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MEMORANDUM

THE WHITE HOUSE

WASHINGTON

March 28, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Civil Aeronautics Board Decision in
Capitol Air, Inc. (Docket No. 41058)

Richard Darman's office has requested comments by close of business March 29, 1983 on the above-referenced CAB decision involving international aviation, which was submitted for Presidential review as required by § 801(a) of the Federal Aviation Act of 1958, as amended, 49 U.S.C. § 1461(a). Under this section, the President may disapprove, solely on the basis of foreign relations or national defense considerations, CAB actions involving either foreign air carriers or domestic carriers involved in foreign air transportation. If the President wishes to disapprove such CAB actions, he must do so within sixty days of submission (in this case, by April 10, 1983).

The order here has been reviewed by the appropriate departments and agencies, following the procedures established by Executive Order No. 11920 (1976). OMB recommends that the President not disapprove, and reports that the NSC and the Departments of State, Defense, Justice and Transportation have not identified any foreign relations or national defense reasons for disapproval. Since this order involves a domestic carrier, judicial review is theoretically available. Hence, the proposed letter from the President to the CAB Chairman prepared by OMB includes the standard sentence designed to preserve availability of judicial review, as contemplated by the Executive Order for cases involving domestic airlines.

My review of the order and related materials confirms the OMB description of this as a "routine, noncontroversial" matter. The order simply authorizes Capitol Air, Inc. to provide service between the United States and Tel Aviv.

A memorandum for Darman is attached for your review and signature.

Attachment

THE WHITE HOUSE

WASHINGTON

March 28, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING *Orig. signed by FFF*
COUNSEL TO THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decision in
Capitol Air, Inc. (Docket No. 41058)

Our office has reviewed the above-referenced CAB decision and related materials and has no legal objection to the procedure that was followed with respect to Presidential review of such decisions under 49 U.S.C. § 1461(a).

We also have no legal objection to OMB's recommendation that the President not disapprove this order or to the substance of the letter from the President to the CAB Chairman prepared by OMB.

FFF:JGR:aw 3/28/83

cc: FFFielding
JGRoberts
Subj.
Chron

THE WHITE HOUSE
WASHINGTON

March 28, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decision in
Capitol Air, Inc. (Docket No. 41058)

Our office has reviewed the above-referenced CAB decision and related materials and has no legal objection to the procedure that was followed with respect to Presidential review of such decisions under 49 U.S.C. § 1461(a).

We also have no legal objection to OMB's recommendation that the President not disapprove this order or to the substance of the letter from the President to the CAB Chairman prepared by OMB.

FFF:JGR:aw 3/28/83

cc: FFFielding
JGRoberts
Subj.
Chron

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1/1/

Name of Correspondent:

Richard G. Harman

☐ MI Mail Report

User Codes: (A) _____

(B) _____

(C) _____

Subject:

CAB Decision re: Capital Air, Inc.

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
W Holland	ORIGINATOR	83 103 25			1/1
CUAT 18	D	83 103 25		S	83 103 29
	Referral Note:				
		1/1			1/1
	Referral Note:				
		1/1			1/1
	Referral Note:				
		1/1			1/1
	Referral Note:				

ACTION CODES:

A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet
to be used as Enclosure

I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:

A - Answered
B - Non-Special Referral
C - Completed
S - Suspended

FOR OUTGOING CORRESPONDENCE:

Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments:

Keep this worksheet attached to the original incoming letter.
Send all routing updates to Central Reference (Room 75, OEOB).
Always return completed correspondence record to Central Files.
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

WHITE HOUSE STAFFING MEMORANDUM

DATE: 3/25/83 ACTION/CONCURRENCE/COMMENT DUE BY: 3/29/83

SUBJECT: CAB DECISION RE CAPITOL AIR, INC.

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	GERGEN	<input type="checkbox"/>	<input type="checkbox"/>
MEESE	<input type="checkbox"/>	<input type="checkbox"/>	HARPER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BAKER	<input type="checkbox"/>	<input type="checkbox"/>	JENKINS	<input type="checkbox"/>	<input type="checkbox"/>
DEAVER	<input type="checkbox"/>	<input type="checkbox"/>	MURPHY	<input type="checkbox"/>	<input type="checkbox"/>
STOCKMAN	<input type="checkbox"/>	<input type="checkbox"/>	ROLLINS	<input type="checkbox"/>	<input type="checkbox"/>
CLARK	<input type="checkbox"/>	<input type="checkbox"/>	WHITTLESEY	<input type="checkbox"/>	<input type="checkbox"/>
DARMAN	<input type="checkbox"/> P	<input type="checkbox"/> SS	WILLIAMSON	<input type="checkbox"/>	<input type="checkbox"/>
DUBERSTEIN	<input type="checkbox"/>	<input type="checkbox"/>	VON DAMM	<input type="checkbox"/>	<input type="checkbox"/>
FELDSTEIN	<input type="checkbox"/>	<input type="checkbox"/>	BRADY/SPEAKES	<input type="checkbox"/>	<input type="checkbox"/>
FIELDING	<input checked="" type="checkbox"/>	<input type="checkbox"/>	ROGERS	<input type="checkbox"/>	<input type="checkbox"/>
FULLER	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

Remarks:

May we have your comments on the attached CAB decision by March 29.
Thank you.

Richard G. Darman
Assistant to the President
(x2702)

Response:



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

MAR 25 1983

ACTION

MEMORANDUM FOR THE STAFF SECRETARY

SUBJECT: Civil Aeronautics Board Decision:

Capitol Air, Inc.
Docket 41058
Date due: April 10, 1983

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.

Joseph R. Wright, Jr.

