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THE WHITE HOUSE

WASHINGTON

June 21, 1984

Dear Chairman McKinnon:

Your recent letters to Messrs. Baker and Deaver concerning the pending dispute between the United States and Korea over air route rights have been referred to me for consideration and direct reply. In those letters and accompanying briefing papers you outlined the facts surrounding the dispute and the various arguments on both sides.

We appreciate having the benefit of your informed views on this matter, and I have taken the liberty of sharing them with the Department of Transportation, which, as you know, is deeply involved in the pending dispute. Once again, thank you for advising us of your concerns in this area.

Sincerely,

Fred F. Fielding
Counsel to the President

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

FFF:JGR:aea 6/21/84
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

June 16, 1984

+ pls advise NSC

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS *JGR*

SUBJECT:

Korean Airlines' Refusal to Sign a
Purchase Order With McDonnell Douglas
for 6 MD-80s Unless Given Route Rights

Dan McKinnon, Chairman of the Civil Aeronautics Board, has sent identical letters to Mr. Baker and Mr. Deaver, concerning a pending dispute involving Korean Air Lines (KAL). According to McKinnon, the Carter Administration foolishly agreed in 1980 to give KAL route rights to Oakland and Chicago in exchange for a Korean agreement to provide certain cargo facilities by March 1981. Korea has not yet built the facilities, and the United States -- or at least some elements in the Government -- are attempting to rescind the route commitment. KAL, in response, has threatened not to purchase six aircraft it has ordered from McDonnell Douglas unless it gets the routes in question.

In his letter and accompanying briefing paper, McKinnon contends that aircraft sales should never be allowed to be a factor in route cases, and that the United States should avail itself of the opportunity -- presented by Korea's default on the 1980 agreement -- to get out from under a misguided "give away" of valuable routes to KAL. He indicates that this is the position of the CAB, Defense, Transportation, and the Economic Bureau at State, as well as, not surprisingly, KAL's competitors (Flying Tigers and Northwest). McDonnell Douglas, USTR, and the East Asian Bureau at State support KAL.

I contacted Matt Scocozza, Assistant Secretary of Transportation for Policy, for more information on the dispute. Scocozza is heading up the Administration handling of the matter. Scocozza noted that McKinnon's views were widely known to those reviewing the dispute. He recommended that the White House simply thank McKinnon for sharing those views, refer the letters to Transportation, and not otherwise become involved. According to Scocozza, further negotiations with the Koreans are scheduled for September. The matter is not at this point -- and may never be -- a section 801 case submitted for formal Presidential review.

THE WHITE HOUSE

WASHINGTON

June 15, 1984

Dear Chairman McKinnon:

Your recent letters to Messrs. Baker and Deaver concerning the pending dispute between the United States and Korea over air route rights have been referred to me for consideration and direct reply. In those letters and accompanying briefing papers you outlined the facts surrounding the dispute and the various arguments on both sides.

We appreciate having the benefit of your informed views on this matter, and ~~will certainly accord them every appropriate consideration.~~ I have taken the liberty of sharing ~~your~~ *the* ~~views~~ with the Department of Transportation, which, as you know, is deeply involved in the pending dispute. Once again, thank you for advising us of your concerns in this area.

Sincerely,

Fred F. Fielding
Counsel to the President

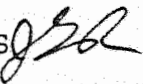
The Honorable Dan McKinnon
Chairman
Civil Aeronautics Board
Washington, D.C. 20428

THE WHITE HOUSE

WASHINGTON

July 6, 1984

MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS 
SUBJECT: Civil Aeronautics Board Decision:
Aerial Transit Company

Richard Darman's office has asked for comments by close of business July 11 on the above-referenced CAB decision, 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 July 20).

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, the proposed letter from the President to the CAB Chairman prepared by OMB includes the standard sentence designed to preserve availability of judicial review.

The order issues a certificate authorizing Aerial Transit to carry property and mail between specified points in the Caribbean and the United States.

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

Attachment

THE WHITE HOUSE

WASHINGTON

July 6, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: RICHARD A. HAUSER *Original signed by RAH*
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decision:
Aerial Transit Company

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.

RAH:JGR:aea 7/6/84

cc: FFFielding/RAHauser/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

July 6, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: RICHARD A. HAUSER
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decision:
Aerial Transit Company

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.

RAH:JGR:aea 7/6/84

cc: FFFielding/RAHauser/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 Dorman

☐ MI Mail Report

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

Subject: CAB Decision: Aerial Transit Company

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
CLINTON	ORIGINATOR	84 07 08			1/1
CLINT 18	D	84 07 08			84 07 11
	Referral Note:				COS
		1/1			1/1
	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: 7/5/84 ACTION/CONCURRENCE/COMMENT DUE BY: c.o.b. WEDNESDAY, 7/11

SUBJECT: CAB Decision: Aerial Transit Company

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	☐	☐	McMANUS	☐	☐
MEESE	☐	☐	MURPHY	☐	☐
BAKER	☐	☐	OGLESBY	☐	☐
DEAVER	☐	☐	ROGERS	☐	☐
STOCKMAN	☐	☐	SPEAKES	☐	☐
DARMAN	☐ P	☐ SS	SVAHN	☒	☐
FELDSTEIN	☐	☐	VERSTANDIG	☐	☐
FIELDING	☐	☐	WHITTLESEY	☐	☐
FULLER	☐	☐	_____	☐	☐
HERRINGTON	☐	☐	_____	☐	☐
HICKEY	☐	☐	_____	☐	☐
McFARLANE	☐	☐	_____	☐	☐

REMARKS:

Please provide comments/recommendations on the attached CAB decision by c.o.b. WEDNESDAY, JULY 11.

Thank you.

RESPONSE:

1984 JUL -6 AM 7:54

Richard G. Darman
Assistant to the President
Ext. 2702



EXECUTIVE OFFICE OF THE PRESIDENT - 5 JUL 7 12

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

July 5, 1984

ACTION

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decision:

Aerial Transit Company
Docket 41524
Date due: July 20, 1984

The Civil Aeronautics Board proposes to take the following action with regard to the above international air case:

- Issue a certificate to Aerial Transit Company to engage in foreign air transportation of property and mail between the United States and certain points in the Caribbean.

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.

