Travel Limited

Canada Learjet Ltd.

Docket 28379

Docket 36208

Transporte Aereo Rioplatense, S.A.C. e I.

Docket 30053

I do not intend to disapprove the Board's orders within the 60 days allowed by statute.

Sincerely,

The Honorable Marvin S. Cohen
Chairman
Civil Aeronautics Board
Washington, D. C. 20428

FOR OFFICIAL USE ONLY

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C.

Adopted by the Civil Aeronautics Board
at its office in Washington, D. C.
on the 19th day of March, 1980

Application of :
 :
 CANADA LEARJET LTD. : Docket 36208
 :
 for a foreign air carrier permit :
 pursuant to section 402 of the :
 Federal Aviation Act of 1958, :
 as amended :

ORDER

By Order 80-2-108, adopted February 21, 1980, the Board directed all interested persons to show cause why the Board should not, subject to the disapproval of the President, issue a foreign air carrier permit to Canada Learjet Ltd. authorizing it to engage in small aircraft charter air transportation services between any point or points in Canada and any point or points in the United States.

The order directed persons objecting to the Board's tentative findings and conclusions set forth in that order, or to the issuance of the proposed foreign air carrier permit, to file their objections within 21 days. In addition, the order provided that in the event no objections were filed, all further procedural steps would be deemed waived, and the Secretary would enter an order which (1) would make final the Board's tentative findings and conclusions, and (2) subject to the disapproval of the President pursuant to section 801(a) of the Act, would issue a foreign air carrier permit to Canada Learjet Ltd. in the form attached to the order.

No objections to Order 80-2-108 have been filed.

FOR OFFICIAL USE ONLY

ACCORDINGLY,

1. We make final our tentative findings and conclusions set forth in Order 80-2-108;
2. We are issuing a foreign air carrier permit in the form attached to Canada Learjet Ltd.;
3. The public interest requires that the exercise of the privileges granted by the permit should be subject to the terms, conditions, and limitations contained in the specimen permit attached to this order, to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board, and to the following condition:

The holder shall not engage in the carriage of persons in foreign air transportation between the United States and Canada to or from a point in Ontario, west of a line drawn due north from Blind River, Ontario (46°11' North Latitude, 82°58' West Longitude) and extending to the border between Ontario and Manitoba, which is not a resort, camp, or outpost operated by a person duly licensed for such purpose by the Government of the Province of Ontario, nor the licensed base of a Canadian charter air carrier, nor a Canadian Customs port of entry; and is required on each flight out of the restricted area to make a stop at a Canadian charter air carrier where officers of the Ontario Ministry of Natural Resources may be available to make such inspection as they consider desirable; and shall have available on its aircraft for inspection by the U.S. authorities satisfactory evidence that it has complied with these conditions: Provided, however, that the above prohibition shall not apply to flights performed for purposes of medical evacuation, or other similar emergency situations; provided further that, when the circumstances warrant, the Board may, upon application by the holder, waive all or any part of these restrictions; and provided further that the holder shall clearly notify in writing all persons who contract for the holder's services of the limitations imposed on its operations; 1/

1/ See Order 79-6-83, effective June 12, 1979.

4. The Secretary of the Board shall sign the permit on our behalf and shall affix the seal of the Board;

5. Unless disapproved by the President of the United States under section 801(a) of the Act, this order and the permit attached shall become effective on the 61st day after its submission to the President, 2/ or upon the date of receipt of advice from the President that he does not intend to disapprove the Board's order under that section, whichever is earlier; and

6. Canada Learjet Ltd. shall be a party to the rulemaking proceeding (insurance requirements) in Dockets 37531 and 37532 (EDR-395, January 28, 1980).

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR

Secretary

(SEAL)

All Members concurred.

2/ This order was submitted to the President on
The 61st day is MAY 24 1980 MAR 24 1980

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C.

PERMIT TO FOREIGN AIR CARRIER
FOR SMALL AIRCRAFT OPERATIONS

CANADA LEARJET LTD.

is authorized, subject to the provisions of the Federal Aviation Act of 1958, as amended, and the Board's orders, rules, and regulations, to engage in charter foreign air transportation, as follows:

Charter flights with respect to persons and their accompanied baggage, and planeload charter flights with respect to property, between any point or points in Canada and any point or points in the United States.

The holder shall be authorized to perform those types of charters originating in Canada as are now, or may be, prescribed for carriage by small aircraft in Annex B(III)(B) of the Nonscheduled Air Services Agreement between the United States and Canada, signed May 8, 1974, including amendments, supplements, reservations, or supersessions to that Agreement: Provided, that any such charters may be performed only to the extent authorized by the Air Carrier Regulations of the Canadian Transport Commission applicable to operations by small aircraft, and the authority of the holder to perform such charters shall be subject to those Regulations. 1/ The authority of the holder to perform United States-originating charters shall, in accordance with Annex B(III)(A) of the Nonscheduled Air Services Agreement, be limited to commercial air transportation of passengers and their accompanied baggage, and property, on a time, mileage or trip basis, where the entire planeload capacity of one or more aircraft has been engaged by a person for his own use or by a

1/ Annex B(III)(B) currently authorizes Canadian-originating small aircraft charters of the types prescribed in section (II)(B); but only to the extent applicable to small aircraft pursuant to Canadian Transport Commission Regulations. The applicable types of charters presently authorized are: Single Entity Passenger, Single Entity Property, Pro Rata Common Purpose, and Inclusive Tour (in some instances split-passenger charters are authorized).

person for the transportation of a group of persons and/or their property, as agent or representative of such group, or such small aircraft operations as may be authorized pursuant to any amendment, supplement, reservation or supersession to that Agreement.

This permit shall be subject to the following terms, conditions, and limitations: 2/

(1) In the performance of the charter operations authorized by this permit, the holder shall not use "large aircraft" as defined in Annex A(I)(A) of the Nonscheduled Air Services Agreement between the United States and Canada, signed May 8, 1974, including amendments, supplements, reservations, or supersessions to that Agreement.

(2) The holder shall not engage in foreign air transportation between the United States and any point or points, other than a point or points in Canada, or transport any property or persons whose journey includes a prior, subsequent, or intervening movement by air (except for the movement of passengers independently of any group) to or from a point not in the United States or Canada: Provided, that the Board may, upon application by the holder, or by regulation, authorize the performance of charters where such movements are involved.

(3) The holder shall not perform United States-originating charter flights which at the end of any calendar quarter would result in the aggregate number of all United States-originating charter flights performed by the holder on or after May 8, 1974, exceeding by more than one-third the aggregate number of all Canadian-originating charter flights performed by the holder on or after May 8, 1974: Provided, that the Board may authorize the performance of charters not meeting the requirements set forth. For the purpose of making such computation the following shall apply:

(a) A charter shall be considered to originate in the United States (or Canada) if the passengers or property are first taken on board in that country, and shall be considered as one flight whether the charter be one-way, round trip, circle tour, or open jaw, even if a separate contract is entered into for a return portion of the charter trip from Canada (or the United States).

(b) The computation shall be made separately for (i) "small aircraft" flights of persons; and (ii) "small aircraft" flights of property.

(c) In the case of a lease of aircraft with crew for the performance of a charter flight on behalf and under the authority of another carrier, the flight shall be included in the computation if the holder is the lessee, and shall not be included if the holder is the lessor.

2/ The exercise of the privileges granted by this permit is also subject to the conditions set forth in paragraph 3 of the order issuing this permit, which shall remain in effect until further order of the Board.

(d) There shall be excluded from the computation:

(i) flights utilizing aircraft having a maximum authorized takeoff weight on wheels (as determined by Canadian Transport Commission Regulations) not greater than 18,000 pounds; and

(ii) flights originating at a United States terminal point of a route authorized pursuant to the Air Transport Services Agreement between the United States and Canada, signed January 17, 1966, as amended, or any agreement which may supersede it, or any supplementary agreement thereto which establishes obligations or privileges thereunder (if, pursuant to any such agreement, the holder also holds a foreign air carrier permit authorizing individually ticketed or individually waybilled service over such route, and provides some scheduled service on any route pursuant to any such agreement), when such flights serve either (a) a Canadian terminal point on such route, or (b) any Canadian intermediate point authorized for service on such route by such foreign air carrier permit.

(4) The holder may grant stopover privileges at any point or points in the United States only to passengers and their accompanied baggage moving on a Canadian-originating flight operating under a contract for round trip charter transportation to be provided solely by the holder and as to which the same aircraft stays with the passengers throughout the journey: Provided, that the Board may authorize the performance of charters not meeting the requirements set forth.

(5) The holder shall not, in the performance of the operation authorized by this permit, use any aircraft or conduct any operations except in accordance with the authority and conditions contained in the holder's applicable Canadian licenses.

(6) The holder shall not engage in flights for the purpose of industrial or agricultural operations (i.e., crop dusting, pest control, pipeline patrol, mapping, surveying, banner towing, skywriting, aerial photography) within the United States unless a permit has been issued by the Board in accordance with Part 375 of its Regulations.

(7) The Board, by order or regulation and without hearing, may require advance approval of individual charter trips conducted by the holder pursuant to the authority granted by this permit, if it finds such action to be required in the public interest.

(8) The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of Canada for Canadian international air service.

(9) The holder shall not operate any aircraft under the authority granted by this permit, unless the holder complies with the operational safety requirements at least equivalent to Annex 6 of the Chicago Convention.

(10) This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Canada shall be parties.

(11) This permit shall be subject to the condition that the holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

(12) The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of \$1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation with respect to persons unless there is in effect liability insurance sufficient to cover the obligations assumed in CAB Agreement 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers. 3/

(13) By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

3/ By EDR-395, January 28, 1980 and accompanying Show Cause Order 80-1-176, Dockets 37531 and 37532, the Board proposed to adopt a new Part 205 of its Regulations to require \$2,000,000 in third-party liability insurance, with \$300,000 per passenger and third-party liability coverage, and to amend foreign air carrier permits to make them subject to the new regulations. The holder will be subject to the insurance requirements provided for in those regulations as they may be finally adopted. 45FR 7566, February 4, 1980.

The exercise of the privileges granted by this permit shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

This permit shall become effective on _____ . Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement, or amendment, which shall have the effect of eliminating the charter foreign air transportation authorized from the transportation which may be operated by carriers designated by the Government of Canada (or in the event of the elimination of part of the charter foreign air transportation authorized, the authority granted shall terminate to the extent of such elimination), or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of Canada in lieu of the holder, or (3) upon the termination or expiration of the Nonscheduled Air Services Agreement between the United States and Canada, signed May 8, 1974: However, clause (3) of this paragraph shall not apply if, prior to the occurrence of the event specified in clause (3), the operation of the foreign air transportation authorized becomes the subject of any treaty, convention, or agreement to which the United States of America and Canada are or shall become parties.

The Civil Aeronautics Board, through its Secretary, has executed this permit and affixed its seal on March 19, 1980.

PHYLLIS T. KAYLOR

Secretary

(SEAL)

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C.