Joseph R. Wright, Jr.
Deputy Director

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

MAR 25 1983

ACTION

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decision:

Capitol Air, Inc.
Docket 41058
Date due: April 10, 1983

The Civil Aeronautics Board proposes to amend the certificate of Capitol Air, Inc., authorizing the airline to transport persons, property, and mail between the United States and Tel Aviv, Israel.

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 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. 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.

Joseph R. Wright, Jr.
Joseph R. Wright, Jr.
Deputy Director

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

Dear Chairman McKinnon:

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

Capitol Air, Inc.

Docket: 41058

I have decided not to disapprove the Board's order. No foreign policy or national defense reason underlies my action.

Sincerely,

The Honorable Dan McKinnon
Chairman
Civil Aeronautics Board
Washington, D.C. 20428

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 8th day of February, 1983

Application of

CAPITOL AIR, INC.

for an amendment to its certificate
of public convenience and necessity
pursuant to section 401 of the
Federal Aviation Act of 1958, as
amended

Docket 41058

ORDER ESTABLISHING FURTHER PROCEDURES AND AMENDING CERTIFICATE

On October 19, 1982, Capitol Air, Inc. filed an application in Docket 41058 under Subpart Q of the Board's Procedural Regulations requesting that its certificate of public convenience and necessity for Route 191-F be amended to permit it to offer scheduled foreign air transportation of persons, property and mail between a point or points in the United States and Tel Aviv, Israel. Capitol stated that it would implement such authority by extending existing U.S.-Europe service. It filed an illustrative schedule, which indicates a New York-Brussels-Tel Aviv operation.

In support of its application, Capitol states that its proposal is consistent with the U.S. bilateral aviation agreement with Israel; that the proposal is consistent with the public convenience and necessity; that service to Tel Aviv represents a logical and prudent extension of its current U.S.-Europe operations; and that Capitol is fit, willing, and able to perform such air transportation properly and to conform to the provisions of the Act and its rules, regulations, and requirements.

No answers to Capitol's application have been received. 1/

1/ The public was informed of the carrier's application by notices in the Federal Register on October 29, 1982 (47 FR 49052) and in the Board's weekly list of applications filed. These notices described the authority sought, advised the public that simplified procedures might be used to process the application, and gave interested parties an opportunity to submit objections.

We find that an oral evidentiary hearing or show-cause proceeding is unnecessary since there are no material, determinative issues of fact requiring such procedures for their resolution; and that we should proceed directly to a final decision and grant of this application. 2/

The United States-Israel Air Transport Agreement provides for U.S. carrier service between the United States and Tel Aviv, and places no restriction on the number of U.S. carriers that may serve that market. We have previously determined that the grant of U.S.-Tel Aviv scheduled certificate authority promotes our policy of maximizing entry opportunities presented by bilateral agreements, injects additional competition, and is, for these reasons, consistent with the public convenience and necessity. 3/ The factors that supported these determinations continue to apply and warrant approval of Capitol's request.

We will grant Capitol the authority to integrate its Tel Aviv authority with the other points listed on Segment 1 of its certificate for Route 191-F. 4/ This will enable it to operate U.S.-Tel Aviv service via European intermediate points, as it requested. The carrier will thus have the flexibility to adapt its service to dynamic market demand without regulatory interference, thus benefitting the travelling and shipping public. Our authorization is subject to our standard certificate conditions, including that which requires Capitol's operations to be consistent with all treaties and agreements between the United States and other countries.

We further find, based on officially noticeable material, that Capitol is a citizen of the United States and is fit, willing, and able to perform properly the proposed services and to conform to the requirements of the Act and our regulations. 5/ We have analyzed the operating and fuel submission data of Capitol's application and conclude that the proposed service would not trigger the standards for an environmental assessment as set forth in our regulations (14 C.F.R. 312.10) or constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975 (14 C.F.R. 313.4). 6/

2/ See Rules 29(b) and 1750(a)(3) of the Board's Rules of Practice.

3/ See Protocol Relating to United States-Israel Air Transport Agreement, Article 3. See also Order 82-6-9, and Order 81-12-160.

4/ On January 14, 1983, we submitted an Order to the President, pursuant to section 801 of the Act, which amended and reissued Capitol's certificate for Route 191-F. Should the President disapprove that order, we shall amend this order accordingly.

5/ Officially noticeable data consist of facts contained in certain documents listed in Rule 24(m) of our Procedural Regulations.

6/ Capitol estimates a net annual increase in its fuel consumption for the proposed service at approximately 2.5 million gallons. The threshold standard for identifying a "major regulatory action" is 10 million gallons.

ACCORDINGLY,

1. We amend the certificate of Capitol Air, Inc. for Route 191-F, in the form attached, to authorize it to engage in scheduled foreign air transportation of persons, property and mail between a point or points in the United States and Tel Aviv, Israel, on Segment 1 of its certificate;

2. The authority granted in paragraph 1 shall become effective under section 801(a) of the Federal Aviation Act of 1958, as amended, on the 61st day after submission of this order to the President of the United States, unless he disapproves the order, or upon the date of receipt of advice from the President that he does not intend to disapprove the Board's order, whichever occurs earlier; 7/ and

3. We will serve a copy of this order upon Capitol Air, Inc., the Ambassador of Israel in Washington, D.C., and upon the Departments of State and Transportation.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR
Secretary

(SEAL)

All Members concurred.

7/ This order was submitted to the President on **FEB 9 1983**
The 61st day is **APR 11 1983**

CERTIFICATE AMENDMENT

Capitol Air, Inc. for Route 191-F

Amend Segment 1 to read as follows:

"Between a point or points in the United States and Shannon, Ireland, Athens, Greece, Tel Aviv, Israel, and a point or points in Belgium, the Netherlands, Luxembourg, the Federal Republic of Germany, Switzerland, Bahrain, Egypt, Kuwait, Oman, Qatar, and the United Arab Emirates."