Constance Horner
Constance Horner
Associate Director
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 orders 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 Mr. Chairman:

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

Aerial Transit Company
Docket 41524

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

Sincerely,

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



~~FOR OFFICIAL USE ONLY~~
THE CHAIRMAN
OF THE
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C. 20428

MAY 21 1984

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

Dear Mr. President:

I transmit the Board's proposed order on the application of Aerial Transit Company, Docket 41524, for your consideration under section 801(a) of the Federal Aviation Act of 1958, as amended by the Airline Deregulation Act of 1978. The order will issue a certificate to the applicant and adopt the Board's tentative decision in its Order to Show Cause 84-4-78 (enclosed) unless you disapprove it within 60 days of this transmittal.

If you should decide earlier that you will not disapprove, please advise me to that effect; this will allow the earlier issuance of the authority.

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 notified by your Assistant for National Security Affairs.

Respectfully yours,

Signed: Dan McKinnon

Dan McKinnon

Enclosures

~~FOR OFFICIAL USE ONLY~~ *anf 8/16/05*

out 8/14/05

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 11th day of May, 1984

Application of :
AERIAL TRANSIT COMPANY : Docket 41524
for certificates of public convenience :
and necessity pursuant to sections 401(d)(1) :
and 401(d)(3) of the Federal Aviation Act :
of 1958, as amended (all-cargo authority) :

FINAL ORDER

By Order 84-4-78, adopted April 20, 1984, we tentatively found and concluded (1) that it is consistent with the public convenience and necessity to issue a certificate to permit Aerial Transit Company to engage in foreign air transportation of property and mail and (2) that the carrier is fit, willing and able to engage in such air transportation.

We directed all interested persons to show cause why we should not issue an order making final our tentative findings and conclusions and allowed such persons until May 10, 1984 to file objections to the show cause order. No objections have been received.

Therefore, we have decided to make final our tentative findings and conclusions.

ACCORDINGLY,

1. We make final our tentative findings and conclusions in Order 84-4-78 and issue a certificate, in the form attached, in the name of Aerial Transit Company;

2. The continued effectiveness of the authority granted in paragraph 1 shall be contingent upon the timely payment of such license fees as may be prescribed by the Board;

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

4. The authority granted here shall become effective five days after the Board has received from the FAA a copy of the applicant's Air Carrier Operating Certificate and revised Operations Specifications 1/ Provided, however, that the Board may stay the effectiveness of the authority prior to that date; and

5. 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 of receipt of advice from the President that he does not intend to disapprove the Board's order under that section, whichever is earlier. 2/

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR
Secretary

(SEAL)

All Members concurred.

1/ Generally speaking, an acceptable FAA safety report consists of (a) a Letter to the Board from the FAA stating that it has issued an Air Carrier Operating Certificate and Operations Specifications to the carrier and (b) copies of the carrier's Air Carrier Operating Certificate and Operations Specifications. When the certificate has become effective, the Board's Secretary will issue a notice to that effect, with a copy of the certificate, including its effective date, attached.

2/ This order was submitted to the President on ~~MAY~~ 21 1984 .

The 61st day is JUL 21 1984

SPECIMEN CERTIFICATE

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

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
(SCHEDULED ALL-CARGO FOREIGN
AIR TRANSPORTATION)
for Route _____

AERIAL TRANSIT COMPANY

is authorized, subject to the following provisions, the provisions of Title IV of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued under it, to engage in foreign all-cargo (property and mail) air transportation, as follows:

Between a point or points in the United States, on the one hand, and a point or points in the Turks and Caicos Islands, Jamaica, and Belize, on the other hand.

This authority is subject to the following terms, conditions, and limitations:

- (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 shall be subject to compliance with such treaties and agreements and to 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 governments such operating rights as may be necessary.
- (3) The holder may continue to serve regularly any point through the airport it last used regularly to serve that point before the effective date of this certificate. Upon compliance with such procedures as may be prescribed by the Board, the holder may, in addition, regularly serve any point it is authorized to serve through any convenient airport.

- (4) The holder's authority under this certificate is permissive. The holder may reduce or terminate service upon compliance with the provisions of section 401(j) of the Act, and with all orders and regulations issued by the Board under that section.
- (5) The holder may transport, at the expense of the shipper, one or more cargo attendants with any shipment, provided that such attendant may be transported only when actually accompanying the shipment, and may not be transported from the destination of the shipment to its origin, or otherwise.
- (6) The holder's authority to engage in the transportation of mail is limited to the carriage of mail on a nonsubsidy basis, i.e., on a service mail rate to be paid entirely by the Postmaster General.
- (7) The holder is authorized, on any scheduled flight in foreign all-cargo air transportation, to transport property and mail in interstate or overseas air commerce between points in the United States between which it is authorized to operate such flight without limitation to the number of flights per day between any such pair of points.

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

The Civil Aeronautics Board has directed its Secretary to execute this certificate and to affix the Board's seal on May 11, 1984.

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 20th day of April, 1984

Application of

AERIAL TRANSIT COMPANY

for certificates of public convenience
and necessity pursuant to sections 401(d)(1)
and 401(d)(3) of the Federal Aviation Act
of 1958, as amended (all-cargo authority)

Docket 41524

APR 25 1984

Application of

AERIAL TRANSIT COMPANY

for an exemption under section 416(b) of
Federal Aviation Act of 1958, as amended

Docket 41662

ORDER DEFERRING EXEMPTION
AND ORDER TO SHOW CAUSE

On June 8, 1983, Aerial Transit Company filed an application in Docket 41524 for certificates of public convenience and necessity to enable it to engage in scheduled and charter foreign air transportation.^{1/} Aerial also requested any approvals which may be necessary under sections 408 and 409 of the Act and it requested that its application be considered under Subpart Q of the Board's Procedural Regulations and be processed by show-cause procedures. On August 25, 1983, Aerial applied for exemption authority to enable it to engage in foreign charter air transportation of property and mail between a point or points in the United States, on the one hand, and any point in North America, Central America, the Gulf of Mexico or the Caribbean Sea, Bermuda, Colombia, Venezuela, Guyana, Surinam, and French Guiana, on the other hand.

^{1/} Aerial requested certificate authority to enable it to engage in worldwide charter foreign air transportation of property and in scheduled foreign cargo air transportation between Miami, Florida, on the one hand, and Georgetown in the Cayman Islands; Grand Turk, South Caicos, and Providenciales in the Turks and Caicos Islands; Kingston, Jamaica; and Belize City, Belize, on the other hand. On October 17, 1983, Aerial amended its application by eliminating its request for scheduled authority to serve the Cayman Islands.