Adopted by the Civil Aeronautics Board
at its office in Washington, D. C.
on the 21st day of February, 1980

Application of	:	
	:	
CANADA LEARJET LTD.	:	Docket 36208
	:	
for a foreign air carrier permit	:	
pursuant to section 402 of the	:	
Federal Aviation Act of 1958, as	:	
amended	:	

STATEMENT OF TENTATIVE FINDINGS AND CONCLUSIONS
AND ORDER TO SHOW CAUSE

By application filed July 25, 1979, Canada Learjet Ltd. (Learjet) requests a foreign air carrier permit to engage in charter foreign air transportation of persons and their accompanied baggage, and planeload charter foreign air transportation of property, between any point or points in Canada and the United States, using small aircraft. 1/ The application is filed pursuant to the Nonscheduled Air Services Agreement executed on May 8, 1974, by the Governments of the United States and Canada.

No answers to Learjet's application have been filed.

Fitness of the Applicant

Learjet was incorporated on April 4, 1978 under the laws of the Province of British Columbia, Canada. 2/ The Canadian Air Transport Committee has granted Learjet a Class 9-4 license (No. A.T.C. 632/78(CF))

1/ Small aircraft are defined by the Nonscheduled Air Services Agreement as aircraft which are not large aircraft. Large aircraft are defined as aircraft having both (a) a maximum passenger capacity of more than 30 seats or a maximum payload capacity of more than 7,500 pounds, and (b) a maximum authorized takeoff weight on wheels greater than 35,000 pounds.

2/ On March 5, 1973, the applicant was incorporated under the laws of the Province of Alberta as Canada Lear Jet Ltd. The company changed its name in 1975 to Canada Learjet Ltd. Subsequently, on April 4, 1978 Canada Learjet Ltd. was incorporated under the laws of the Province of British Columbia.

which authorizes it to operate commercial charter air services transporting persons and goods between Canada and any other point in North America from a base at Vancouver, British Columbia, Canada. Learjet is restricted in its operations to the use of Group C aircraft having a maximum authorized takeoff weight no greater than 18,000 pounds. Also, the Canadian Department of Transport has issued an operating certificate (No. 4700) to Learjet certifying that its aircraft are adequately equipped and authorizing it to operate between points that can be safely served in North America (from a base at Vancouver International Airport, B.C., Canada).

The applicant's balance sheet as of December 31, 1978 shows total assets of \$666,289 of which \$663,345 are current assets. On the liabilities side, the company has \$223,518 in current liabilities, a long-term bank loan of \$355,845, and shareholder's equity of \$86,926. Learjet achieved a net profit of \$20,908 for the year ended December 31, 1978.

The applicant plans to use a Canadian registered Learjet aircraft, Model 35A, in its proposed service to the United States. The aircraft has a seating capacity of eight passengers, a maximum payload capacity of 3,700 pounds, and a maximum authorized takeoff weight of 18,000 pounds.

Learjet states that it has incurred no safety or tariff violations within the last five years, and has not been involved in any accidents since 1974.

Public Interest Considerations

The applicant relies on the Nonscheduled Air Services Agreement signed by the Governments of Canada and the United States on May 8, 1974 as the basis for the grant of the requested authority. By Diplomatic Note No. 232, dated May 16, 1979, as amended by Note 469 dated September 25, 1979, the Government of Canada designated the applicant to perform any of the nonscheduled charter services provided for in the Agreement.

Ownership and Control

All of the stockholders, officers, directors, and management personnel of the corporation are Canadian citizens.

The applicant states that it holds 29 percent of the capital stock of Wescan Turbo Helicopters Ltd., a Canadian company, and 100 percent of the capital stock of another aviation-related Canadian company, Worldways Airlines Ltd. ^{3/} The applicant also states that it holds no stock or capital in any U.S. carrier.

^{3/} Worldways currently holds authority from the Board to perform large aircraft charters between the two countries (Order 76-4-128, effective April 22, 1976). However, since the applicant and Worldways would be offering charter services only between the United States and Canada, we find that this relationship is not adverse to the public interest.

In view of the foregoing and all of the facts of record, the Board tentatively finds and concludes that:

1. It is in the public interest to issue a foreign air carrier permit in the specimen form attached to Canada Learjet Ltd. authorizing it to engage in charter foreign air transportation with small aircraft of persons and their accompanied baggage, and planeload charters of property, between any point or points in Canada and any point or points in the United States;

2. Canada Learjet Ltd. is fit, willing, and able properly to perform the charter foreign air transportation described in the specimen permit, and to conform to the provisions of the Act, and the rules, regulations, and requirements of the Board;

3. The public interest requires that the exercise of the privileges granted by the permit should be subject to the terms, conditions, and limitations contained in the specimen permit attached to this order, to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board, and to the following condition:

The holder shall not engage in the carriage of persons in foreign air transportation between the United States and Canada to or from a point in Ontario, west of a line drawn due north from Blind River, Ontario (46°11' North Latitude, 82°58' West Longitude) and extending to the border between Ontario and Manitoba, which is not a resort, camp, or outpost operated by a person duly licensed for such purpose by the Government of the Province of Ontario, nor the licensed base of a Canadian charter air carrier, nor a Canadian Customs port of entry; and is required on each flight out of the restricted area to make a stop at a Canadian charter air carrier where officers of the Ontario Ministry of Natural Resources may be available to make such inspection as they consider desirable; and shall have available on its aircraft for inspection by the U.S. authorities satisfactory evidence that it has complied with these conditions: Provided, however, that the above prohibition shall not apply to flights performed for purposes of medical evacuation, or other similar emergency situations; provided further that, when the circumstances warrant, the Board may, upon application by the holder, waive all or any part of these restrictions; and provided further that the holder shall clearly notify in writing all persons who contract for the holder's services of the limitations imposed on its operations; 4/

4/ See Order 79-6-83, effective June 12, 1979.

4. Canada Learjet Ltd. is substantially owned and effectively controlled by nationals of Canada;

5. The proposed issuance of Canada Learjet Ltd.'s foreign air carrier permit will neither constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act of 1969, nor a "major regulatory action" under the Energy Policy and Conservation Act as defined in section 313.4(a)(1) of the Board's Regulations; 5/

6. An oral evidentiary hearing is not required in the public interest; and

7. Except to the extent granted, the application of Canada Learjet Ltd. in Docket 36208 should be denied.

ACCORDINGLY,

1. We direct all interested persons to show cause why the Board should not (1) make final its tentative findings and conclusions, and (2) subject to the disapproval of the President pursuant to section 801(a) of the Act, issue a foreign air carrier permit to Canada Learjet Ltd. in the specimen form attached;

2. Any interested persons objecting to the issuance of an order making final the Board's tentative findings and conclusions and issuing the attached specimen permit shall, no later than March 18, 1980, file with the Board and serve on the persons named in paragraph 5, a statement of objections specifying the part of parts of the tentative findings and conclusions objected to, together with a summary to testimony, statistical data, and concrete evidence expected to be relied upon in support of the objections. If an oral evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts he would expect to establish through such hearing which cannot be established in written pleadings. If objections are filed, answers may be filed, but no later than March 28, 1980;

3. If timely and properly supported objections are filed, we will give further consideration to the matters and issues raised by the objections before we take further action: Provided that we may proceed to enter an order in accordance with our tentative findings and conclusions set forth in this order if we determine that there are no factual issues presented that warrant the holding of an oral evidentiary hearing; 6/

5/ This is not an action with environmental consequences. See section 312.2(a) of the Board's Procedural Regulations regarding Canadian permits for small aircraft charter operations.

6/ Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the Secretary shall enter an order which (1) shall make final our tentative findings and conclusions set forth in this order, and (2) subject to the disapproval of the President pursuant to section 801(a) of the Act, shall issue a foreign air carrier permit to the applicant in the form attached; and

5. We are serving this order upon Canada Learjet Ltd., the Ambassador of Canada in Washington, D.C., and the Departments of State and Transportation. 7/

We shall publish a summary of this order in the Federal Register and shall transmit a copy of this order to the President of the United States.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR

Secretary

(SEAL)

All Members concurred.

7/ We will also provide a copy of Order 79-6-83 to Canada Learjet Ltd.

SPECIMEN PERMIT

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C.

PERMIT TO FOREIGN AIR CARRIER
FOR SMALL AIRCRAFT OPERATIONS

CANADA LEARJET LTD.

is authorized, subject to the provisions of the Federal Aviation Act of 1958, as amended, and the Board's orders, rules, and regulations, to engage in charter foreign air transportation, as follows:

Charter flights with respect to persons and their accompanied baggage, and planeload charter flights with respect to property, between any point or points in Canada and any point or points in the United States.

The holder shall be authorized to perform those types of charters originating in Canada as are now, or may be, prescribed for carriage by small aircraft in Annex B(III)(B) of the Nonscheduled Air Services Agreement between the United States and Canada, signed May 8, 1974, including amendments, supplements, reservations, or supersessions to that Agreement: Provided, that any such charters may be performed only to the extent authorized by the Air Carrier Regulations of the Canadian Transport Commission applicable to operations by small aircraft, and the authority of the holder to perform such charters shall be subject to those Regulations. 1/ The authority of the holder to perform United States-originating charters shall, in accordance with Annex B(III)(A) of the Nonscheduled Air Services Agreement, be limited to commercial air transportation of passengers and their accompanied baggage, and property, on a time, mileage or trip basis, where the entire planeload capacity of one or more aircraft has been engaged by a person for his own use or by a

1/ Annex B(III)(B) currently authorizes Canadian-originating small aircraft charters of the types prescribed in section (II)(B); but only to the extent applicable to small aircraft pursuant to Canadian Transport Commission Regulations. The applicable types of charters presently authorized are: Single Entity Passenger, Single Entity Property, Pro Rata Common Purpose, and Inclusive Tour (in some instances split-passenger charters are authorized).

person for the transportation of a group of persons and/or their property, as agent or representative of such group, or such small aircraft operations as may be authorized pursuant to any amendment, supplement, reservation or supersession to that Agreement.

This permit shall be subject to the following terms, conditions, and limitations: 2/

(1) In the performance of the charter operations authorized by this permit, the holder shall not use "large aircraft" as defined in Annex A(I)(A) of the Nonscheduled Air Services Agreement between the United States and Canada, signed May 8, 1974, including amendments, supplements, reservations, or supersessions to that Agreement.

(2) The holder shall not engage in foreign air transportation between the United States and any point or points, other than a point or points in Canada, or transport any property or persons whose journey includes a prior, subsequent, or intervening movement by air (except for the movement of passengers independently of any group) to or from a point not in the United States or Canada: Provided, that the Board may, upon application by the holder, or by regulation, authorize the performance of charters where such movements are involved.

(3) The holder shall not perform United States-originating charter flights which at the end of any calendar quarter would result in the aggregate number of all United States-originating charter flights performed by the holder on or after May 8, 1974, exceeding by more than one-third the aggregate number of all Canadian-originating charter flights performed by the holder on or after May 8, 1974: Provided, that the Board may authorize the performance of charters not meeting the requirements set forth. For the purpose of making such computation the following shall apply:

(a) A charter shall be considered to originate in the United States (or Canada) if the passengers or property are first taken on board in that country, and shall be considered as one flight whether the charter be one-way, round trip, circle tour, or open jaw, even if a separate contract is entered into for a return portion of the charter trip from Canada (or the United States).

(b) The computation shall be made separately for (i) "small aircraft" flights of persons; and (ii) "small aircraft" flights of property.

(c) In the case of a lease of aircraft with crew for the performance of a charter flight on behalf and under the authority of another carrier, the flight shall be included in the computation if the holder is the lessee, and shall not be included if the holder is the lessor.