Certificate Amendment Effective:

THE WHITE HOUSE

WASHINGTON

April 5, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Civil Aeronautics Board Decisions in
Transamerica; U.S.-People's Republic
of China and Airborne Express, Inc.

Richard Darman's office has requested comments by April 7, 1983 on the above-referenced CAB decisions involving international aviation, which were submitted for Presidential review as required by § 801(a) of the Federal Aviation Act of 1958, as amended, 49 U.S.C. § 1461(a). Under this section, the President may disapprove, solely on the basis of foreign relations or national defense considerations, CAB actions involving either foreign air carriers or domestic carriers involved in foreign air transportation. If the President wishes to disapprove such CAB actions, he must do so within sixty days of submission (in these cases, by April 29, 30 and 30, 1983, respectively).

The orders here have been reviewed by the appropriate departments and agencies, following the procedures established by Executive Order No. 11920 (1976). OMB recommends that the President not disapprove, and reports that the NSC and the Departments of State, Defense, Justice and Transportation have not identified any foreign relations or national defense reasons for disapproval. Since these orders involve domestic carriers, judicial review is theoretically available. Hence, the proposed letter from the President to the CAB Chairman prepared by OMB includes the standard sentence designed to preserve availability of judicial review, as contemplated by the Executive Order for cases involving domestic airlines.

My review of the orders and related materials confirms the OMB description of these as "routine, noncontroversial" matters. The order in Transamerica denies that airline's request to become back-up carrier on Pan American's China route, in keeping with CAB practice only to assign back-up

carriers on routes being served for the first time by a U.S. carrier. The order in U.S.-People's Republic of China selects Northwest Airlines as the second U.S. carrier to serve China, and the order in Airborne Express authorizes service from Washington and Cleveland to Toronto, and vice versa.

A memorandum for Darman is attached for your review and signature.

Attachment

THE WHITE HOUSE

WASHINGTON

April 5, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING Orig. signed by FFF
COUNSEL TO THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decisions in
Transamerica; U.S.-People's Republic
of China and Airborne Express, Inc.

Our office has reviewed the above-referenced CAB decisions and related materials and has no legal objection to the procedure that was followed with respect to Presidential review of such decisions under 49 U.S.C. § 1461(a).

We also have no legal objection to OMB's recommendation that the President not disapprove these orders or to the substance of the letter from the President to the CAB Chairman prepared by OMB.

FFF:JGR:aw 4/5/83

cc: FFFielding
JGRoberts
Subj.
Chron

THE WHITE HOUSE

WASHINGTON

April 5, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decisions in
Transamerica; U.S.-People's Republic
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We also have no legal objection to OMB's recommendation that the President not disapprove these orders or to the substance of the letter from the President to the CAB Chairman prepared by OMB.

FFF:JGR:aw 4/5/83

cc: FFFielding
JGRoberts
Subj.
Chron

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ **O - OUTGOING**☐ **H - INTERNAL**☐ **I - INCOMING**Date Correspondence
Received (YY/MM/DD) 1/1Name of Correspondent: Richard G. Darman☐ **MI Mail Report**

User Codes: (A) _____ (B) _____ (C) _____

Subject: CAB Decision re: Transamerica;
U.S. - People's Republic of China and
Airborne Express, Inc.**ROUTE TO:****ACTION****DISPOSITION**

Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>W Holland</u>		ORIGINATOR	<u>83.03.31</u>			<u>1/1</u>
<u>W AT 18</u>		Referral Note: <u>D</u>	<u>83.03.31</u>		<u>S</u>	<u>83.04.07</u>
		Referral Note: _____	<u>1/1</u>			<u>1/1</u>
		Referral Note: _____	<u>1/1</u>			<u>1/1</u>
		Referral Note: _____	<u>1/1</u>			<u>1/1</u>
		Referral Note: _____	<u>1/1</u>			<u>1/1</u>

ACTION CODES:

A - Appropriate Action
C - Comment/Recommendation
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to be used as Enclosure

I - Info Copy Only/No Action Necessary
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DISPOSITION CODES:

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B - Non-Special Referral
C - Completed
S - Suspended

FOR OUTGOING CORRESPONDENCE:

Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: _____

Keep this worksheet attached to the original incoming letter.

Send all routing updates to Central Reference (Room 75, OEOB).

Always return completed correspondence record to Central Files.

Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

Roberts

WHITE HOUSE STAFFING MEMORANDUM

DATE: 3/30/83 ACTION/CONCURRENCE/COMMENT DUE BY: 4/7/83

SUBJECT: CAB DECISION RE: TRANSAMERICA; U.S.-PEOPLE'S REPUBLIC OF CHINA AND AIRBORNE EXPRESS, INC.

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	GERGEN	<input type="checkbox"/>	<input type="checkbox"/>
MEESE	<input type="checkbox"/>	<input type="checkbox"/>	HARPER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BAKER	<input type="checkbox"/>	<input type="checkbox"/>	JENKINS	<input type="checkbox"/>	<input type="checkbox"/>
DEAVER	<input type="checkbox"/>	<input type="checkbox"/>	MURPHY	<input type="checkbox"/>	<input type="checkbox"/>
STOCKMAN	<input type="checkbox"/>	<input type="checkbox"/>	ROLLINS	<input type="checkbox"/>	<input type="checkbox"/>
CLARK	<input type="checkbox"/>	<input type="checkbox"/>	WHITTLESEY	<input type="checkbox"/>	<input type="checkbox"/>
DARMAN	<input type="checkbox"/> P	<input checked="" type="checkbox"/> SS	WILLIAMSON	<input type="checkbox"/>	<input type="checkbox"/>
DUBERSTEIN	<input type="checkbox"/>	<input type="checkbox"/>	VON DAMM	<input type="checkbox"/>	<input type="checkbox"/>
FELDSTEIN	<input type="checkbox"/>	<input type="checkbox"/>	BRADY/SPEAKES	<input type="checkbox"/>	<input type="checkbox"/>
FIELDING	<input checked="" type="checkbox"/>	<input type="checkbox"/>	ROGERS	<input type="checkbox"/>	<input type="checkbox"/>
FULLER	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

Remarks:

May we have your comments on the attached CAB decision by April 7.
Thank you.