In support of its application for certificate authority, Aerial states that it is a U.S. citizen and that it is fit, willing, and able to provide the services for which authority is requested. The applicant supports its request for exemption authority by stating that there is an immediate public need for its proposed services, and that it has the equipment, personnel and ability to operate those services.

No answers to either of Aerial's applications have been filed.

We have decided to process Aerial's certificate application by show-cause procedures. We tentatively find and conclude, based on materials submitted in this Docket, that Aerial is a citizen of the United States, that its proposal is consistent with the public convenience and necessity, that it is fit, willing and able to engage in scheduled foreign air transportation of property and mail, and that all of its existing control and interlocking relationships should be approved under sections 408 and 409 of the Act. We have also tentatively decided that there are no material issues of fact requiring an oral evidentiary hearing for their resolution. All interested persons are requested to show cause why our tentative findings and conclusions should not be made final. ^{2/}

We are not now prepared to grant Aerial's application for exemption authority since the record does not indicate the existence of the extraordinary circumstances necessary to justify the award of exemption authority prior to a formal fitness finding. If we make final a favorable fitness determination, we would, however, be prepared to reconsider a request for exemption authority pending Presidential review if the request is then justified by an immediate readiness and need to serve the markets covered. We will accept an illustrative service proposal, and proposed start-up dates as evidence of the carrier's immediate service plans and we direct the carrier to submit these materials within 10 days of the date of service of this order.

2/ We will not make separate findings with respect to Aerial's request for foreign charter certificate authority since section 401(e)(6) of the Act provides that "[a]ny [scheduled] air carrier...may perform charter trips...without regard to the points named in its certificate or the type of service provided therein, under regulations prescribed by the Board." Thus, a finding that Aerial is fit to provide the scheduled air transportation at issue here will also permit it to operate charter service of comparable scope and nature under Part 207 of our Economic Regulations. Aerial will of course have to comply with the data submission requirements of Part 204 of our Economic Regulations before implementing scheduled or charter operations which constitute a substantial change in the operations for which it has been found fit.

Public Convenience and Necessity

Section 401(d)(1) of the Act authorizes the Board to issue a certificate of public convenience and necessity for foreign air transportation if such transportation is consistent with the public convenience and necessity. We tentatively find and conclude that Aerial's proposal is consistent with the public convenience and necessity.

The applicant's proposed service is consistent with the aviation agreements between the United States and Jamaica and Belize. Aerial's proposed service is also consistent with the terms of Bermuda 2, which governs air service between the United States and the Turks and Caicos Islands. Furthermore, we have previously found that grant of scheduled authority between the United States, on the one hand, and Jamaica, Belize, and the Turks and Caicos Islands, on the other hand, is consistent with the public convenience and necessity.^{4/} The factors which supported these determinations continue to be valid and warrant approval of Aerial's application. Moreover, consistent with our standard practice, we will condition any certificate authority granted to Aerial on the requirement that the carrier conduct operations in accordance with all treaties and agreements between the United States and other countries. Accordingly, we tentatively find that the grant of the requested authority is consistent with the public convenience and necessity.

Fitness

The second major issue is whether Aerial, as section 401(d)(1) also requires, is "fit, willing, and able" to perform the air transportation proposed in its application.

Aerial is authorized to provide domestic all-cargo service pursuant to section 418 of the Act. In this proceeding, it seeks a certificate which would enable it to provide scheduled cargo service in foreign air transportation. This application is Aerial's first request for a fitness determination under section 401 of the Act and the authority requested would amount to a substantial change in the scope and nature of its current operating authority. Under these circumstances, our policy is to conduct an in-depth examination of the applicant's ability to perform the transportation proposed.^{5/}

We have tentatively decided that no oral evidentiary hearing is needed for this purpose in the context of this case. The applicant has already been authorized to operate domestic cargo service, it has filed

^{4/} See, Orders 83-3-77 and 82-6-9.

^{5/} See Part 204 of our Regulations; See also Application of Air Specialties Corp., Order 83-3-121.

the information required by our Rules of Practice, and our examination of that information indicates that its management is highly qualified and experienced and that its application raises no material issues of fact requiring an oral evidentiary hearing for their resolution. These circumstances establish that the fitness issues raised by the carrier's request for authority to provide foreign air transportation should be decided on the basis of a written record and show-cause procedures.

The Board's criteria for fitness determinations include three essential elements. An applicant can qualify for a certificate if it can demonstrate that it: (1) has the necessary managerial skill, and technical ability to operate safely; (2) is either internally financed or has a plan for financing that, if carried out, will generate resources sufficient to commence the operations proposed without undue risk to consumers; and (3) will comply with the Act and regulations imposed by federal and state regulatory agencies.^{6/} We tentatively conclude that Aerial meets all these criteria and should be found fit.

Management Expertise

Charles A. Lawson owns 50 percent of Aerial. He is Aerial's President and is a director of the company. Mr. Lawson began his aviation career in 1953, as Contract Administrator and Assistant Secretary for the L.B. Smith Aircraft Corporation, a company engaged in aircraft overhaul and modification. He was employed by L.B. Smith until the end of 1961. From 1962 to 1965, Mr. Lawson was Vice President of Madden and Smith Aircraft Corporation, a fixed base operator. In 1966 he founded Lawson Aviation, Inc. which specialized in aircraft sales, leases, and servicing. In 1967, Lawson Aviation Inc. merged with Bellomy Aviation, Inc. under the name Bellomy-Lawson Aviation, Inc. Mr. Lawson is Executive Vice President of Bellomy-Lawson Aviation, Inc. From 1972 to 1977, Mr. Lawson was also the U.S. Representative for Aerolineas El Salvador, S.A., an all-cargo foreign air carrier. He was President of Challenge Air Transport, Inc. from 1978 to 1981 and in that capacity he managed a carrier which conducted operations similar to those for which authority is requested here. Mr. Lawson has served as President of Aerial since it formed in 1982.

Herrol W. Bellomy owns 25 percent of Aerial. He is Aerial's Executive Vice President and Treasurer, and is a director of the company. Mr. Bellomy began his aviation career with North America Aviation in 1941 in a manufacturing capacity. In 1945 he joined Temco Aviation Corporation, a company which overhauled and modified aircraft for the United States Air Force and for commercial airlines. In 1954, Mr. Bellomy became Executive Vice President and General Manager of the L.B. Smith Aircraft

^{6/} For an explanation of these requirements, see ER-1180, June 17, 1980; New York Air Fitness Investigation, Order 80-12-57, December 11, 1980.