2/ The exercise of the privileges granted by this permit is also subject to the conditions set forth in paragraph 3 of the order issuing this permit, which shall remain in effect until further order of the Board.

(d) There shall be excluded from the computation:

(i) flights utilizing aircraft having a maximum authorized takeoff weight on wheels (as determined by Canadian Transport Commission Regulations) not greater than 18,000 pounds; and

(ii) flights originating at a United States terminal point of a route authorized pursuant to the Air Transport Services Agreement between the United States and Canada, signed January 17, 1966, as amended, or any agreement which may supersede it, or any supplementary agreement thereto which establishes obligations or privileges thereunder (if, pursuant to any such agreement, the holder also holds a foreign air carrier permit authorizing individually ticketed or individually waybilled service over such route, and provides some scheduled service on any route pursuant to any such agreement), when such flights serve either (a) a Canadian terminal point on such route, or (b) any Canadian intermediate point authorized for service on such route by such foreign air carrier permit.

(4) The holder may grant stopover privileges at any point or points in the United States only to passengers and their accompanied baggage moving on a Canadian-originating flight operating under a contract for round trip charter transportation to be provided solely by the holder and as to which the same aircraft stays with the passengers throughout the journey: Provided, that the Board may authorize the performance of charters not meeting the requirements set forth.

(5) The holder shall not, in the performance of the operation authorized by this permit, use any aircraft or conduct any operations except in accordance with the authority and conditions contained in the holder's applicable Canadian licenses.

(6) The holder shall not engage in flights for the purpose of industrial or agricultural operations (i.e., crop dusting, pest control, pipeline patrol, mapping, surveying, banner towing, skywriting, aerial photography) within the United States unless a permit has been issued by the Board in accordance with Part 375 of its Regulations.

(7) The Board, by order or regulation and without hearing, may require advance approval of individual charter trips conducted by the holder pursuant to the authority granted by this permit, if it finds such action to be required in the public interest.

(8) The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of Canada for Canadian international air service.

(9) The holder shall not operate any aircraft under the authority granted by this permit, unless the holder complies with the operational safety requirements at least equivalent to Annex 6 of the Chicago Convention.

(10) This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Canada shall be parties.

(11) This permit shall be subject to the condition that the holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

(12) The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of \$1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation with respect to persons unless there is in effect liability insurance sufficient to cover the obligations assumed in CAB Agreement 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers. 3/

(13) By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

3/ By EDR-395, January 28, 1980 and accompanying Show Cause Order 80-1-176, Dockets 37531 and 37532, the Board proposed to adopt a new Part 205 of its Regulations to require \$2,000,000 in third-party liability insurance, with \$300,000 per passenger and third-party liability coverage, and to amend foreign air carrier permits to make them subject to the new regulations. The holder will be subject to the insurance requirements provided for in those regulations as they may be finally adopted. 45FR 7566, February 4, 1980.

The exercise of the privileges granted by this permit shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

This permit shall become effective on Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement, or amendment, which shall have the effect of eliminating the charter foreign air transportation authorized from the transportation which may be operated by carriers designated by the Government of Canada (or in the event of the elimination of part of the charter foreign air transportation authorized, the authority granted shall terminate to the extent of such elimination), or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of Canada in lieu of the holder, or (3) upon the termination or expiration of the Nonscheduled Air Services Agreement between the United States and Canada, signed May 8, 1974: However, clause (3) of this paragraph shall not apply if, prior to the occurrence of the event specified in clause (3), the operation of the foreign air transportation authorized becomes the subject of any treaty, convention, or agreement to which the United States of America and Canada are or shall become parties.

The Civil Aeronautics Board, through its Secretary, has executed this permit and affixed its seal on

Secretary

(SEAL)

FOR OFFICIAL USE ONLY

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D.C.

Adopted by the Civil Aeronautics Board
at its office in Washington, D.C.
on the 14th day of March, 1980

Application of :
 :
 LAKER AIR TRAVEL LIMITED : Docket 28379
 :
 for an indirect foreign air :
 carrier permit pursuant to :
 section 402 of the Federal :
 Aviation Act of 1958, as amended :

ORDER

By Order 80-2-92, adopted February 15, 1980, the Board directed all interested persons to show cause why the Board should not, subject to the disapproval of the President, issue an indirect foreign air carrier permit to Laker Air Travel Limited authorizing it to engage indirectly in foreign air transportation of persons from any point or points in the United States to any point or points outside the United States and return, for a period of five years.

The order directed persons objecting to the Board's tentative findings and conclusions set forth in that order, or to the issuance of the proposed foreign indirect air carrier permit, to file their objections within 21 days. In addition, the order provided that in the event no objections were filed, all further procedural steps would be deemed waived, and the Secretary would enter an order which (1) would make final the Board's tentative findings and conclusions, and (2) subject to the disapproval of the President pursuant to section 801(a) of the Act, would issue an indirect foreign air carrier permit to Laker Air Travel Limited in the specimen form attached.

No objections to Order 80-2-92 have been filed.

ACCORDINGLY,

1. We make final our tentative findings and conclusions set forth in Order 80-2-92;
2. We are issuing an indirect foreign air carrier permit in the form attached to Laker Air Travel Limited;

FOR OFFICIAL USE ONLY

3. The exercise of the privileges granted by this permit shall be subject to the following conditions:

(a) With respect to the operations conducted pursuant to the authority granted by the specimen permit, the holder will be subject to the provisions of Part 380 of the Board's Regulations;

(b) By using the authority granted here (1) the name Laker Air Travel Limited shall appear on all of the holder's advertising, tickets, stationery and other public documents; (2) the above name will always be used in its entirety; (3) words designating the holder's nationality will be displayed at least as prominently as the most prominently displayed name on any material disseminated to the public; and (4) for the purpose of this order, the holder's name shall include its legal name, trademarks, trade names or any other name that may be used in conjunction with any of the above.

4. The Secretary of the Board shall sign the permit on our behalf and shall affix the seal of the Board; and

5. Unless disapproved by the President of the United States under section 801(a) of the Act, this order and the permit attached shall become effective on the 61st day after its submission to the President 1/ or upon the date of receipt of advice from the President that he does not intend to disapprove the Board's order under that section, whichever is earlier.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR

Secretary

(SEAL)

All Members concurred.

1/ This order was submitted to the President on
The 61st day is

MAY 17 1980

MAR 17 1980

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D.C.

PERMIT TO FOREIGN INDIRECT AIR CARRIER

LAKER AIR TRAVEL LIMITED (GREAT BRITAIN)

is authorized, subject to the provisions set forth, the provisions of the Federal Aviation Act of 1958, as amended, and the orders, rules and regulations issued by the Board, to engage indirectly in foreign air transportation of persons from any point or points in the United States to any point or points outside the United States, and return.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting the right to engage in indirect air transportation of persons now in effect, or that may become effective during the period this permit remains in effect, to which the United States and the United Kingdom shall be parties.

The exercise of the privileges granted shall be subject to the terms, conditions, and limitations set forth in Order _____ dated _____ and to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

By accepting this permit the holder waives any right it may possess to assert any defense of sovereign immunity from any suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

This permit shall be effective on _____, and shall terminate five years thereafter: Provided, that if during said period the operation of the foreign air transportation authorized becomes the subject of any treaty, convention, or agreement to which the United States and the United Kingdom are or shall become parties, then and in that event this permit is continued in effect during the period provided in said treaty, convention, or agreement.

The Civil Aeronautics Board, through its Secretary, has executed this permit and affixed its seal on March 14, 1980.

PHYLLIS T. KAYLOR

Secretary

(SEAL)

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D.C.



Adopted by the Civil Aeronautics Board
at its office in Washington, D.C.
on the 15th day of February, 1980

-----	:	
Application of	:	
	:	
LAKER AIR TRAVEL LIMITED	:	Docket 28379
	:	
for an indirect foreign air carrier	:	
permit pursuant to section 402 of	:	
the Federal Aviation Act of 1958,	:	
as amended	:	
-----	:	

STATEMENT OF TENTATIVE FINDINGS AND CONCLUSIONS
AND ORDER TO SHOW CAUSE

On October 8, 1975, Laker Air Travel Limited (LAT) applied for an initial indirect foreign air carrier permit authorizing it to engage indirectly in foreign air transportation of persons from any point or points in the United States to any point or points outside the United States and return. 1/

On February 5, 1976, after public hearing, an administrative law judge recommended that the Board grant an indirect foreign air carrier permit to Laker Air Travel for a period of five years. 2/ Exceptions were filed by Pan American, the National Air Carrier Association on behalf of four of its U.S. supplemental carrier members (Overseas National Airways, Inc., Saturn Airways, Inc., Trans International Airlines, and World Airways, Inc.), and Capitol International Airways. All of the exceptions urged denial or deferral of the requested permit, in view of Board policy prohibiting affiliations between tour operators and direct air carriers with respect to U.S.-originating charters. 3/

1/ Laker Air Travel Limited, a United Kingdom tour operator, is wholly owned by Laker Airways Limited, which holds an amended foreign air carrier permit authorizing foreign air transportation of persons and their accompanied baggage between the terminal point London, England and the coterminal points New York, New York, and Los Angeles, California. At the time LAT filed its application, Laker Airways was authorized to operate charters only.

2/ Among other things, the judge found that Laker Air Travel Limited was fit, willing, and able to engage in the indirect air carriage of passengers, and that it was owned and controlled by citizens of the United Kingdom. We have no information which would cause us to dispute these findings.

3/ The Federal Aviation Act then prohibited such affiliation relationships by U.S. carriers (section 101(36), 49 U.S.C. 1301(36)). No principle of reciprocity required that the Board grant to a foreign air carrier any rights not possessed by U.S. carriers.

The Board, in Order 76-6-135, effective June 17, 1976, stated that because Laker Air Travel had represented that it intended to rely primarily on the services of its affiliated direct air carrier, Laker Airways, for carriage of U.S.-originating charters organized by the applicant, the record would be reopened to allow submission of evidence and arguments in support of the grant of a permit. In Order 77-2-53, adopted February 11, 1977, the Board denied Laker Air Travel's petition for reconsideration of Order 76-6-135 stating that grant of authority to foreign indirect air carriers to organize charters utilizing the services of their direct air carrier affiliates, without granting comparable authority to U.S. direct air carriers to organize charters through affiliated charter organizers, would result in unfair competitive advantages to foreign companies.

The Airline Deregulation Act of October 24, 1978 required the Board to recommend to the Congress by May 1, 1979 whether the Federal Aviation Act of 1958, as amended, and regulations of the Board should be amended to permit air carriers to sell tours directly to the public and to acquire control of persons authorized to sell tours to the public. On October 30, 1978, Laker Air Travel filed a motion for prompt issuance of an indirect foreign air carrier permit to authorize it to sell charters and tours originating in the United States. 4/ The Board adopted a final rule on August 23, 1979, effective September 28, 1979, permitting direct U.S. and foreign air carriers to sell charter trips to the public through their own in-house operations or through affiliated charter operators. 5/ Therefore, there is no longer any reason to withhold action on LAT's indirect foreign air carrier permit application.