Richard G. Darman
Assistant to the President
(x2702)

Response:



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

MAR 30 1983

ACTION

MEMORANDUM FOR: ASSISTANT TO THE PRESIDENT
AND DEPUTY TO THE CHIEF OF STAFF

SUBJECT: Civil Aeronautics Board Decisions:

Transamerica Airlines, Inc.	U.S.-People's Republic
Docket 41027	of China
Date due: April 29, 1983	Docket 40887
	Date due: April 30, 1983

Airborne Express, Inc.
Docket 40669
Date due: April 30, 1983

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.

Joseph R. Wright, Jr.

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

MAR 30 1983

ACTION

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decisions:

Transamerica Airlines, Inc.	U.S.-People's Republic
Docket 41027	of China
Date due: April 29, 1983	Docket 40887
	Date due: April 30, 1983

Airborne Express, Inc.
Docket 40669
Date due: April 30, 1983

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

- Deny the application of Transamerica Airlines, Inc., requesting authority to become back-up carrier on a U.S.-People's Republic of China route currently served by Pan American World Airways. Transamerica requests back-up authority because it would like to replace Pan American if the airline goes bankrupt. The Board denies Transamerica's request because its practice is to assign back-up carriers only to routes that are being served for the first time by a U.S. airline. Pan American has been serving the U.S.-People's Republic of China route since January, 1981. The Board has the legal authority to replace Pan American if the airline stops serving the route and need not assign a back-up carrier to do so. Choosing a back-up carrier would require a full-blown Board proceeding so that all qualified airlines could apply. This would be time-consuming and expensive. In the Board's judgement such action is unwarranted.
- Issue a five year certificate to Northwest Airlines, Inc., authorizing the airline to transport cargo for one year and cargo plus passengers for the remaining four years between Chicago, on the one hand, and Shanghai, Guangzhou, and Beijing, China, on the other, with an intermediate stop in Los Angeles, San Francisco, Seattle, or Honolulu. Back-up authority is provided to The Flying Tiger Line, Inc. This order selects the second U.S. airline to serve the U.S. and the People's Republic of China.
- Issue a certificate to Airborne Express, Inc., authorizing the airline to transport property and mail between Wilmington and Cleveland, Ohio, and Toronto, Ontario, with an intermediate stop in Buffalo, New York.

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. 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.

Joseph R. Wright, Jr.

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

Dear Chairman McKinnon:

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

Transamerica Airlines, Inc.
Docket 41027

U.S.-People's Republic
of China
Docket 40887

Airborne Express, Inc.
Docket 40669

I have decided not to disapprove the Board's orders. No foreign relations or national defense consideration underlies my decision not to disapprove this order.

Sincerely,

The Honorable Dan McKinnon
Chairman
Civil Aeronautics Board
Washington, D.C. 20420

THE WHITE HOUSE
WASHINGTON

April 5, 1982

MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS *JGR*
SUBJECT: CAB Decision Re: U.S. Canada "Seat Sale"
Fares Proposed by Air Canada - 10 Day Case

This memorandum is addressed to you because Eastern Air Lines, Inc., is involved in the subject CAB order.

Richard Darman's office asked for comments by 3:00 p.m. April 6 on the above-referenced CAB decision, which was submitted for Presidential review as required by § 801(b) of the Federal Aviation Act of 1958, as amended, 49 U.S.C. § 1461(b). Under this provision, any order of the Board pursuant to 1482(j) of Title 49, "suspending, rejecting or canceling a rate, fare, or charge for foreign air transportation, and any order rescinding the effectiveness of any such order," must be submitted to the President. The President may disapprove a submitted order, but only for foreign policy or national defense reasons. If the President wishes to disapprove an order, he must do so within ten days of submission of the order to him by the Board (in this case, by April 7, 1983).

The CAB order would vacate a February 22, 1983 CAB order, which suspended certain proposed discount fares. According to the CAB order, negotiations between the U.S. and Canada have resulted in a mutually satisfactory resolution of the issues which occasioned the original suspension.

The order here has been reviewed by the appropriate departments and agencies, following the procedures established by Executive Order No. 11920 (1976). OMB recommends that the President allow the order to go into effect, and reports that the NSC and the Departments of State, Defense, Justice and Transportation have no objection to the Board's order. In ten-day review cases, unlike sixty-day review cases under 49 U.S.C. § 1461(a), it is standard simply to take no action on CAB orders not being disapproved, rather than sending a "no disapproval" letter to the Board.

The letter to the President from CAB Chairman McKinnon contains an error, which I note for completeness and not because it requires any action on our part. The letter states the proposed decision is being submitted under

section 801(a) of the Federal Aviation Act of 1958 -- the sixty-day provision -- although it is clear from the order and the rest of the letter that section 801(b) -- the ten-day provision -- is applicable.

I see no reason for disagreeing with the recommendation that the President not disapprove this order.