Corporation. In 1962, he formed Bellomy Aviation, Inc., which subsequently merged with Lawson Aviation, Inc. to become Bellomy-Lawson Aviation, Inc. Mr. Bellomy is President of Bellomy-Lawson Aviation, Inc. He is also President of Bellomy-Lawson, Inc. which buys, sells, leases and finances transport aircraft. In addition, Mr. Bellomy was Executive Vice President of Challenge Air Transport, Inc. from 1978 until 1981. He has been Executive Vice President of Aerial Transit Company since 1982.

Agnes E. Bellomy, who is the wife of Herrol W. Bellomy, owns the remaining 25 percent of Aerial. She has served as Vice President and Secretary of Aerial since 1982. Mrs. Lawson began her aviation career in 1962 as Office Manager for Bellomy Aviation, Inc. She worked in a similar capacity for the successor corporation of Bellomy-Lawson Aviation, Inc. Mrs. Bellomy was Vice President and Secretary of Challenge Air Transport from 1978 until 1981.

Harold N. Walker is Director of Operations, Chief Pilot, and Director of Training for Aerial. Mr. Walker began his flying career in 1942 as a pilot with the United States Marine Corps. He was discharged in 1946 and recalled to active duty for two years during the Korean War. Between 1948 and 1975 Mr. Walker served as flight instructor and pilot for a number of different companies. In 1975 he joined Nevada Airlines where he served as Director of Operations, Chief Pilot and General Manager. In 1977 he became Chief Pilot for Century Airlines. He joined Challenge Air Transport, Inc. in 1979 where he served as Chief Pilot and Director of Operations. Mr. Walker has been with Aerial since 1982.

The record shows that other key managerial personnel are well qualified for their respective positions. ^{7/} In all these circumstances, we tentatively find that Aerial has the necessary management skill to operate safely and without undue risk to the traveling and shipping public.

Financial and Operating Proposal

Aerial intends to focus upon scheduled cargo operations in the Miami-Caribbean market in its first year of operations under the authority it is requesting here. Initially, it proposes to operate weekly service to Jamaica, the Turks and Caicos Islands and Belize. In subsequent years it proposes to expand into other foreign markets in the Caribbean, Central America and South America.

^{7/} Jose Rosa-Gonzalez, Aerial's Director of Maintenance, has over 30 years of aviation experience. Thomas D. Stacks, the Director of Marketing, has had extensive business experience as an exporter and U.S. manager of a foreign air carrier. George W. McCoy, Aerial's Chief Inspector, also has an extensive aviation background.

Aerial intends to operate its proposed service with two DC-6A aircraft which it has already purchased. It projects a first year profit of \$73,995 from its proposed operations to Jamaica, the Turks and Caicos Islands and Belize. This profit estimate is based on anticipated revenues of \$1,513,408. The company has submitted a balance sheet as of April 30, 1983, which shows total assets of \$383,267, including two DC-6A aircraft valued at \$199,000, total liabilities of \$189,123, and stockholders equity of \$194,143.

Based on the above, we tentatively find and conclude that Aerial has presented a financial and operating plan which satisfies our fitness guidelines. Our determination is based on three factors. First, Aerial has already acquired its own aircraft, probably the single greatest capital investment in the starting of operations. Second, we find Aerial's financial forecast to be reasonable, given its service proposal and the nature of the markets that it seeks to serve. Third, Aerial's senior management team has had extensive experience operating the type of aircraft it intends to use in its proposed service in markets similar to those proposed here. In view of all of these circumstances, we tentatively find and conclude that Aerial will be able to commence operations without undue risk to the public.

Compliance Disposition

Aerial's exhibits filed in conformance with section 204.5 of the Board's Regulations and the Board's independent investigation support a finding that the applicant has a favorable compliance disposition. The only matters in the record reflecting unfavorably on Aerial's compliance disposition are incidents in 1974 and 1976 in which Bellomy-Lawson Aviation, Inc. was charged by the FAA with incorrectly approving a propeller for return to service. Bellomy-Lawson paid a civil penalty of \$250 in settlement of the charges.

Our Bureau of Carrier Accounts and Audits has registered no complaints against Aerial or its key personnel. Furthermore, the Federal Aviation Administration has informed us that it knows of no reason why we should act unfavorably on Aerial's application. In view of the generally favorable records of the applicant and its key personnel, we do not regard two isolated incidents involving an affiliated corporation and occurring seven and nine years ago respectively as indicating a lack of the skills, technical ability, or compliance disposition needed to operate Aerial safely. We therefore tentatively find and conclude that Aerial has demonstrated an adequate compliance disposition for the grant of new operating authority.

C. Section 408 and 409 Relationships

Aerial requests that we grant it all approvals necessary under sections 408 and 409 of the Act. Section 408 of the Act makes it unlawful, without Board approval, "for any air carrier or person controlling a certificated air carrier to acquire control, in any manner whatsoever, of any person substantially engaged in the business of aeronautics other than as an air carrier." Similarly, section 409 prohibits relationships, without Board approval, in which an officer or director of an air carrier concurrently serves as an officer, director or controlling owner of a person substantially engaged in the business of aeronautics.

Aerial and its owners are involved in several control relationships within the purview of section 408. First, Herrol W. Bellomy, Charles A. Lawson, and Agnes E. Bellomy own 100 percent of the issued stock of Aggie Aircraft Corporation, an aircraft leasing company which owns one DC-6B aircraft. Second, Herrol W. Bellomy, Charles A. Lawson and Agnes E. Bellomy own 100 percent of the issued stock of Anson Aircraft Corporation, another aircraft leasing company which also owns one DC-6B aircraft. Third, these same three individuals own Bellomy-Lawson, Inc. which buys, sells and leases transport aircraft. Fourth, they also own Bellomy-Lawson Aviation, Inc. which engages in aircraft servicing and operates a cargo handling service for the loading, unloading, receiving and warehousing of air freight. Fifth, the same three individuals own Hemisphere Aviation Service Company, an aircraft leasing company which owns one DC-6B aircraft. Sixth, they also own Transport Aircraft Service Company which also owns and leases one DC-6B aircraft. Seventh, they own Wyler Aircraft Corporation a Part 125 cargo operator which owns and operates two C-46 and one DC-6B cargo aircraft.