In view of the foregoing and all the facts of record, we tentatively find and conclude that:

4/ On May 2, 1979 Laker Air Travel applied for an exemption pursuant to section 416(b) of the Act to operate as an indirect foreign air carrier pending action on its application in Docket 28379. Order 79-9-200 granted the exemption, effective September 28, 1979.

5/ ER-1141 through ER-1144 and SPR-166. The requested permit would allow the Laker charter operator to market charter tours using the Laker direct carrier to provide the transportation. Although we have restricted such operations in the past (see Kuoni Order 76-6-135 effective June 17, 1976), our adoption of the direct sales rules marked a change in policy. We now permit both U.S. and foreign carriers to use vertically integrated charter marketing operations, subject to the Public Charter rules. Under these rules, a charter organized by an operator with its affiliated direct carrier must be sold at least 7 days before departure, 14 CFR 380.25a. Since the Board has declined to exercise its jurisdiction over foreign-originating charters by foreign charter operators, 14 CFR 380.23(a), that 7-day advance purchase requirement would not apply to LAT's foreign-originating charters; it would apply to its U.S.-originating charters. While U.S. carriers are now subject to the 7-day advance purchase requirements for foreign-originating charters, we intend to issue a proposal to amend 14 CFR 380.23(b) to except U.S. carriers from the 7-day advance purchase requirement for their foreign-originating charters. We remain committed to providing equal competitive opportunities for U.S. and foreign charter operators and direct carriers.

1. It is in the public interest to issue an indirect foreign air carrier permit in the specimen form attached to Laker Air Travel Limited authorizing it to engage indirectly in foreign air transportation of persons from any point or points in the United States to any point or points outside the United States and return, for a period of five years;

2. Laker Air Travel Limited is substantially owned and effectively controlled by nationals of the United Kingdom;

3. Laker Air Travel Limited is fit, willing and able properly to perform the indirect foreign air transportation described in the attached specimen permit;

4. The public interest does not require an oral evidentiary hearing;

5. The public interest requires that the exercise of the privileges granted by the permit should be subject to the terms, conditions, and limitations in the specimen permit attached to this order and to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board, and to the following conditions:

- (a) With respect to the operations conducted pursuant to the authority granted by the specimen permit, the holder will be subject to the provisions of Part 380 of the Board's Regulations; and
- (b) In using the authority granted here (1) the name Laker Air Travel Limited shall appear on all of the holder's advertising, tickets, stationery, and other public documents; (2) the above name will always be used in its entirety; (3) words designating the holder's nationality will be displayed at least as prominently as the most prominently displayed name on any material disseminated to the public; and (4) for the purpose of this order, the holder's name shall include its legal name, trademarks, trade names or any other name that may be used in conjunction with any of the above.

6. The issuance of the proposed permit is not a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, and will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975, as defined in section 313.4(a) of the Board's Regulations; 6/ and

7. Except to the extent granted, the application of Laker Air Travel Limited in Docket 28379 should be denied.

ACCORDINGLY,

1. We direct interested persons to show cause why the Board should not (1) make final its tentative findings and conclusions, and (2) subject to

6/ Since the applicant is an indirect carrier and does not operate its own aircraft, the authority granted under this permit will have a de minimis effect on civil air operations and fuel consumption.

disapproval of the President pursuant to section 801(a) of the Act, issue an indirect foreign air carrier permit to Laker Air Travel Limited in the specimen form attached;

2. Any interested persons objecting to the issuance of an order making final the Board's tentative findings and conclusions and issuing the attached specimen permit shall, no later than March 13, 1980, file with the Board and serve on the persons named in paragraph 7, a statement of objections specifying the part or parts of the tentative findings and conclusions objected to, together with a summary of testimony, statistical data, and concrete evidence to be relied upon in support of the objections. An oral evidentiary hearing or discovery procedures may be requested. The objector should state in detail why such a hearing or discovery is considered necessary and what material issues of decisional fact he would expect to establish in written pleadings. The objector should consider whether discovery procedures alone would suffice to resolve material issues of decisional fact; if so, the type or procedure should be specified (see Part 302, Rules 19 and 20); if not, the reasons why not should be explained. If objections are filed, answers may be filed, but no later than March 24, 1980;

3. If timely and properly supported objections are filed, we will give further consideration to the matters and issues raised by the objections before we take further action; Provided, that we may proceed to enter an order in accordance with our tentative findings and conclusions set forth in this order if we determine that there are no factual issues present that warrant the holding of an oral evidentiary hearing or the institution of discovery procedures; 7/

4. In the event no objections are filed, all further procedural steps shall be deemed waived, and the Secretary shall enter an order which (1) shall make final our tentative findings and conclusions set forth in this order, and (2) subject to the disapproval of the President pursuant to section 801(a) of the Act, shall issue an indirect foreign air carrier permit to the applicant in the specimen form attached;

5. We tentatively grant the motion of Laker Air Travel Limited for issuance of a permit;

6. Except to the extent granted in paragraph 5, all motions and pleadings in Docket 28379 should be denied; 8/ and

7. We shall serve a copy of this order upon Laker Air Travel Limited, the Ambassador of Great Britain and Northern Ireland in Washington, D.C., Pan

7/ Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

8/ A post-hearing summary of pleadings in Docket 28379, other than those mentioned in this order, is attached.

American World Airways, Inc., World Airways, Inc., Transamerica Airlines, Inc. (formerly Trans International Airlines, Inc.), British Caledonian Airways, Limited, Trans World Airlines, Inc., Overseas National Airways, Inc., Kuoni Travel, Ltd., Capitol International Airways, Inc., Tourist Enterprises Corporation "ORBIS", the American Society of Travel Agents, Inc., the National Air Carrier Association, the Airline Charter Tour Operators Association, and the Departments of State and Transportation.

We shall publish a summary of this order in the Federal Register and transmit a copy of this order to the President of the United States.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR
Secretary

(SEAL)

All Members concurred.

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D.C.

PERMIT TO FOREIGN INDIRECT AIR CARRIER

LAKER AIR TRAVEL LIMITED (GREAT BRITAIN)

is authorized, subject to the provisions set forth, the provisions of the Federal Aviation Act of 1958, as amended, and the orders, rules and regulations issued by the Board, to engage indirectly in foreign air transportation of persons from any point or points in the United States to any point or points outside the United States, and return.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting the right to engage in indirect air transportation of persons now in effect, or that may become effective during the period this permit remains in effect, to which the United States and the United Kingdom shall be parties.

The exercise of the privileges granted shall be subject to the terms, conditions, and limitations set forth in Order _____ dated _____ and to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

By accepting this permit the holder waives any right it may possess to assert any defense of sovereign immunity from any suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

This permit shall be effective on _____, and shall terminate five years thereafter: Provided, that if during said period the operation of the foreign air transportation authorized becomes the subject of any treaty, convention, or agreement to which the United States and the United Kingdom are or shall become parties, then and in that event this permit is continued in effect during the period provided in said treaty, convention, or agreement.

The Civil Aeronautics Board, through its Secretary, has executed this permit and affixed its seal on _____

Secretary

(SEAL)

POST-HEARING SUMMARY OF PLEADINGS
DOCKET 28379

January 2, 1976 - Pan American filed a statement opposing the application of Laker Air Travel Limited for a foreign indirect air carrier permit. Pan Am stated it was not in the public interest to allow foreign air carriers to have greater rights in the United States than those granted U.S. carriers; that the competitive advantage to Laker would be unfair to U.S. carriers; and that the Board has been very specific in prohibiting affiliations between indirect air carriers and direct air carriers in the U.S.-originating market.

January 16, 1976 - Capitol International Airways filed a statement of position urging consideration of Laker Air Travel Limited's application with a system wide industry approach to avoid disadvantageous results to competing U.S. carriers. Member carriers of NACA filed a brief stating that grant of the LAT application would not be in the public interest unless the Board allowed U.S. charter airlines equal opportunity to control tour operators/charter organizers. Laker Air Travel filed a brief refuting the arguments of opposing parties and suggesting that the objectors seek Board approval of affiliated tour operators in the United States.

March 1, 1976 - Member carriers of NACA and Pan American filed briefs in answer to the Recommended Decision served February 10, 1976 on the Laker Air Travel Limited application, stating that the Board should deny LAT an indirect foreign air carrier permit to prevent competitive disadvantage to U.S. air carriers. PAA stressed that "passing off" conditions have historically been imposed in foreign air carrier permits; that the "passing off" situation is irrelevant in this case; and that LAT seeks a privilege then denied to U.S. airlines.

April 23, 1976 - The Airline Charter Tour Operators Association (ACTOA) filed a motion to consolidate Laker Air Travel's application with those of Kuoni Travel, Ltd., Pan American World Airways, Inc., Overseas National Airways, Inc., Trans International Airlines, Inc., Trans World Airlines, Inc., World Airways, Inc., and Tourist Enterprises Corporation "ORBIS" d/b/a Orbis Polish Travel Bureau, Inc. and d/b/a Pargiello Services, Inc. Consolidation was requested to assure similar treatment of applications requesting similar authority.

May 5, 1976 - Pan American filed a motion in answer to the motion of the Airline Charter Tour Operators Association of April 23, 1976, objecting to consolidation of its application in Docket 28515 with those included in ACTOA's motion. Trans International also responded, objecting to consolidation of the applications. World Airways filed an answer to ACTOA's motion requesting the Board to grant LAT's application only if U.S. carriers are given comparable authority.

May 10, 1976 - ORBIS requested denial of ACTOA's motion to consolidate or, in the alternative, exclusion of the Orbis application in Docket 27914.

June 10, 1976 - ACTOA filed an amendment to its motion for consolidation to include a twelfth application--that of Overseas National Airways, Docket 29283.

POST HEARING SUMMARY OF PLEADINGS
DOCKET 28379

June 17, 1976 - Order 76-6-135 reopened the record for additional evidence.

July 19, 1976 - Trans International and World Airways filed a joint petition for reconsideration of Order 76-6-135 insofar as that order contained statements of a general policy against allowing direct air carriers to acquire control of tour operators.

October 30, 1978 - Laker Air Travel filed a motion for prompt issuance of a permit.

November 8, 1978 - Trans International and World Airways filed a joint answer in opposition to Laker's request unless and until the Board granted the same authority to TIA and World. PAA also filed an answer, suggesting denial of LAT's request.

November 20, 1978 - The American Society of Travel Agents, Inc. (ASTA) filed an answer in opposition to LAT's request for prompt issuance of a permit and opposing the joint motion of TIA and World for consolidation of the LAT proceeding with Dockets 29030 and 29060. PAA filed a response to TIA and World's joint answer of November 8, 1978, opposing the request of those airlines to allow them to acquire control of tour operators engaged in the sale of charters. Pan American referred to Section 5 of the Airline Deregulation Act of 1978, which directed the Board to prepare by May 1, 1979, a report to the Congress on the impact air carrier control of tour operators would have on the air transport system.

December 11, 1978 - ACTOA answered TIA and World's motion to consolidate, supporting simultaneous consideration of requests for vertical integration of the charter industry.

FOR OFFICIAL USE ONLY

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C.

Adopted by the Civil Aeronautics Board
at its office in Washington, D. C.
on the 17th day of March, 1980

Application of

TRANSPORTE AEREO RIOPLATENSE, S.A.C. e I.