Attachment

THE WHITE HOUSE

WASHINGTON

April 5, 1982

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: RICHARD A. HAUSER /s/
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: CAB Decision Re: U.S. Canada "Seat Sale"
Fares Proposed by Air Canada - 10 Day Case

We have reviewed the above-referenced CAB decision and have no legal objection to the procedure that was followed with respect to Presidential review of such decisions under 49 U.S.C. § 1461(b).

We also have no legal objection to OMB's recommendation that the President not disapprove this order.

Mr. Fielding did not participate in the review of this matter.

FFF:JGR:aw 4/5/83

cc: FFFielding
JGRoberts ✓
Subj.
Chron

THE WHITE HOUSE

WASHINGTON

April 5, 1982

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: RICHARD A. HAUSER
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: CAB Decision Re: U.S. Canada "Seat Sale"
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We also have no legal objection to OMB's recommendation that the President not disapprove this order.

Mr. Fielding did not participate in the review of this matter.

FFF:JGR:aw 4/5/83

cc: FFFielding
JGRoberts
Subj.
Chron

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1/1Name of Correspondent: Richard G. Darman☐ MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: CAB Decision re: U.S. Canada "Seat Sale"
Fares Proposed by Air Canada

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>CU Holland</u>	ORIGINATOR	<u>83104105</u>			<u>1/1</u>
<u>CU AT 18</u>	Referral Note: <u>D</u>	<u>83104105</u>		<u>S</u>	<u>83104106</u>
	Referral Note:	<u>1/1</u>			<u>1/1</u>
	Referral Note:	<u>1/1</u>			<u>1/1</u>
	Referral Note:	<u>1/1</u>			<u>1/1</u>
	Referral Note:	<u>1/1</u>			<u>1/1</u>

ACTION CODES:

A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet
to be used as Enclosure

I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:

A - Answered
B - Non-Special Referral
C - Completed
S - Suspended

FOR OUTGOING CORRESPONDENCE:

Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: _____

Keep this worksheet attached to the original incoming letter.

Send all routing updates to Central Reference (Room 75, OEOB).

Always return completed correspondence record to Central Files.

Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

WHITE HOUSE STAFFING MEMORANDUM

DATE: 4/5/83 ACTION/CONCURRENCE/COMMENT DUE BY: 3:00 p.m. 4/6/83

SUBJECT: CAB DECISION RE U.S. CANADA "SEAT SALE" FARES PROPOSED BY AIR CANADA

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	GERGEN	<input type="checkbox"/>	<input type="checkbox"/>
MEESE	<input type="checkbox"/>	<input type="checkbox"/>	HARPER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BAKER	<input type="checkbox"/>	<input type="checkbox"/>	JENKINS	<input type="checkbox"/>	<input type="checkbox"/>
DEAVER	<input type="checkbox"/>	<input type="checkbox"/>	MURPHY	<input type="checkbox"/>	<input type="checkbox"/>
STOCKMAN	<input type="checkbox"/>	<input type="checkbox"/>	ROLLINS	<input type="checkbox"/>	<input type="checkbox"/>
CLARK	<input type="checkbox"/>	<input type="checkbox"/>	WHITTLESEY	<input type="checkbox"/>	<input type="checkbox"/>
DARMAN	<input type="checkbox"/> P	<input type="checkbox"/> SS	WILLIAMSON	<input type="checkbox"/>	<input type="checkbox"/>
DUBERSTEIN	<input type="checkbox"/>	<input type="checkbox"/>	VON DAMM	<input type="checkbox"/>	<input type="checkbox"/>
FELDSTEIN	<input type="checkbox"/>	<input type="checkbox"/>	BRADY/SPEAKES	<input type="checkbox"/>	<input type="checkbox"/>
FIELDING →	<input checked="" type="checkbox"/>	<input type="checkbox"/>	ROGERS	<input type="checkbox"/>	<input type="checkbox"/>
FULLER	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

Remarks:

May we have your comments on the attached CAB Decision by 3:00 p.m. tomorrow, April 6. Last Day for Action: April 7.

Richard G. Darman
Assistant to the President
(x2702)

Response:



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

ACTION

APR 5 1983

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Civil Aeronautics Board 10-Day Decision:

U.S.-Canada "Seat Sale" fares
proposed by Air Canada
Docket 41302

In February, 1983, the Civil Aeronautics Board adopted an order to suspend and investigate certain U.S.-Canada discount fares that were called "seat sale" fares. Air Canada, American Airlines, Eastern Air Lines, Frontier Airlines, Republic Airlines, United Air Lines, and Western Air Lines had filed for these fares. Since February, the Canadian and U.S. governments have resolved the issues that made suspension of the fares necessary. The Board, therefore, proposes to permit the fares to go into effect.

The Departments of State, Defense, Justice, and Transportation and the National Security Council have no objection to the Board's proposed order.

The Office of Management and Budget recommends that you take no action and allow the Board's order to go into effect. The Board's order becomes final unless you disapprove the order on or before April 7, 1983.

Joe Wright

Joseph R. Wright, Jr.
Deputy Director

Attachments:

CAB letter of transmittal
CAB order

Options and Implementation Actions:

- ☐ 1) Approve the Board's order by taking no action. (DOS, DOD, DOJ, DOT, NSC, OMB).
- ☐ 2) Disapprove the Board's order.
-- Implementation materials to be prepared.
- ☐ 3) See me.



FOR OFFICIAL USE ONLY

CIVIL AERONAUTICS BOARD

WASHINGTON, D.C. 20428

IN REPLY REFER TO:

B-1-59a

MAR 28 1983

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

Dear Mr. President:

I enclose for your review copies of a Board order vacating Order 83-2-104, February 22, 1983, which suspended U.S.-Canada "Seat Sale" discount fares proposed by Air Canada. Our negotiations with the Government of Canada have successfully resolved the pricing issues which made the "Seat Sale" suspension necessary.