Section 291.31(b) of our Regulations exempts all direct air carriers from prior approval of control relationships, except for transactions involving two or more air carriers providing passenger service. ^{8/} Section 287.2 of the Board's Regulations exempts interlocking relationships between air carriers except for those between two or more direct air carriers or between a direct air carrier and a foreign carrier or between affiliates of two or more direct air carriers, or between a direct air carrier and affiliates of a foreign air carrier. ^{9/} Our analysis of the record in this case establishes that the exemptions provided for in sections 291.31(b) and 287.2 of our Regulations apply to the control and interlocking relationships presented by Aerial's request for certificate authority. Therefore, we need not approve these

^{8/} See, ER-1368, adopted November 8, 1983, and effective January 5, 1984.

^{9/} See, ER-1359, adopted September 7, 1983, and effective October 23, 1983.

relationships and they may be established and maintained without further action by the Board. ^{10/}

D. Energy and Environmental Considerations

Since Aerial's fuel consumption for the first year of operations under section 401 is estimated to be under the 10 million gallon threshold which constitutes a major regulatory action, we tentatively conclude that no Energy Impact Statement under Part 313 is required. ^{11/} We have also reviewed the operating data submitted by the applicant and have concluded that none of the proposed services would trigger the standards for an environmental assessment as set forth in section 312.10 of our Regulations.

We will give interested persons 15 days after the service of this order (i.e., May 10, 1984) to show cause why the tentative findings and conclusions set forth here should not be made final; answers will be due 10 days thereafter. We expect such persons to support any objections with detailed economic analysis. If an oral evidentiary hearing or discovery procedures are requested, the objector should state in detail why such hearing or discovery is considered necessary and what material issues of decisional fact would be established through such procedures that 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 procedures should be specified (see Part 302, Rules 19 and 20 of our Rules of Practice); if not, the reasons why should be explained.

ACCORDINGLY,

1. We direct all interested persons to show cause why we should not issue an order (1) making final our tentative findings and conclusions; and (2) issuing a certificate to Aerial Transport Company authorizing it to engage in foreign air transportation of property and mail as described in the attached specimen certificate; ^{12/}

^{10/} We also note that Mr. Lawson is a director of Challenge Air Transport, and that he and the Bellomys own less than 10% of the voting shares of Challenge Air Transport. We approved these relationships in Order 83-6-5 when we awarded section 418 authority to Aerial, and we need take no further action with respect to them here.

^{11/} Section 382(b) of the Energy Policy and Conservation Act of 1975 directs the Board to define the terms "major regulatory action" by rule. See section 313.1(a) of our Regulations. Our definition is contained in section 313.4(a)(1).

^{12/} See Appendix.

2. We direct Aerial to submit an illustrative service proposal and proposed start-up date to support any request for exemption authority by May 7, 1984;

3. We direct all interested persons having objections to the issuance of an order making final any of the proposed findings and conclusions to file in Docket 41524, no later than May 10, 1984, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections; answers should be filed no later than May 15, 1984;

4. If timely and properly supported objections are filed, we will give 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; 13/

5. In the event no objections are filed, we will deem all further procedural steps to have been waived, and the Secretary shall enter an order which (1) shall make final our tentative findings and conclusions; and (2) subject to the disapproval of the President under section 801(a) of the Act, shall issue a certificate of public convenience and necessity to Aerial Transport Company to authorize it to engage in foreign air transportation of property and mail; and

6. We will serve this order on Aerial Transport Company and on the United States Departments of State and Transportation.

We will publish a summary of this order in the Federal Register.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR
Secretary

(SEAL)

All Members concurred.

13/ Because we have provided for the filing of objections to our tentative findings and conclusions, we will not entertain petitions for reconsideration.

SPECIMEN CERTIFICATE

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

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
(SCHEDULED ALL-CARGO FOREIGN
AIR TRANSPORTATION)
for Route _____

AERIAL TRANSIT COMPANY

is authorized, subject to the following provisions, the provisions of Title IV of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued under it, to engage in foreign all-cargo (property and mail) air transportation, as follows:

Between a point or points in the United States, on the one hand, and a point or points in the Turks and Caicos Islands, Jamaica, and Belize, on the other hand.

This authority is subject to the following terms, conditions, and limitations:

- (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 shall be subject to compliance with such treaties and agreements and to 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 governments such operating rights as may be necessary.
- (3) The holder may continue to serve regularly any point through the airport it last used regularly to serve that point before the effective date of this certificate. Upon compliance with such procedures as may be prescribed by the Board, the holder may, in addition, regularly serve any point it is authorized to serve through any convenient airport.

- (4) The holder's authority under this certificate is permissive. The holder may reduce or terminate service upon compliance with the provisions of section 401(j) of the Act, and with all orders and regulations issued by the Board under that section.
- (5) The holder may transport, at the expense of the shipper, one or more cargo attendants with any shipment, provided that such attendant may be transported only when actually accompanying the shipment, and may not be transported from the destination of the shipment to its origin, or otherwise.
- (6) The holder's authority to engage in the transportation of mail is limited to the carriage of mail on a nonsubsidy basis, i.e., on a service mail rate to be paid entirely by the Postmaster General.
- (7) The holder is authorized, on any scheduled flight in foreign all-cargo air transportation, to transport property and mail in interstate or overseas air commerce between points in the United States between which it is authorized to operate such flight without limitation to the number of flights per day between any such pair of points.

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 .

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

PHYLLIS T. KAYLOR
Secretary

(SEAL)

THE WHITE HOUSE

WASHINGTON

October 23, 1984

MEMORANDUM FOR RICHARD A. HAUSER

FROM: JOHN G. ROBERTS 

SUBJECT: Civil Aeronautics Board Decisions
in Eastern Air Lines, Inc.; Universal
Airlines, Inc.; United Air Carriers,
Inc.; and United States-Venezuela
Allcargo Proceeding

This memorandum is addressed to Mr. Hauser because of the involvement of Eastern Air Lines, Inc., in one of the subject decisions.

Richard Darman's office has asked for comments by close of business October 24 on the above-referenced CAB decisions, 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 October 30, November 9, October 28, and October 29 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, the proposed letter from the President to the CAB Chairman prepared by OMB includes the standard sentence designed to preserve availability of judicial review.

The Eastern order would authorize that carrier to serve a city in Colombia. The Universal order would authorize that carrier to engage in charter transport of property and mail, while the United order authorizes service to Hong Kong. Finally, the Venezuela proceeding order authorizes Flying Tiger to carry property and mail between Venezuela and the United States, with backup authority to Southern Air Transport.

A memorandum for Darman is attached for your review and signature. The memorandum notes that Mr. Fielding did not participate in the review of this matter.