:
:
: Docket 30053
:
:
:

for renewal and amendment of foreign air
carrier permit pursuant to section 402 of the
Federal Aviation Act of 1958, as amended

ORDER

By Order 80-2-94, adopted February 15, 1980, the Board directed all interested persons to show cause why the Board should not, subject to the disapproval of the President, renew and amend the foreign air carrier permit held by Transporte Aereo Rioplatense, S.A.C. e I. authorizing (a) nonscheduled foreign air transportation of property and mail between a point or points in Argentina and the coterminal points Miami, Florida; Houston, Texas; Chicago, Illinois; New York, New York; and Los Angeles, California via specified intermediate countries; and (b) the performance of charter trips of property and mail in foreign air transportation pursuant to the Board's Regulations. 1/

The order directed persons objecting to the Board's tentative findings and conclusions set forth in that order, or to the issuance of the proposed foreign air carrier permit, to file their objections within 21 days. In addition, the order provided that in the event no objections were filed, all further procedural steps would be considered waived, and the Secretary would enter an order which (1) would make final the Board's tentative findings and conclusions, and (2) subject to the disapproval of the President pursuant to section 801(a) of the Act, would issue a foreign air carrier permit to Transporte Aereo Rioplatense, S.A.C. e I. in the form attached to the order.

No objections to Order 80-2-94 have been filed.

1/ On January 25, 1977, the City of Houston, Texas and the Houston Chamber of Commerce filed a petition for leave to intervene. Since the Board's Rules of Practice do not provide for intervention in matters handled by show cause procedures, a ruling on the petition to intervene was deferred. Since we have decided that an oral hearing is unnecessary, the petition will be denied.

FOR OFFICIAL USE ONLY

ACCORDINGLY,

1. We make final our tentative findings and conclusions set forth in Order 80-2-94;
2. We are issuing a foreign air carrier permit in the form attached to Transporte Aereo Rioplatense, S.A.C. e I.;
3. We deny the petition for leave to intervene filed by the City of Houston, Texas and the Houston Chamber of Commerce;
4. The Secretary of the Board shall sign the permit on our behalf and shall affix the seal of the Board; and
5. Unless disapproved by the President of the United States under section 801(a) of the Act, this order and the permit attached shall become effective on the 61st day after its submission to the President, 2/ or upon the date of receipt of advice from the President that he does not intend to disapprove the Board's order under that section, whichever is earlier.
6. Transporte Aereo Rioplatense, S.A.C. e I shall be a party to the the rulemaking proceeding for insurance requirements in Dockets 37531 and 37532 (EDR 395), January 28, 1980.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR
Secretary

(SEAL)

All Members concurred.

2/ This order was submitted to the President on MAR 26 1980
The 61st day is MAY 26 1980

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D.C.

PERMIT TO FOREIGN AIR CARRIER
(as amended)

TRANSPORTE AEREO RIOPLATENSE, S.A.C. e I.

is authorized, subject to the following provisions, the provisions of the Federal Aviation Act of 1958, as amended, and the Board's orders, rules and regulations, to engage in foreign air transportation of property and mail:

1. Between a point or points in Argentina; intermediate points in Uruguay, Paraguay, Chile, Bolivia, Peru, Ecuador, Brazil, Venezuela, Colombia, Panama, and the Bahama Islands; and the coterminal points Miami, Florida; Houston, Texas; Chicago, Illinois; and New York, New York.
2. Between a point or points in Argentina; intermediate points in Uruguay, Paraguay, Chile, Bolivia, Columbia, Peru, Ecuador, Brazil, Venezuela, Panama, Costa Rica, and Mexico, and the terminal point Los Angeles, California.

The holder shall be authorized to engage in charter trips of property and mail in foreign air transportation, subject to the terms, conditions, and limitations prescribed by the Board's Regulations governing charters.

This permit shall be subject to the following terms, conditions, and limitations:

- (1) The holder shall not engage in scheduled foreign air transportation.
- (2) The holder shall serve a point or points in Argentina on all flights that serve the United States, except charter flights authorized pursuant to the Board's Regulations.
- (3) The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of Argentina for Argentine international air service.
- (4) The holder shall not operate any aircraft under the authority granted by this permit, unless the holder complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention.
- (5) This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit

remains in effect, to which the United States and Argentina shall be parties.

(6) In the event any practice develops which the Board regards as inimical to fair competition, the holder and the Board will consult, and will use their best efforts to agree upon modifications which are satisfactory to the Board and the holder.

(7) The initial tariff filed by the holder shall not set forth rates, fares and charges lower than those that may be in effect for any U.S. air carrier in the same foreign air transportation; However, this limitation shall not apply to a tariff filed after the initial tariff regardless of whether this subsequent tariff is effective before or after the introduction of the authorized service.

(8) The holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

(9) The holder shall not provide foreign air transportation under this permit unless (a) there is in effect third-party liability insurance in the amount of \$1,000,000 or such other amounts as the Board may require by regulation to meet potential liability claims which may arise in connection with its operations under this permit; (b) there is in effect minimum liability insurance coverage for bodily injury to or death of cargo handlers in the amount of \$75,000 per cargo handler; and (c) there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the insurance provided under (a) and (b) above. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers. 1/

(10) By accepting this permit the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

The exercise of the privileges granted here shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

This permit shall be effective on _____, and shall terminate on October 31, 1983. This permit shall be subject to termination

1/ By EDR-395 and accompanying Show Cause Order 80-1-176, Dockets 37531 and 37532, 45 FR 7566, February 4, 1980, the Board proposed to adopt a new Part 205 of its regulations to require \$20,000,000 in third-party liability insurance, with \$300,000 per person passenger and third-party liability coverage, and to amend foreign air carrier permits to make them subject to the new regulations. The holder will be subject to the insurance requirements provided for in those regulations as they may be finally adopted.

at any time if the authority to conduct flight operations to and from Argentina granted by the Government of Argentina to any air carrier designated by the United States is canceled or restricted: Provided, that if, in the period during which this permit is effective, the operation of the foreign air transportation authorized becomes the subject of any treaty, convention, or agreement to which the United States and Argentina are or shall become parties, and under which the holder is designated by the Government of Argentina, then this permit is continued in effect during the period provided in such treaty, convention or agreement.

The Civil Aeronautics Board, through its Secretary, has executed this permit and affixed its seal on March 17, 1980.

PHYLLIS T. KAYLOR

Secretary

(SEAL)

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D.C.



Adopted by the Civil Aeronautics Board
at its office Washington, D.C.
on the 15th day of February, 1980

Application of

TRANSPORTE AEREO RIOPLATENSE, S.A.C. e I.

Docket 30053

for renewal and amendment of foreign air
carrier permit pursuant to section 402 of the
Federal Aviation Act of 1958, as amended

STATEMENT OF TENTATIVE FINDINGS AND CONCLUSIONS
AND ORDER TO SHOW CAUSE

Transporte Aereo Rioplatense, S.A.C. e I. (TAR) holds a foreign air carrier permit ^{1/} authorizing (1) nonscheduled foreign air transportation of property and mail between Argentina; intermediate points in Uruguay, Paraguay, Chile, Bolivia, Peru, Ecuador, Brazil, Venezuela and Panama; and the coterminal points Miami, Florida and Houston, Texas; and (2) charter services in conformance with the Board's Regulations.

By application filed on November 11, 1976, TAR requested renewal of its existing foreign air carrier permit for an indefinite period or for a period of five years. ^{2/} In addition, TAR sought to have its foreign air carrier permit amended so as to authorize it to engage in nonscheduled foreign air transportation of property and mail over the following routes:

1. Between a point or points in Argentina; intermediate points in Uruguay, Paraguay, Chile, Bolivia, Peru, Ecuador, Brazil, Venezuela, Colombia, Panama, and the Bahama Islands; and the coterminal points Miami, Florida; Houston, Texas; Chicago, Illinois; and New York, New York.

2. Between a point or points in Argentina; intermediate points in Uruguay, Paraguay, Chile, Bolivia, Colombia, Peru, Ecuador, Brazil, Venezuela, Panama, Costa Rica, and Mexico; and the terminal point Los Angeles, California.

TAR also requests a waiver from the requirements of Part 312 of the Board's Procedural Regulations (14 CFR 312) concerning environmental evaluations because the requested authority would not result in any significant

^{1/} Order 71-12-42 approved December 7, 1971.

^{2/} Processing was deferred pending negotiations. A U.S.-Argentina Memorandum of Understanding was finalized July 19, 1977 and implemented by an exchange of notes September 22, 1977. Subsequently, it was decided to process TAR's application by show cause procedures and the carrier filed on March 23, 1979 a petition for an order to show cause, accompanied by exhibits updating facts previously submitted. Allegations that Panamanian, Uruguayan and Argentine carriers were attempting to circumvent frequency restrictions of the MOU caused further delay in processing.

increase in its total civil aviation operations in the United States. 3/

On January 25, 1977, the City of Houston, Texas and the Houston Chamber of Commerce filed a petition for leave to intervene. 4/

TAR states that it intends to transport cargo and mail on a nonscheduled basis between Buenos Aires, Argentina and the following U.S. points: Houston, Los Angeles, New York, Chicago and Miami. TAR currently operates an average of two flights weekly to Houston/Miami; and plans to operate one weekly flight to Los Angeles, and alternating weekly flights to Houston/Miami and New York/Miami. Eventually, TAR hopes to operate one weekly flight to each of the following U.S. points: New York/ Miami, Los Angeles, Houston/ Miami, and Chicago/Houston.

TAR says that it has an agreement with Aerotransportes Entre Rios, S.R.L. (AER), an Argentine all-cargo carrier, for mutual cooperation in certain areas. 5/

On October 18, 1978, International de Aviacion, S.A. (INAI), a Panamanian carrier, filed a motion to consolidate TAR's application with those of three other Latin American all-cargo airlines. 6/ Pan American World Airways, Inc. on October 27, 1978 answered in support of INAI's motion. The motion was denied by Order 79-5-68, May 9, 1979.

On April 6, 1979, Pan American filed an answer opposing the applicant's motion for an order to show cause, and reaffirming its position as set forth in its answer of October 27, 1978 and essentially repeating the various allegations in Dockets 32153 and 26477. Pan American has alleged various relationships, between TAR and other foreign air carriers, that it says require exploration in an oral evidentiary hearing.

3/ The applicant states that the proposed renewal and amendment of its permit will not constitute a major Federal action significantly affecting the quality of the human environment, since the net environmental impact of its proposed operation of four additional flights per month would be de minimus. The applicant also states that the increased flights would result in an annual, near term increase in fuel consumption of less than three million gallons. Considering the limited impact of the proposed operations, we will grant the requested waiver.

4/ Since the Board's Rules of Practice do not provide for intervention in matters handled by show cause procedures (14 CFR 302.15a), we will defer ruling on the petition to intervene.

5/ The agreement states, among others: "The Parties will apply this cooperation in the following areas: improvement and standardization of flying materials, engines, spare parts, appliances and equipment; the reciprocal interchange or lease of aircraft; technical, operational and traffic assistance at the different bases of both parties within the Argentine Republic as well as abroad; communications systems; sales, tariff and marketing systems and any other means which without prejudice to the legal-individuality of each party and its own power of decision."

6/ Corporacion Aeronautica de Carga, S.A. Docket 32797; AER, Docket 26477; and Atlantida Linea Sudamericana, S.A., Docket 32153.