Under the Federal Aviation Act of 1958, the Board's order is final unless the President disapproves it not later than ten days following its submission by the Board. No action is necessary if you do not wish to disapprove this order.

We are submitting the proposed decision to you before publication under the provisions of section 801(a) of the Federal Aviation Act of 1958. In accordance with Executive Order 11920, however, we plan to release all unclassified portions of the decision on or after the sixth day following this transmittal unless otherwise notified by your Assistant for National Security Affairs.

Respectfully yours,

signed Dan McKinnon

Dan McKinnon
Chairman

Enclosures

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 25th day of March, 1983

U.S.-Canada "Seat Sale" fares :
proposed by :
AIR CANADA : Docket 41302

ORDER VACATING SUSPENSION AND TERMINATING INVESTIGATION

By Order 83-2-104, adopted on February 22, 1983, we instituted an investigation and suspended the U.S.-Canada "Seat Sale" discount fares proposed by Air Canada. We also suspended the matching "Seat Sale" tariffs filed by American Airlines, Inc., Eastern Air Lines, Inc., Frontier Airlines, Inc., Republic Airlines, Inc., United Air Lines, Inc., and Western Air Lines, Inc.

Subsequent discussions between the governments of the United States and Canada have resulted in a mutually satisfactory resolution of the issues which made that action necessary. We will therefore vacate our suspension of the "Seat Sale" fares between the United States and Canada, terminate the investigation instituted in Docket 41302, and allow the fares to take effect.

Accordingly, under sections 102, 204(a), 403, 801, and 1002(j) of the Federal Aviation Act of 1958, as amended:

1. We vacate the suspension of Air Canada, American, Eastern, Frontier, Republic, United, and Western Air Lines "Seat Sale" fares between the United States and Canada in Order 83-2-104;
2. We terminate the investigation instituted in Docket 41302;
3. We shall submit this order to the President 1/ and it shall become effective on ; and
4. We shall file copies of this order with the tariffs and in Dockets 41313, 41314, 41315, 41316, 41317, 41318 and 41337, and serve copies on Air Canada, American Airlines, Inc., Canadian Pacific Air Lines, Ltd., Continental Air Lines, Inc., Eastern Air Lines, Inc., Frontier Airlines, Inc., Republic Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc., and the Ambassador of Canada in Washington, D.C.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR
Secretary

(SEAL)

All Members concurred and Member Smith filed the attached concurring statement.

1/ We submitted this order to the President on March 28, 1983.

SMITH, MEMBER, CONCURRING

The "mutually satisfactory resolution" referred to in the order results in the ability of Canadian air carriers matching fares in fifth and sixth freedom markets between the United States and other countries on an unlimited basis while U.S. air carriers are restricted in their respective abilities to match fifth and sixth freedom fares between Canada and other countries.

While a temporary resolution of the issues was achieved during mutual approval of the seat sale fares, the United States should reserve the future right to address parity in matching fifth and sixth freedom fares in another venue, specifically Canadian fifth and sixth freedom matching of fares.

/s/ JAMES R. SMITH

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

April 27, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: CAB Decision Re: U.S.-Canada Fare Increases
Proposed by Air Canada - 10 Day Case

Richard Darman's office has asked for comments by close of business April 27 on the above-referenced CAB decision, which was submitted for Presidential review as required by § 801(b) of the Federal Aviation Act of 1958, as amended, 49 U.S.C. § 1461(b). Under this provision, any order of the Board pursuant to 1482(j) of Title 49, "suspending, rejecting or canceling a rate, fare, or charge for foreign air transportation, and any order rescinding the effectiveness of any such order," must be submitted to the President. The President may disapprove a submitted order, but only for foreign policy or national defense reasons. If the President wishes to disapprove an order, he must do so within ten days of submission of the order to him by the Board (in this case, by April 29, 1983).

The CAB order would suspend coach fare increases proposed by Air Canada on all of its U.S.-Canada routes. Air Canada stated the increases were required by rising costs of "food, maintenance, and labor." The CAB regarded this as insufficient justification.

The order here has been reviewed by the appropriate departments and agencies, following the procedures established by Executive Order No. 11920 (1976). OMB recommends that the President allow the order to go into effect, and reports that the NSC and the Departments of State, Defense, Justice and Transportation have no objection to the Board's order. In ten-day review cases, unlike sixty-day review cases under 49 U.S.C. § 1461(a), it is standard simply to take no action on CAB orders not being disapproved, rather than sending a "no disapproval" letter to the Board.

I see no reason for disagreeing with the recommendation that the President not disapprove this order.

Attachment

THE WHITE HOUSE

WASHINGTON

April 27, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING *Orig. signed by FFF*
COUNSEL TO THE PRESIDENT

SUBJECT: CAB Decision Re: U.S.-Canada Fare Increases
Proposed by Air Canada - 10 Day Case

We have reviewed the above-referenced CAB decision and have no legal objection to the procedure that was followed with respect to Presidential review of such decisions under 49 U.S.C. § 1461(b).

We also have no legal objection to OMB's recommendation that the President not disapprove this order.

FFF:JGR:aw 4/27/83

cc: FFFielding
JGRoberts
Subj.
Chron

THE WHITE HOUSE

WASHINGTON

April 27, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: CAB Decision Re: U.S.-Canada Fare Increases
Proposed by Air Canada - 10 Day Case

We have reviewed the above-referenced CAB decision and have no legal objection to the procedure that was followed with respect to Presidential review of such decisions under 49 U.S.C. § 1461(b).