Attachment

October 23, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT
Original signed by RAH

FROM: RICHARD A. HAUSER
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decisions
in Eastern Air Lines, Inc.; Universal
Airlines, Inc.; United Air Carriers,
Inc.; and United States-Venezuela
Allcargo Proceeding

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.

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

RAH:JGR:aea 10/23/84 ✓
cc: RAHauser/JGRoberts/Subj/Chron

October 23, 1984

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: RICHARD A. HAUSER
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decisions
in Eastern Air Lines, Inc.; Universal
Airlines, Inc.; United Air Carriers,
Inc.; and United States-Venezuela
Allcargo Proceeding

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.

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

RAH:JGR:aea 10/23/84
cc: RAHauser/JGRoberts/Subj/Chron

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

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

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

Subject: CAB Decisions: Eastern Airlines, Inc.;
Universal Airlines, Inc.; United Air Carriers, Inc.;
and United States-Venezuela Air cargo
proceeding

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>Culture</u>		ORIGINATOR	<u>84.10.24</u>			<u>1/1</u>
<u>UNIT 18</u>		Referral Note:	<u>D 84.10.24</u>			<u>5 84.10.24</u>
		Referral Note:				<u>COB</u>
			<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:				

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: 10/19/84 ACTION/CONCURRENCE/COMMENT DUE BY: 10/24/84SUBJECT: CAB DECISIONS: Eastern Air Lines, Inc.; Universal Airlines, Inc.;
United Air Carriers, Inc.; and United States-Venezuela All-
cargo Proceeding

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	☐	☐	MURPHY	☐	☐
MEESE	☐	☐	OGLESBY	☐	☐
BAKER	☐	☐	ROGERS	☐	☐
DEAVER	☐	☐	SPEAKES	☐	☐
STOCKMAN	☐	☐	SVAHN	☒	☐
DARMAN	☐	☐	VERSTANDIG	☐	☐
FIELDING	☐	☐	WHITTLESEY	☐	☐
FULLER	☐	☐		☐	☐
HERRINGTON	☐	☐		☐	☐
HICKEY	☐	☐		☐	☐
McFARLANE	☐	☐		☐	☐
McMANUS	☐	☐		☐	☐

REMARKS:

Please provide your recommendation by 10/24/84.

Thank you.

RESPONSE:

Richard G. Darman
Assistant to the President
Ext. 2702



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

ACTION

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decisions:

Eastern Air Lines, Inc.
Docket 42108
Date due: October 30, 1984

United Air Carriers, Inc. d/b/a
National Airlines, Inc.
Docket 41762
Date due: October 28, 1984

Universal Airlines, Inc.
Dockets 42042, 42043, 42044
Date due: November 9, 1984

United States - Venezuela
All-cargo Proceeding
Docket 41864
Date due: October 29, 1984

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

- Grant Eastern Air Lines, Inc., authority to serve Barranquilla, Colombia, as an intermediate point to Eastern's existing Central and South American service.
- Authorize United Air Carriers, Inc., to provide scheduled foreign air transportation of persons, property, and mail between the United States and Hong Kong.
- Issue a certificate to Universal Airlines, Inc., authorizing it to engage in foreign charter air transportation of property and mail.
- Issue a certificate to The Flying Tiger Line, Inc., authorizing it to engage in foreign air transportation of property and mail between the United States and Venezuela. Concurrently, the Board proposes to award backup authority for the United States-Venezuela market to Southern Air Transport, Inc.

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 actions. This will preserve whatever opportunity is available under the statute for judicial review.

Constance Horner
Associate Director
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

Dear Mr. Chairman:

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

Eastern Air Lines, Inc.
Docket 42108

United Air Carriers, Inc. d/b/a
National Airlines, Inc.
Docket 41762

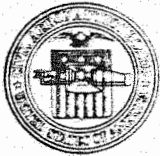
Universal Airlines, Inc.
Dockets 42042, 42043, 42044

United States - Venezuela
All-cargo Proceeding
Docket 41864

I have decided not to disapprove the Board's orders. No foreign relations or national defense reason underlies my actions.

Sincerely,

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



THE CHAIRMAN
OF THE
CIVIL AERONAUTICS BOARD

WASHINGTON, D. C. 20428

AUG 29 1984

Mrs. Constance Horner
Associate Director for Economics
and Government
Office of Management and Budget
Room 246, Old EOB
Washington, D.C. 20503

Dear Mrs. Horner:

I enclose a letter of transmittal to the President, together with the Board's proposed order and certificate amendment sought by United Air Carriers, Inc. d/b/a National Airlines, Inc., Docket 41762. The proposed order will, if not disapproved by the President within 60 days of this transmittal, adopt the Board's decision in its order and amend the applicant's certificate.

If the President agrees with the Board that granting this authority would be in the public interest, I request to be advised of his intent not to disapprove, so that the applicant can be issued the authority before the expiration of the full 60-day consideration period.

I enclose additional copies of the letter and order. In connection with any distribution which the Office of Management and Budget may find necessary and desirable, you should note that until the decision is released to the public in accordance with Executive Order 11920, the documents are confidential in nature and should be treated accordingly.

Sincerely,

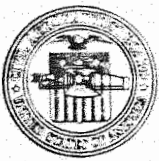
~~signed~~ Dan McKinnon

Dan McKinnon

Enclosures

cc: National Security Council
Department of Transportation
Department of State
Department of Defense
Department of Justice
The White House

Am
8/4/85



~~FOR OFFICIAL USE ONLY~~

THE CHAIRMAN
OF THE
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C. 20428

AUG 31 1984

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

Dear Mr. President:

I transmit the Board's proposed order on the application of Eastern Air Lines, Inc., Docket 42108, for your consideration under section 801(a) of the Federal Aviation Act of 1958, as amended by the Airline Deregulation Act of 1978. The order will amend the applicant's certificate and adopt the Board's tentative decision in its Order to Show Cause 84-7-30 (enclosed) unless you disapprove it within 60 days of this transmittal.

If you should decide earlier that you will not disapprove, please advise me to that effect; this will allow the earlier issuance of the authority.

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 notified by your Assistant for National Security Affairs.

Respectfully yours,

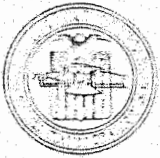
signed Dan McKinnon

Dan McKinnon

Enclosures

~~FOR OFFICIAL USE ONLY~~

mf
8/4/85



~~FOR OFFICIAL USE ONLY~~
THE CHAIRMAN
OF THE
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C. 20428

SEP 10 1984

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

Dear Mr. President:

I transmit the Board's proposed order on the application of Universal Airlines, Inc., Docket 42043, for your consideration under section 801(a) of the Federal Aviation Act of 1958, as amended by the Airline Deregulation Act of 1978. The order will issue a certificate to the applicant and adopt the Board's tentative decision in its Order to Show Cause 84-8-11 (enclosed) unless you disapprove it within 60 days of this transmittal.