We have examined these matters in Dockets 26477 and 32153 and have concluded the alleged relationships, if proved, would not be decisionally significant. No showing was made that the grants would be contrary to the public interest, and Pan American did not avail itself of the opportunities provided by Show Cause Order 79-5-68 to refute our findings and conclusions. ^{7/} Therefore, we similarly find and conclude here that the grant to TAR is in the public interest.

No other answers were filed.

The operations for which TAR seeks authority are provided for in the civil aviation Memorandum of Understanding (Understanding) with the Government of Argentina of July 19, 1977, as amended September 22, 1977. ^{8/} The Understanding will remain in effect until October 31, 1983. Accordingly, in conformity with the Understanding, the Board tentatively concludes that it is in the public interest to issue a renewed and amended foreign air carrier permit to TAR granting the authority requested in the form of the specimen permit attached to this order. Since the additional authority is granted pursuant to the Understanding it is in the public interest to have TAR's foreign air carrier permit expire at the same time.

In granting a permit to TAR in 1971, the Board found that the carrier was substantially owned and effectively controlled by citizens of Argentina; that it was financially and operationally fit; and that it was in the public interest to grant the carrier a foreign air carrier permit. TAR's application indicates that no changes to its corporate structure or operations have occurred which would cast doubt upon the continued accuracy of the Board's previous findings.

In reviewing the pleadings, we find no material facts of decisional weight to be contested. We also tentatively find that an oral hearing is not required to avoid prejudice to any party, nor is it otherwise required by the public interest (14 CFR 302.1770).

In view of the foregoing and all the facts of record, we tentatively find and conclude that:

1. It is in the public interest to renew and amend the foreign air carrier permit of Transporte Aereo Rioplatense, S.A.C. e I. in the specimen form attached to be effective until October 31, 1983;
2. Transporte Aereo Rioplatense, S.A.C. e I. is fit, willing and able properly to perform the scheduled foreign air transportation described in the specimen permit, and to conform to the provisions of the Act, and the rules and regulations of the Board;
3. The public interest requires that the exercise of the privileges granted by the permit should be subject to the terms, conditions, and limitations contained in the specimen permit attached to this order, and to such other reasonable terms, conditions and limitations required by the public interest as may be prescribed by the Board;

^{7/} Order 79-7-23, effective July 3, 1979, finalized Show Cause Order 79-5-68.

^{8/} The Government of Argentina has designated TAR to operate four weekly all-cargo flights with narrow-bodied aircraft. The terms of the Understanding allow TAR to substitute wide-bodied aircraft for narrow-bodied aircraft in accordance with the substitution ratio set forth in the Understanding.

4. The public interest does not require an oral evidentiary hearing; 9/
5. Pan American's request for consolidation and hearing should be denied;
6. The renewal and amendment of Transporte Aereo Rioplatense, S.A.C. e I. foreign air carrier permit would not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 and would not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975, as defined in section 313.4(a)(1) of the Board's Regulations;10/ and
7. Except to the extent granted, the application of Transporte Aereo Rioplatense, S.A.C. e I. in Docket 30053 should be denied.

ACCORDINGLY,

1. We direct all interested persons to show cause why the Board should not (1) make final its tentative findings and conclusions, and (2) subject to the disapproval of the President pursuant to section 801(a) of the Act, issue the renewed and amended foreign air carrier permit to Transporte Aereo Rioplatense, S.A.C. e I. in the specimen form attached;
2. Any interested persons objecting to the issuance of an order making final the Board's tentative findings and conclusions and issuing the attached specimen permit shall, no later than March 14, 1980, file with the Board and serve on the persons named in paragraph 5, a statement of objections specifying the part or parts of the tentative findings and conclusions objected to, together with a summary of testimony, statistical data, and concrete evidence to be relied upon in support of the objections. An oral evidentiary hearing or discovery procedures may be requested. The objector should state in detail why such a hearing or discovery is considered necessary and what material issues of decisional fact he would expect to establish through such hearings or discovery which cannot be established in written pleadings. The objector should consider whether discovery procedures alone would suffice to resolve material issues of decisional fact; if so, the type of procedure should be specified (see Part 302, Rules 19 and 20); if not, the reasons why not should be explained. If objections are filed, answers may be filed, but no later than March 24, 1980;
3. If timely and properly supported objections are filed, we will give further consideration to the matters and issues raised by the objections before we take further action: Provided, that we may proceed to enter an

9/ Any interested persons having objections to the issuance of an order making final the Board's tentative findings and conclusions, and issuing the attached permit, shall be allowed 21 days from the date of service of this order to respond. Answers may be filed no later than 10 days thereafter.

10/ Our tentative findings are based on the fact that amendment of TAR's permit will not result in a significant increase in current civil aviation operations, nor in a near-term annual increase of more than 10 million gallons of fuel.

order in accordance with our tentative findings and conclusions set forth in this order if we determine that there are no factual issues present that warrant the holding of an oral evidentiary hearing or the institution of discovery procedures; 11/

4. In the event no objections are filed, all further procedural steps shall be deemed waived, and the Secretary shall enter an order which (1) shall make final our tentative findings and conclusions set forth in this order, and (2) subject to the disapproval of the President pursuant to section 801(a) of the Act, shall issue a foreign air carrier permit to the applicant in the specimen form attached; and

5. We shall serve a copy of this order upon Transporte Aereo Rioplatense S.A.C. e I.; the Ambassador of Argentina in Washington, D.C.; International de Aviacion, S.A.; Pan American World Airways, Inc.; and the Departments of State and Transportation; and the City of Houston and the Houston Chamber of Commerce.

We shall publish a summary of this order in the Federal Register and transmit a copy of this order to the President of the United States.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR
Secretary

(SEAL)
All Members concurred.

11/ Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D.C.

PERMIT TO FOREIGN AIR CARRIER
(as amended)

TRANSPORTE AEREO RIOPLATENSE, S.A.C. e I.

is authorized, subject to the following provisions, the provisions of the Federal Aviation Act of 1958, as amended, and the Board's orders, rules and regulations, to engage in foreign air transportation of property and mail:

1. Between a point or points in Argentina; intermediate points in Uruguay, Paraguay, Chile, Bolivia, Peru, Ecuador, Brazil, Venezuela, Colombia, Panama, and the Bahama Islands; and the coterminal points Miami, Florida; Houston, Texas; Chicago, Illinois; and New York, New York.
2. Between a point or points in Argentina; intermediate points in Uruguay, Paraguay, Chile, Bolivia, Columbia, Peru, Ecuador, Brazil, Venezuela, Panama, Costa Rica, and Mexico, and the terminal point Los Angeles, California.

The holder shall be authorized to engage in charter trips of property and mail in foreign air transportation, subject to the terms, conditions, and limitations prescribed by the Board's Regulations governing charters.

This permit shall be subject to the following terms, conditions, and limitations:

- (1) The holder shall not engage in scheduled foreign air transportation.
- (2) The holder shall serve a point or points in Argentina on all flights that serve the United States, except charter flights authorized pursuant to the Board's Regulations.
- (3) The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of Argentina for Argentine international air service.
- (4) The holder shall not operate any aircraft under the authority granted by this permit, unless the holder complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention.
- (5) This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit

remains in effect, to which the United States and Argentina shall be parties.

(6) In the event any practice develops which the Board regards as inimical to fair competition, the holder and the Board will consult, and will use their best efforts to agree upon modifications which are satisfactory to the Board and the holder.

(7) The initial tariff filed by the holder shall not set forth rates, fares and charges lower than those that may be in effect for any U.S. air carrier in the same foreign air transportation; However, this limitation shall not apply to a tariff filed after the initial tariff regardless of whether this subsequent tariff is effective before or after the introduction of the authorized service.

(8) The holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

(9) The holder shall not provide foreign air transportation under this permit unless (a) there is in effect third-party liability insurance in the amount of \$1,000,000 or such other amounts as the Board may require by regulation to meet potential liability claims which may arise in connection with its operations under this permit; (b) there is in effect minimum liability insurance coverage for bodily injury to or death of cargo handlers in the amount of \$75,000 per cargo handler; and (c) there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the insurance provided under (a) and (b) above. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers. 1/

(10) By accepting this permit the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

The exercise of the privileges granted here shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

This permit shall be effective on _____, and shall terminate on October 31, 1983. This permit shall be subject to termination

1/ By EDR-395 and accompanying Show Cause Order 80-1-176, Dockets 37531 and 37532, 45 FR 7566, February 4, 1980, the Board proposed to adopt a new Part 205 of its regulations to require \$20,000,000 in third-party liability insurance, with \$300,000 per person passenger and third-party liability coverage, and to amend foreign air carrier permits to make them subject to the new regulations. The holder will be subject to the insurance requirements provided for in those regulations as they may be finally adopted.

at any time if the authority to conduct flight operations to and from Argentina granted by the Government of Argentina to any air carrier designated by the United States is canceled or restricted: Provided, that if, in the period during which this permit is effective, the operation of the foreign air transportation authorized becomes the subject of any treaty, convention, or agreement to which the United States and Argentina are or shall become parties, and under which the holder is designated by the Government of Argentina, then this permit is continued in effect during the period provided in such treaty, convention or agreement.

The Civil Aeronautics Board, through its Secretary, has executed this permit and affixed its seal on

Secretary

(SEAL)

ID 802507

THE WHITE HOUSE

WASHINGTON

Shrew 5/12/80

DATE: 02 MAY 80

FOR ACTION: LLOYD CUTLER (DOUG HURON) STU EIZENSTAT

INFO ONLY: THE VICE PRESIDENT

SUBJECT: CAB DECISION: THE FLYING TIGER LINE, INC., DOCKET 35473

LAST DAY FOR ACTION: MAY 16, 1980

```

+++++
+  RESPONSE DUE TO DOUG HURON  +
+    BY: 1200 PM MONDAY    05 MAY 80    +
+++++

```

ACTION REQUESTED: YOUR COMMENTS

STAFF RESPONSE: () I CONCUR. () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

DH

ID 302507

THE WHITE HOUSE
WASHINGTON

DATE: 02 MAY 80

FOR ACTION: LLOYD CUTLER (DOUG HURON) SEN EISENSTAT

INFO ONLY: THE VICE PRESIDENT

SUBJECT: CAB DECISION: THE FLYING TIGER LINE, INC., DOCKET 35473

LAST DAY FOR ACTION: MAY 16, 1980

```

+-----+
+ RESPONSE DUE TO DOUG HURON +
+ BY: 1200 PM MONDAY 05 MAY 80 +
+-----+

```

ACTION REQUESTED: YOUR COMMENTS

STAFF RESPONSE: I CONCUR, I DO NOT CONCUR, I HOLD

PLEASE TYPE OTHER COMMENTS BELOW:

*Concur
5/12/80
D. Huron*



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

MAY 2 1980

ACTION

MEMORANDUM FOR THE STAFF SECRETARY

SUBJECT: Civil Aeronautics Board Decision:

The Flying Tiger Line Inc.

Docket 35473

Due Date: May 16, 1980

You will find attached a memorandum for the President about the above international aviation case. The interested executive agencies have reviewed the Board's decision and have no objection to the proposed order.