We also have no legal objection to OMB's recommendation that the President not disapprove this order.

FFF:JGR:aw 4/27/83

cc: FFFielding
JGRoberts
Subj.
Chron

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1 / 1Name of Correspondent: Richard G. DARMAN☐ MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: 10 Day CAB Decision re: U.S. - Canada
Fare Increases Proposed by Air Canada

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)

Action
CodeTracking
Date
YY/MM/DDType
of
Response

Code

Completion
Date
YY/MM/DDCWH011

ORIGINATOR

83/04/261 / 1

Referral Note:

CUAT18D83/04/26S 83/04/27

Referral Note:

1 / 11 / 1

Referral Note:

1 / 11 / 1

Referral Note:

1 / 11 / 1

Referral Note:

ACTION CODES:

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to be used as Enclosure

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Code = "A"
Completion Date = Date of Outgoing

Comments: _____

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Always return completed correspondence record to Central Files.

Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

WHITE HOUSE STAFFING MEMORANDUMDATE: 4/26/83 ACTION/CONCURRENCE/COMMENT DUE BY: 4/27/83SUBJECT: 10-DAY CAB DECISION RE U.S.-CANADA FARE INCREASES PROPOSED BY AIR CANADA

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	GERGEN	<input type="checkbox"/>	<input type="checkbox"/>
MEESE	<input type="checkbox"/>	<input type="checkbox"/>	HARPER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BAKER	<input type="checkbox"/>	<input type="checkbox"/>	JENKINS	<input type="checkbox"/>	<input type="checkbox"/>
DEAVER	<input type="checkbox"/>	<input type="checkbox"/>	MURPHY	<input type="checkbox"/>	<input type="checkbox"/>
STOCKMAN	<input type="checkbox"/>	<input type="checkbox"/>	ROLLINS	<input type="checkbox"/>	<input type="checkbox"/>
CLARK	<input type="checkbox"/>	<input checked="" type="checkbox"/>	WHITTLESEY	<input type="checkbox"/>	<input type="checkbox"/>
DARMAN	<input type="checkbox"/> P	<input checked="" type="checkbox"/> SS	WILLIAMSON	<input type="checkbox"/>	<input type="checkbox"/>
DUBERSTEIN	<input type="checkbox"/>	<input type="checkbox"/>	VON DAMM	<input type="checkbox"/>	<input type="checkbox"/>
FELDSTEIN	<input type="checkbox"/>	<input type="checkbox"/>	BRADY/SPEAKES	<input type="checkbox"/>	<input type="checkbox"/>
FIELDING	<input checked="" type="checkbox"/>	<input type="checkbox"/>	ROGERS	<input type="checkbox"/>	<input type="checkbox"/>
FULLER	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

Remarks:

May we have your comments on the attached by close of business Wednesday, April 27. Thank you.

Richard G. Darman
Assistant to the President
(x2702)

Response:



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

APR 26 1983

ACTION

MEMORANDUM FOR: ASSISTANT TO THE PRESIDENT
AND DEPUTY TO THE CHIEF OF STAFF

SUBJECT: Civil Aeronautics Board 10-Day Decision:
U.S.-Canada fare increases proposed by
Air Canada
Docket 41427

You will find attached a memorandum for the President about the above 10-day international aviation case. The interested executive agencies have indicated that they have no objection to the proposed order.

The Board's decision becomes final unless the President disapproves the order on or before April 29, 1983.

Joseph R. Wright, Jr.

Joseph R. Wright, Jr.
Deputy Director

Attachments:

Memorandum to the President
CAB letter of transmittal
CAB order



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

ACTION

APR 26 1983

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Civil Aeronautics Board 10-Day Decision:

U.S.-Canada fare increases
proposed by Air Canada
Docket 41427

The Civil Aeronautics Board proposes to suspend and investigate certain fare increases proposed by Air Canada for its U.S.-Canada routes. In order to raise the fares as high as Air Canada proposes, the airline must provide justification to the CAB. The Board proposes to suspend and investigate the fare increases because it is not convinced by Air Canada's justification, which is related to increases in the costs of food, maintenance, and labor.

The Departments of State, Defense, Justice, and Transportation and the National Security Council have no objection to the Board's proposed order.

The Office of Management and Budget recommends that you take no action and allow the Board's order to go into effect. The Board's order becomes final unless you disapprove it on or before April 29, 1983.

Joseph R. Wright, Jr.

Joseph R. Wright, Jr.
Deputy Director

Attachments:

CAB letter of transmittal
CAB order

Options and Implementation Actions:

- [] 1) Approve the Board's order by taking no action. (DOS, DOD, DOJ, DOT, NSC, OMB).
- [] 2) Disapprove the Board's order. Implementation materials to be prepared.
- [] 3) See me.

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 18th day of April, 1983

U.S.-Canada fare increases :
proposed by :
AIR CANADA : Docket 41427

ORDER OF SUSPENSION AND INVESTIGATION

By tariff revisions filed February 28, 1983, for effectiveness May 1, 1983, Air Canada proposes 5 to 10 percent increases in its U.S.-Canada fares. The carrier states that the increases are necessary to offset the rising costs of "food, maintenance and labor".

We have decided to suspend Air Canada's proposed increases in coach fares.

Our regulatory ceilings for U.S.-Canada coach fares are based on the Standard Foreign Fare Level (SFFL) plus 10 percent upward fare flexibility, 1/ with SFFL base levels determined by the higher of either actual fares in effect on October 1, 1979, or the levels produced by the Standard Industry Fare Level (SIFL) formula in force on that date. 2/ These ceilings are not rigid, however; we allow (and in past instances, have allowed) carriers to exceed them upon a showing of sufficient justification.