If you should decide earlier that you will not disapprove, please advise me to that effect; this will allow the earlier issuance of the 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 notified by your Assistant for National Security Affairs.

Respectfully yours,

signed Dan McKinnon

Dan McKinnon

Enclosures



~~OFFICIAL USE ONLY~~
THE CHAIRMAN
OF THE
CIVIL AERONAUTICS BOARD
WASHINGTON, D. C. 20428

AUG 30 1984

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

Dear Mr. President:

I transmit the Board's proposed Order in Docket 41864, United States-Venezuela All-Cargo Proceeding, for your consideration under section 801(a) of the Federal Aviation Act of 1958, as amended by the Airline Deregulation Act of 1978. The Order issues new temporary experimental certificates of public convenience and necessity to The Flying Tiger Line, Inc. for primary authority, and to Southern Air Transport, Inc. for backup authority. It also amends the certificates of Airlift International, Inc., American Airlines, Inc. and Pan American World Airways, Inc. to preclude U.S. - Venezuela all-cargo operations. The proposed Order will become effective if not disapproved by the President within 60 days of its transmittal.

If you should decide earlier that you will not disapprove, please advise me to that effect; this will allow us to issue the order earlier.

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 notified by your Assistant for National Security Affairs.

Respectfully yours,

Dan McKinnon

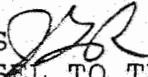
Enclosures

~~OFFICIAL USE ONLY~~ *and 8/6/85*

THE WHITE HOUSE
WASHINGTON

November 1, 1984

MEMORANDUM FOR JIM J. MARQUEZ
GENERAL COUNSEL
U.S. DEPARTMENT OF TRANSPORTATION

FROM: JOHN G. ROBERTS 
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Letter to the President Concerning
Continental Application to the CAB
to Operate Between Houston and London

The attached letter to the President concerning a pending Civil Aeronautics Board matter is referred to the Department of Transportation for whatever action you deem appropriate. I have also enclosed a copy of my reply, which advises the correspondent of this referral.

Many thanks.

THE WHITE HOUSE

WASHINGTON

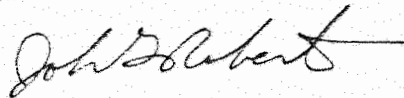
November 1, 1984

Dear Mr. Lewis:

Your letter of October 9 to the President has been referred to this office for consideration and response. In that letter you noted your opposition to an application by Continental Airlines before the Civil Aeronautics Board (CAB) to operate service between Houston and London.

The President's role with respect to matters before the CAB is defined by statute. Pursuant to 49 U.S.C. § 1461(a), the President is authorized to disapprove CAB actions involving foreign air transportation or foreign air carriers "solely upon the basis of foreign relations or national defense considerations." Executive Order 11920 establishes procedures for Executive Branch review of CAB decisions. I have enclosed a copy of Executive Order 11920 for your information. You will notice that the Executive Order prohibits individuals within the Executive Office of the President from discussing pending CAB matters with interested private parties, and directs that written communications from such interested private parties be referred to the appropriate department or agency outside the Executive Office of the President. I have accordingly referred your letter to the Department of Transportation. Any further communication concerning this pending CAB matter should be directed to that Department.

Sincerely,



John G. Roberts
Associate Counsel to the President

Mr. Harold Lewis
General Secretary, International
Transport Workers' Federation
133-135 Great Suffolk Street
London, SE1 1PD

or before Jan. 1, 1973. See section 1552 of title 5, U.S.C., for

Legislative History. For legislative history and purpose of Pub.L. 95-504, see 1978 U.S. Code Cong. and Adm. News, p. 3737.

EXECUTIVE ORDER NO. 11920

June 10, 1976, 41 F.R. 23665

ESTABLISHMENT OF EXECUTIVE BRANCH PROCEDURES TO FACILITATE REVIEW OF SUBMITTED DECISIONS

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including section 801 of the Federal Aviation Act, as amended (49 U.S.C. 1461) [this section], and as President of the United States of America, solely to provide Presidential guidance to department and agency heads and in order to facilitate Presidential review of decisions submitted to the President for his approval by the Civil Aeronautics Board pursuant to section 801 of the Federal Aviation Act, as amended [this section], it is hereby ordered as follows:

Section 1. (a) Except as provided in this section, decisions of the Civil Aeronautics Board, hereinafter referred to as the CAB, transmitted to the President pursuant to section 801 of the Federal Aviation Act, as amended [this section], hereinafter referred to as section 801 [this section], may be made available by the CAB for public inspection and copying following submission to the President:

(b) In the interests of national security, and in order to allow for consideration of appropriate action under Executive Order No. 11652, as amended [set out as a note under section 401 of Title 50, War and National Defense], decisions of the CAB transmitted to the President under section 801 shall be withheld from public disclosure for five days after submission to the President.

(c) At the same time that decisions of the CAB are submitted to the President pursuant to section 801 [this section], the CAB shall transmit copies thereof to the Secretary of State, the Secretary of Defense, and the Assistant to the President for National Security Affairs.

(d) The Secretary of State and the Secretary of Defense, or their designees, shall review the decisions of the CAB transmitted pursuant to subsection (c) above, and shall promptly advise the Assistant to the President for National Security Affairs or his designee, whether, and if so why, action pursuant to Executive Order No. 11652, as amended [set out as a note under section 401 of Title 50, War and National Defense], is deemed appropriate. If, after considering the above recommendations, the Assistant to the President for National Security Affairs or his designee determines that classification under Executive Order No. 11652 [set out as a note under section 401 of Title 50, War and National Defense] is appropriate, he shall take such action and immediately so inform the CAB. Action pursuant to this subsection shall be completed within five days of receipt of the decision by the President.

(e) On and after the sixth day following receipt by the President of a CAB decision submitted pursuant to section 801 [this section], the CAB is authorized to disclose all unclassified portions of

the text of such decision. Nothing in this section is intended to affect the ability to withhold material under Executive order or statute other than section 801 [this section].