This is a routine, noncontroversial matter. No foreign policy or national defense reasons for disapproving the Board's order have been identified. I recommend that the President sign the attached letter to the Chairman which indicates that he does not intend to disapprove the Board's order within the 60 days allowed by statute. Otherwise, the Board's order becomes final on the 61st day.

/s/ R. O. Schlickeisen

R. O. Schlickeisen
Associate Director for
Economics and Government

Attachments:

Memorandum to the President
CAB letter of transmittal
CAB order
Letter to the Chairman



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

MAY 2 1980

ACTION

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decision:
The Flying Tiger Line Inc.
Docket 35473
Due Date: May 16, 1980

The Civil Aeronautics Board proposes to amend a certain route certificate of The Flying Tiger Line Inc. to include Travis Air Force Base, California. This action would allow the carrier to transport military mail and cargo on its commercial flights.

The Departments of State, Defense, Justice and Transportation and the National Security Council have not identified any foreign policy or national defense reasons for disapproving the Board's order in whole or in part.

The Office of Management and Budget recommends that you approve the Board's decision by signing the attached letter to the Chairman which indicates that you do not intend to disapprove the Board's order within the 60 days allowed by statute for your review. Also, OMB recommends that you state in your letter that no national defense or foreign policy reason underlies your action. This will preserve whatever opportunity is available under the statute for judicial review.

/s/ R. O. Schlickeisen

R. O. Schlickeisen
Associate Director for
Economics and Government

Attachments:

CAB letter of transmittal
CAB order
Letter to the Chairman

Options and Implementation Actions:

- 1) Approve the Board's order and preserve whatever opportunity is available for judicial review (DOS, DOD, DOJ, DOT, NSC, OMB.)
-- Sign the attached letter to the Chairman.
- 2) Approve the Board's order and do nothing to preserve whatever opportunity is available for judicial review.
-- Implementation materials to be prepared.
- 3) Disapprove the Board's order.
-- Implementation materials to be prepared.
- 4) See me.

THE WHITE HOUSE

WASHINGTON

To Chairman Marvin Cohen

I have reviewed the following order proposed by the Civil Aeronautics Board:

The Flying Tiger Line Inc.

Docket 35473

I do not intend to disapprove the Board's order within the 60 days allowed by statute. No foreign policy or national defense reason underlies my action.

Sincerely,

The Honorable Marvin S. Cohen
Chairman
Civil Aeronautics Board
Washington, D.C. 20428

FOR OFFICIAL USE ONLY

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C.

Adopted by the Civil Aeronautics Board
at its office in Washington, D. C.
on the 5th day of March, 1980

In the matter of :
 :
 THE FLYING TIGER LINE INC. :
 :
 amendment of the certificate of public: Docket 35473
 convenience and necessity pursuant :
 to section 401 of the Federal Aviation: :
 Act of 1958, as amended :
 :

ORDER

By Order 80-2-38, adopted February 5, 1980, the Board directed all interested persons to show cause why the Board should not, subject to the disapproval of the President, amend the certificate of The Flying Tiger Line Inc. for Route 163 to include Travis Air Force Base, California as a U.S. coterminal for the purpose of allowing the carrier to transport military mail and property moving on U.S. Government transportation requests and bills of lading on its commercial flights.

The order directed interested persons having objections to the Board's tentative findings and conclusions set forth in that order, or to the issuance of the amended certificate, to file their objections within 21 days. In addition, the order provided that in the event no objections were filed all further procedural steps would be deemed waived, and the Secretary would enter an order which (1) would make final the Board's tentative findings and conclusions; and (2) subject to the disapproval of the President pursuant to section 801(a) of the Act, would issue an amended certificate adding Travis Air Force Base, California as a certificated point to Flying Tiger Route 163.

No objections to Order 80-2-38 have been filed.

ACCORDINGLY,

1. We hereby affirm our tentative findings and conclusions set forth in Order 80-2-38.

FOR OFFICIAL USE ONLY

2. We amend the certificate of public convenience and necessity of The Flying Tiger Line Inc. for Route 163 to include Travis Air Force Base, California for the purpose of allowing the carrier to transport military mail and property moving on U.S. Government bills of lading on its commercial flights; 1/

3. The Secretary of the Board shall sign the certificate on our behalf and shall affix the seal of the Board; and

4. Unless disapproved by the President of the United States under section 801(a) of the Act, this order and the permit attached shall become effective on the 61st day after its submission to the President, 2/ or upon the date of receipt of advice from the President that he does not intend to disapprove the Board's order under that section, whichever is earlier.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR
Secretary

(SEAL)

All Members concurred.

1/ The carriers will be assessed a license fee at a future date in connection with the authority granted here. In Order 77-4-41/42, April 8, 1977, the Board suspended the payment of license fees pending reexamination of the license fee regulations, although we indicated that we intended to collect appropriate license fees when such fees are recalculated in accordance with the principles announced in recent court decisions. Accordingly, we shall expressly condition the continuing effectiveness of the authority granted here upon the timely payment of such license fees as will be required under new rules to be prescribed by the Board. We have followed this approach since we suspended the license fee payment requirement on April 8, 1977.

2/ This order was submitted to the President on MAR 17 1980
The 61st day is

MAY 17 1980

CERTIFICATE AMENDMENT

The Flying Tiger Line Inc. for Route 163

Add the following point as a new U.S. coterminal:

"Travis Air Force Base, California".

Add the following condition:

"The holder's authority to serve Travis Air Force Base is limited to the carriage of (1) property moving on Government bills of lading and (2) all classes of military mail."

6. We shall serve this order upon The Flying Tiger Line Inc. and the United States Department of Defense.

We shall publish a summary of this order in the Federal Register and shall transmit a copy to the President of the United States.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR
Secretary

(SEAL)
All Members concurred.

UNITED STATES OF AMERICA
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C.



Adopted by the Civil Aeronautics Board
at its office in Washington, D. C.
on the 5th day of February, 1980

In the matter of	:	
	:	
THE FLYING TIGER LINE INC.	:	
	:	
amendment of certificate of public	:	Docket 35473
convenience and necessity pursuant to	:	
section 401 of the Federal Aviation	:	
Act of 1858, as amended	:	

ORDER TO SHOW CAUSE

The Flying Tiger Line (Flying Tiger) has applied for renewal of its exemption authority to serve Travis Air Force Base, California on its Route 163. That exemption permits the carrier to transport military mail and cargo on behalf of the Department of Defense on commercial flights serving points in the Pacific. 1/

In support of its application, Flying Tiger states that it has been serving Travis under exemption authority for many years; that it satisfies the air transportation needs of the Department of Defense (DOD) and that the Board has previously determined that DOD benefits substantially from this service.

DOD has answered supporting Flying Tiger's application. No other answers have been filed.

We have tentatively decided to grant Flying Tiger certificate authority to serve Travis in lieu of renewing its exemption. The Board first granted Flying Tiger an exemption in 1969 and has renewed it four times over the past 10 years. 2/ The Board has repeatedly found that the carrier's service benefits the national defense and is in the public interest. The record continues to support those findings. However, we are proposing to convert the exemption authority to certificate authority, similar to our conversion of Pan American's, Seaboard's and

1/ The exemption authority was last granted by Order 77-7-155, and was scheduled to expire on September 14, 1979. The carrier has invoked the automatic extension provisions of 5 U.S.C. 558(c).

2/ See Orders 69-10-112, 71-9-55, 73-9-32, 75-8-52, 77-7-155.

TWA's Dover/McGuire-Mildenhall exemption authority 3/ and Pan American's Travis exemption authority. 4/ We find that the proposed transportation is required by the public convenience and necessity for the reasons which supported the previous grants of exemption authority. Moreover, our proposed action will eliminate the regulatory burden of processing exemption applications every two years. We are therefore directing all interested persons to show cause why Flying Tiger's certificate for Route 163 should not be amended to authorize the carrier to serve Travis Air Force Base for the purpose of transporting military mail and cargo on its commercial operations.

We tentatively find (1) that Flying Tiger is a citizen of the United States within the meaning of the Federal Aviation Act of 1958, as amended; (2) that it is fit, willing and able to perform the air transportation proposed and to conform to the provisions of the Act and the Board's rules, regulations and requirements; (3) that no oral evidentiary hearing is warranted since there are no material determinative issues of fact requiring such hearing for their resolution; and (4) that a grant of this authority will neither constitute a "major Federal action" within the meaning of the National Environmental Policy Act of 1969 nor a "major regulatory action" under the Energy Policy and Conservation Act of 1975 since it will not significantly alter the level of service at any point or result in the near term consumption of 10 million gallons of fuel or more. 5/

ACCORDINGLY:

1. We direct all interested persons to show cause why the Board should not (a) make final its tentative findings and conclusions stated in this order; and (b) subject to the disapproval of the President issue an amended certificate to The Flying Tiger Line Inc. for Route 163 to include Travis Air Force Base, California as a U.S. coterminal for the purpose of allowing the carrier to transport military property and mail moving on U.S. Government bills of lading;

3/ Order 78-10-134.

4/ Order 79-12-40.

5/ We do not anticipate an increase in carrier operations as a result of the grant of this authority.

2. Any interested person having objection to the issuance of an order making final the Board's tentative findings and conclusions and certificate amendments shall file with the Board and serve on the persons named in paragraph 6 no later than March 4, 1980, a statement of objections specifying the part or parts of the tentative findings and conclusions objected to, and include a summary of testimony, statistical data, and concrete evidence to be relied upon in support of the objections. An oral evidentiary hearing or discovery procedures may be requested. The objector should state in detail why such hearing or discovery procedures are considered necessary and what material issues of decisional fact he would expect to establish through such hearing or discovery which cannot be established in written pleadings. The objector should consider whether discovery procedures alone would suffice to resolve material issues of decisional fact; if so, the type of procedure should be specified (see Part 302, Rules 19 and 20); if not, the reasons why not should be explained. If objections are filed, answers may be filed, but no later than March 14, 1980;

3. If timely and properly supported objections are filed, we will give further consideration to the matters and issues raised by the objections before we take further action; provided, that we may proceed to enter an order in accordance with our tentative findings and conclusions set forth in this order if we determine that there are no factual issues present that warrant the holding of an oral evidentiary hearing or the institution of discovery procedures; 6/

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Secretary shall enter an order which (a) shall make final our tentative findings and conclusions set forth in the order, and (b) subject to the disapproval of the President pursuant to section 801(a) of the Act, shall issue an amended certificate to The Flying Tiger Line Inc.;

5. Unless disapproved by the President of the United States under section 801(a) of the Act, the amended certificate referred to in paragraph 4 shall become effective on the 61st day after its submission to the President, or upon the date of receipt of advice from the President that he does not intend to disapprove the Board's order under that section, whichever is earlier; and

6/ Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

WHITE HOUSE
MAIL ROOM

1990 MAY 14 PM 4 58

THE WHITE HOUSE
WASHINGTON

Summary

9
R. Hutcherson
UNITED STATES COMMISSION ON CIVIL RIGHTS

Washington, D. C. 20425

071677

MAY 14 1980

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

In recent weeks, the Commission has become increasingly concerned over allegations that the United States is discriminating against alien refugees because of their race. These charges have centered around the different treatment that until very recently has been accorded to Haitians, who are black, and to Cubans, most of whom are white, who have fled their homelands and sought admission to this country.