Air Canada's filing proposes coach fares above our ceilings in 22 of the carrier's 23 gateway-to-gateway markets. 3/ Furthermore, we do not believe that the justification offered by Air Canada is sufficient for us to permit the carrier to implement these fares. 4/ Under these

1/ As in other international markets, we allow U.S.-Canada carriers complete discretion in pricing their premium and promotional fares. Furthermore, we are applying our U.S.-Canada coach fare ceilings only in gateway-to-gateway markets.

2/ See Order 83-4-47, April 8, 1983.

3/ See Appendix A. The Houston-Toronto coach fare is the sole exception, and we will not suspend it. In 16 markets, current coach fares already exceed our ceilings as a result of past, justified increases as well as moderating cost trends affecting the SFFL.

4/ On March 8, 1983, the Board's staff asked Air Canada to submit additional justification in support of its filing, but the carrier declined.

circumstances, we cannot find that Air Canada's proposed coach fares are in the public interest, 5/ and we will therefore suspend them.

ACCORDINGLY, pursuant to sections 102, 204(a), 403, 801 and 1002(j) of the Federal Aviation Act of 1958, as amended:

1. We shall institute an investigation to determine whether the fares and provisions set forth in the attached Appendix B, and rules and regulations or practices affecting such fares and provisions, are or will be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful or contrary to the public interest; and if we find them to be unlawful or contrary to the public interest, to act appropriately to prevent the use of such fares, provisions or rules, regulations, or practices;

2. Pending completion of the investigation and decision by the Board, we suspend and defer the use of the tariff provisions in the attached Appendix B from May 1, 1983, to and including April 30, 1984, unless otherwise ordered by the Board, and shall permit no changes to be made therein during the period of suspension except by order or special permission of the Board;

3. We shall submit this order to the President 6/ and, unless disapproved by the President within ten days, it shall become effective May 1, 1983; and

4. We shall file copies of this order in the aforesaid tariff and serve them on Air Canada and the Ambassador of Canada in Washington, D.C.

We shall publish this order in the Federal Register.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR
Secretary

(SEAL)

All Members concurred.

5/ This is true even under the standards in effect on February 28, 1983, the date of filing.

6/ We submitted this order to the President on April 19, 1983.

APPENDIX A

AIR CANADA'S
COACH FARES
(ow)

	<u>PRESENT</u>	<u>PROPOSED</u>	<u>INCREASE</u>	<u>REGULATORY CEILING 1/</u>
CHICAGO-CALGARY	\$ 241	\$ 253	5.0 %	\$ 247
LOS ANGELES-CALGARY	211	222	5.2	207
NEW YORK-CALGARY	317	333	5.0	312
SAN FRANCISCO-CALGARY	184	193	4.9	183
LOS ANGELES-EDMONTON	219	230	5.0	227
SAN FRANCISCO-EDMONTON	199	209	5.0	202
CHICAGO-MONTREAL	169	177	4.7	157
MIAMI-MONTREAL	229	252	10.0	233
NEW YORK-MONTREAL	103	108	4.9	90
TAMPA-MONTREAL	213	234	9.9	220
BOSTON-ST. JOHN	102	107	4.9	93
BOSTON-TORONTO	111	117	5.4	107
CHICAGO-TORONTO	120	126	5.0	104
CLEVELAND-TORONTO	77	81	5.2	67
DALLAS-TORONTO	208	218	4.8	209
HOUSTON-TORONTO	219	230	5.0	232
LOS ANGELES-TORONTO	331	348	5.1	330
MIAMI-TORONTO	215	237	10.2	212
NEW YORK-TORONTO	108	113	4.6	96
SAN FRANCISCO-TORONTO	340	357	5.0	340
TAMPA-TORONTO	199	219	10.1	193
CHICAGO-WINNIPEG	152	160	5.3	144
BOSTON-YARMOUTH	92	97	5.4	82

1/ Base levels inflated by SFFL cost adjustment factor of 1.2999, plus 10 percent upward fare flexibility. See Order 83-4-47, April 8, 1983.

TARIFF C.A.B. NO. 409, ISSUED BY AIRLINE TARIFF PUBLISHING
COMPANY, AGENT

All increased Y class fares between the points shown
 below on the following pages:

<u>Revision No.</u>	<u>Page No.</u>	<u>Markets</u>
26th; 27th and 28th	27	Boston-Saint John, N.B.
26th, 27th and 28th	28	Boston-Toronto/Hamilton
		Boston-Yarmouth
43rd, 44th, 45th and 46th	29	Calgary-Chicago
		Calgary-Los Angeles
43rd, 44th, 45th and 46th	30	Calgary-New York
41st, 42nd and 43rd	31	Calgary-San Francisco
30th, 31st and 32nd	38	Chicago-Montreal
24th and 25th	39	Chicago-Toronto/Hamilton
24th and 25th	40	Chicago-Winnipeg
26th and 27th	42	Cleveland-Toronto/Hamilton
36th and 37th	44	Dallas/Ft. Worth-Toronto/ Hamilton
		Edmonton-Los Angeles
36th, 37th and 38th	45	Edmonton-Los Angeles
36th, 37th and 38th	46	Edmonton-San Francisco
7th and 8th	66-B	Los Angeles-Toronto/Hamilton
33rd and 34th	67	Miami-Montreal
11th and 12th	68-B	Miami-Toronto
32nd and 33rd	72	Montreal-New York
41st, 42nd and 43rd	73	Montreal-Tampa
26th and 27th	76	New York-Toronto/Hamilton
29th and 30th	89	San Francisco-Toronto/ Hamilton
29th, 30th, 31st, 32nd and 33rd	95	Tampa-Toronto/Hamilton