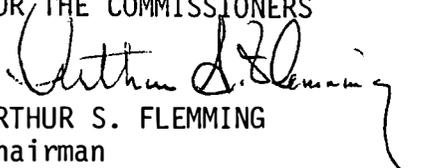
We recognize that factors other than race have entered into the different standards applied to these groups. We are mindful of the distinction between persons fearing government persecution in their homeland and persons seeking greater financial ease; however, we believe that economic and political motives are often so closely intertwined that different presumptions on these points based on an alien's country of origin can be perceived as unfair and can in fact operate unfairly.

One thing is clear. Those who are in our midst--whatever their country of origin and whatever their status--are persons who are entitled to the full protection of the Bill of Rights as incorporated in our Constitution. If denials of due process and equal protection of the laws are occurring, they should be stopped; if they have occurred, they should be remedied.

We therefore urge you to employ all means at your disposal to ensure that our policies and practices with regard to refugees are free from unconstitutional discrimination, and that any deprivation of status or benefits that may have occurred because of such discrimination is corrected. Such discrimination and its perceived effects are damaging to racial harmony within our borders and are contrary to the most fundamental principles on which our Nation is based.

Sincerely,

FOR THE COMMISSIONERS


ARTHUR S. FLEMMING
Chairman

THE WHITE HOUSE

WASHINGTON

May 13, 1980

S. ...

MEMORANDUM FOR THE PRESIDENT

FROM:

HUGH CARTER *HC*
ESTEBAN TORRES *ET*

SUBJECT:

Report of the Presidential Delegation to
the Funeral of Former Governor Luis Munoz-Marin
of Puerto Rico

The White House and Congressional presence at the funeral of Governor Munoz-Marin was a very positive action and extremely well received.

Many felt that the attendance of your Presidential delegation showed an above-politics attitude in recognizing a true statesman who did so much for Puerto Rico.

THE WHITE HOUSE

WASHINGTON

May 9, 1980

MEMORANDUM FOR THE PRESIDENT

FROM : AL MCDONALD *AM*

Following your expression of concern over the clearance process for emergency declarations, I am working with Jack Watson to make sure that we have a standard clearance procedure with whatever consultations may be needed, including Congressional Liaison, before these documents come to you for signature.

ID 802668

THE WHITE HOUSE

WASHINGTON

DATE: 12 MAY 80

FOR ACTION: DOUG HURON

STU EIZENSTAT

Concurs

INFO ONLY: THE VICE PRESIDENT

SUBJECT: CAB DECISION AIR FLORIDA DOCKET 35632 AND BRIANIFF
DOCKET 37174

+++++

+ RESPONSE DUE TO DOUG HURON +

+ BY: 1200 PM WEDNESDAY 14 MAY 80 +

+++++

ACTION REQUESTED: YOUR COMMENTS

STAFF RESPONSE: () I CONCUR. () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

**Electrostatic Copy Made
for Preservation Purposes**



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

MAY 12 1980

ACTION

MEMORANDUM FOR THE STAFF SECRETARY

SUBJECT: Civil Aeronautics Board Decisions:

Air Florida, Inc.

Braniff Airways, Inc.

Docket 36632

Docket 37174

Date Due: May 27, 1980

Date Due: June 3, 1980

You will find attached a memorandum for the President about the above international aviation cases. The interested executive agencies have reviewed the Board's decisions and have no objection to the proposed orders.

These are routine, noncontroversial matters. No foreign policy or national defense reasons for disapproving the Board's orders have been identified. I recommend that the President sign the attached letter to the Chairman which indicates that he does not intend to disapprove the Board's orders within the 60 days allowed by statute. Otherwise, the Board's orders become final on the 61st day.

R. O. Schlickeisen
Associate Director for
Economics and Government

Attachments:

Memorandum to the President
CAB letters of transmittal
CAB orders
Letter to the Chairman



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

MAY 12 1980

ACTION

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decisions:

Air Florida, Inc.

Braniff Airways, Inc.

Docket 36632

Docket 37174

Date Due: May 27, 1980

Date Due: June 3, 1980

The Civil Aeronautics Board proposes to take the following actions with regard to the above international aviation cases:

- The foreign route certificate of Air Florida, Inc. will be amended to authorize air transportation of persons, property and mail between Miami, Florida and Puerto Plata, Dominican Republic, nonstop or by way of a point or points in the Bahama Islands. This action will allow the initiation of air services between the United States and an entirely new vacation destination in the Dominican Republic.
- The foreign route certificate of Braniff Airways, Inc. will be amended to permit the carrier to offer either Dallas/ Ft. Worth-Benelux nonstop service or Dallas/ Ft. Worth-Benelux one-stop single-plane service by way of London, England. The Benelux destination is composed of the coterminal points in Belgium, the Netherlands, and Luxembourg. In the Board's view, this action will result in increased service and competition in the U.S.-Europe and London-Amsterdam markets.

The Departments of State, Defense, Justice and Transportation and the National Security Council have not identified any foreign policy or national defense reasons for disapproving the Board's orders in whole or in part.

The Office of Management and Budget recommends that you approve the Board's decisions by signing the attached letter to the Chairman which indicates that you do not intend to disapprove the Board's orders within the 60 days allowed by statute for your review. Also, OMB recommends that you state in your letter that no national defense or foreign policy reason underlies your action. This will preserve whatever opportunity is available under the statute for judicial review.

/s/ R. O. Schlickeisen

R. O Schlickeisen
Associate Director for
Economics and Government

Attachments:

- CAB letters of transmittal
- CAB orders
- Letter to the Chairman

Options and Implementation Actions:

- 1) Approve the Board's orders and preserve whatever opportunity is available for judicial review (DOS, DOD, DOJ, DOT, NSC, OMB).
-- Sign the attached letter to the Chairman.
- 2) Approve the Board's orders and do nothing to preserve whatever opportunity is available for judicial review.
-- Implementation materials to be prepared.
- 3) Disapprove the Board's orders.
-- Implementation materials to be prepared.
- 4) See me.

THE WHITE HOUSE

WASHINGTON

May 15, 1980

To Chairman Marvin Cohen

I have reviewed the following orders proposed by the Civil Aeronautics Board:

Air Florida, Inc.

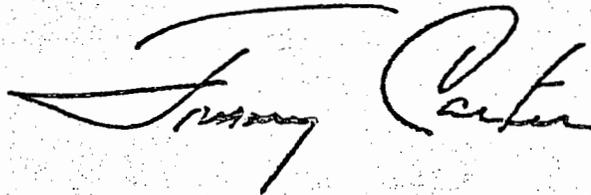
Braniff Airways, Inc.

Docket 36632

Docket 37174

I do not intend to disapprove the Board's orders within the 60 days allowed by statute. No foreign policy or national defense reason underlies my action.

Sincerely,



The Honorable Marvin S. Cohen
Chairman
Civil Aeronautics Board
Washington, D.C. 20428

Tom Sides, OMB, notified 5/15/80

Orig. to addressee: 5/15/80



18
RK

NATIONAL ADVISORY COUNCIL ON ECONOMIC OPPORTUNITY

SUITE 405 - 1725 K STREET, N.W.

WASHINGTON, D.C. 20006

May 15, 1980

PERSONAL:

The President
The White House
Washington DC

071911

Dear Mr. President:

During this difficult period of international peril and economic crisis, I am sure that your days and weeks must be terribly pressured and wearisome; the burdens are so enormous. Very often, under these circumstances, good news goes unnoticed. That is why I think it important to take the time to write and to congratulate you on your recent decision to appoint Richard Rios as Director of the Community Services Administration. As Chairman of the Council for the past three years, and as one who has been intimately and actively involved with the Agency's anti-poverty effort for 15 years, I can say without reservation that you made an excellent choice.

It is with this in mind that I wanted to assure you that this exemplary appointment has not gone unnoticed. The enclosed edition of Counteraction was sent out to over 7,000 low-income neighborhood organizations throughout the country -- in the varied fields of social and human services. As the article indicates, the reaction has been swift and, without exception, laudatory. The simple fact is that Rick Rios is an outstanding and competent individual.

I also think it important to commend the fine efforts of Jack Watson, Arnie Miller and, in particular, Tom Goodwin. Tom conducted an absolutely thorough, objective, and fair-minded search in recruiting the best talent. In doing so, he was extremely sensitive to the various program constituencies among the some 1,400 community-based delegate agencies of CSA, as well as the diverse cultural and minority interests.

Pres/RJR-AIB/kcs
5/15/80 - P2 of 2

Just as I think that the effort of your staff reflects well upon the Administration, I am sure that you, personally, will one day look back with pride at the performance of Rick Rios.

Please give my best to Rosalynn and tell her that in our upcoming Annual Report we will focus on the issue of volunteerism and the role of voluntary associations.

With my best personal wishes for your continued success,

Sincerely,



Arthur I. Blaustein
Chairman

AIB/kcs

COUNTERACTION

Vol. 3 Number 2

FOR AMERICA'S COMMUNITY ACTION LEADERS

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RICHARD JOHN RIOS

Richard Rios To Be Named CSA Director • A Stateswoman for the Poor: Cardiss Collins • Dramatic Results from CSA Home Repairs • The Latest in Grants and Awards • Short Takes on Domestic Programs and Oil Profits

BLAUSTEIN
NATIONAL ADVISORY COUNCIL
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The White House
Washington DC

National Journal

Standards Standoff
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THE WEEKLY ON POLITICS AND GOVERNMENT MAY 3, 1980/NO. 18

Coal for Utilities:
Energy Solution or
Environmental Mess?



The Acid Rainstorm



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THE WHITE HOUSE
WASHINGTON

May 21, 1980

*Stu: John should
have a policy for
allotting the scarce
funds to the highest
priority needs -*

MEMORANDUM FOR:

THE PRESIDENT

FROM:

STU EIZENSTAT *Stu*
LYNN DAFT *L*

SUBJECT:

Major Disaster Declaration
for Louisiana

In the attached letter, John Macy recommends that you grant a major disaster declaration for the State of Louisiana due to flooding. In the event of a declaration, individual assistance would be immediately available. Public assistance will be provided if the completed damage assessment and a review of the State and local government commitment indicates that it is required.

We recommend that you approve the disaster declaration for Louisiana.

You should be aware that in his transmittal letter, John Macy notes that the appropriations to the Disaster Relief Fund are virtually all obligated. Unless the pending supplementals are promptly approved, there could be long delays in the obligation or disbursement of funds for public assistance in the future.

NEWSWEEK 5-21-80

LUNCH/NEWSWEEK EDITORIAL BOARD 5/21/80
LESTER BERNSTEIN, EDITOR
RCA NEWS-TIME, NY
KEN AUCHINCLOSS - MAN ED.
MAYNARD PARKER - EX ~~SR~~^S
(INT)
STEVE SHEPARD - NAT AFF
(CAM '80)
ROD GANDER - ASST MAN ED

Hotel/Motel IND 5-21-80

DRUGS. FOOD. NONFERROUS.

CHEM. FARM EQUIPT. PEST.

GOOD COOP

NOT EM N/M IND.

PRICES, COOP

VOL COMPL. CRUCIAL

4079-17 1080.23

78/79 OCCUP. HIGHEST, 20415.

COMPLIANCE STATUS 715?

HOLIDAY INN +

PROGRESS. AIRLINE, TRUCK, RAIL,
INT - NO GAS RATIONING

Hotel/Motel Industry Leaders 5/21/80