Sec. 2. (a) Views of departments and agencies outside of the Executive Office of the President, other than those views involving considerations of defense or foreign policy (including international negotiations costs) which are to be the subject of recommendations to the President in connection with his review under section 801 [this section], shall be presented to the CAB in accordance with the procedures of the CAB. While some issues will inevitably involve both questions of regulatory policy and defense or foreign policy, departments and agencies outside of the Executive Office of the President should make a conscientious effort to present their views on regulatory matters in proceedings before the CAB, and raise only matters of defense or foreign policy that are of Presidential concern in the course of the review under section 801 [this section].

(b) Departments and agencies outside of the Executive Office of the President which intend to make recommendations to the President on matters of defense or foreign policy and have such intentions while the matter is pending before the CAB, shall, except as confidentiality is required for reasons of defense or foreign policy, make the existence of such intentions and the conclusions to be recommended known to the CAB in the course of its proceedings.

Sec. 3. (a) In advising the President with respect to his review of an order submitted to him pursuant to section 801 [this section], departments and agencies outside of the Executive Office of the President shall:

(1) identify any matter contained in their respective recommendations which was not previously submitted to the CAB pursuant to section 2(a) above.

(2) explain why such matter was not previously submitted to the CAB for its consideration, and

(3) identify with particularity the defense or foreign policy implications of the CAB decision which are deemed appropriate for the President's consideration.

(b) Orders involving foreign and overseas air transportation certificates of U.S. carriers that are subject to the approval of the President are not subject to judicial review when the President approves or disapproves an order for reasons of defense or foreign policy. All disapprovals necessarily are based on such a Presidential decision, but approval by the President does not necessarily imply the existence of any defense or foreign policy reason. For the purpose of assessing when

Sec. 3. (a) Any individual within the Executive Office of the President shall follow a policy of refusing to discuss matters relating to the disposition of a case subject to the approval of the President under section 801 (this section) with any interested private party, or an attorney or agent for any such party, prior to the President's decision, and (b) referring any written communication from an interested private party, or an attorney or agent for any such party, to the appropriate department or agency outside of the Executive Office of the President. Exceptions to this policy may only be made when the head of an appropriate department or agency outside of the Executive Office of the President personally finds that direct written or oral communication between a private party and a person within the Executive Office of the President is needed for reasons of defense or foreign policy.

Sec. 4. Individual within the Executive Office of the President shall follow a policy of refusing to discuss matters relating to the disposition of a case subject to the approval of the President under section 801 (this section) with any interested private party, or an attorney or agent for any such party, prior to the President's decision, and (b) referring any written communication from an interested private party, or an attorney or agent for any such party, to the appropriate department or agency outside of the Executive Office of the President. Exceptions to this policy may only be made when the head of an appropriate department or agency outside of the Executive Office of the President personally finds that direct written or oral communication between a private party and a person within the Executive Office of the President is needed for reasons of defense or foreign policy.

Sec. 5. Departments and agencies outside of the Executive Office of the President which regu-

late the establishment of public docks for all written communications (other than those requiring confidential treatment for defense or foreign policy reasons) between their officers and employees and private parties in connection with the preparation of such recommendations, and

(b) prescribe such other procedures governing oral and written communications as they deem appropriate.

Sec. 6. Although it is recognized that the provisions set forth in this Order will frequently apply to review of decisions made in adversary proceedings involving private parties, this Order is intended solely for the internal guidance of the departments and agencies in order to facilitate the Presidential review process. This Order does not confer rights on any private parties.

Sec. 7. The provisions of this Order shall be effective on the 30th day following publication in the FEDERAL REGISTER.

GERALD R. FORD

Notes of Decisions

Publication of decision - 10

10. Publication of decision

Under this section, a Board decision may not be published before such decision is submitted to the President but publication of such a Board decision promptly after its submission to the President is permitted despite contention that Board decision was required to be made public only after President had approved or disapproved Board's order.

Aviation Consumer Action Project v. C.A.E., D.C.D.C. 1976 412 F.Supp. 1021 motion denied in part granted in part 418 F.Supp. 634

In view of fact that board decisions are required to be published and that publication of such decisions prior to presidential action on the decisions could not affect the presidential approval process once board decisions are transmitted to the President, such decisions may not be withheld from public inspection unless such withholding is validly based on statute or executive order. 10

§ 1462 Department of State

Transfer of Functions. For transfer of certain enforcement functions of the Secretary or other officials of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

Termination of Civil Aeronautics Board and Transfer of Certain Functions. All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by Pub.L. 95-554 § 408a Oct. 24, 1978, 92 Stat. 1744, effective on or before Jan. 1, 1980. See section 1551 of this title.

§ 1463 Weather Service

Transfer of Functions. For transfer of certain enforcement functions of the Secretary or other officials of the Department of Transportation relating to compliance with this chapter and the authorizations and regulations issued thereunder to

the Federal Inspector, Office of Federal Inspector of the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1301 of this title.

THE WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

INCOMING

DATE RECEIVED: OCTOBER 23, 1984

NAME OF CORRESPONDENT: MR. HAROLD LEWIS

SUBJECT: REQUESTS ASSISTANCE IN RESOLVING CONTINENTAL
APPLICATION TO THE CAB TO OPERATE BETWEEN
HOUSTON AND LONDON

ACTION

DISPOSITION

ROUTE TO: OFFICE/AGENCY (STAFF NAME)	ACT CODE	DATE YY/MM/DD	TYPE RESP	C COMPLETED D YY/MM/DD
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ORG 84/10/23

C 84/10/24^{TR}

REFERRAL NOTE: _____

REFERRAL NOTE: _____

REFERRAL NOTE: _____

REFERRAL NOTE: _____

REFERRAL NOTE: _____

COMMENTS: _____

ADDITIONAL CORRESPONDENTS: MEDIA:L INDIVIDUAL CODES: _____

PL MAIL USER CODES: (A) _____ (B) _____ (C) _____

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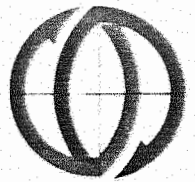
*****
*ACTION CODES:          *DISPOSITION CODES:          *OUTGOING          *
*                        *                            * CORRESPONDENCE:  *
*A-APPROPRIATE ACTION  *A-ANSWERED                *TYPE RESP=INITIALS *
*C-COMMENT/RECOM       *B-NON-SPEC-REFERRAL          *      OF SIGNER    *
*D-DRAFT RESPONSE      *C-COMPLETED                *      CODE = A      *
*F-FURNISH FACT SHEET  *S-SUSPENDED                *COMPLETED = DATE OF *
*I-INFO COPY/NO ACT NEC*                            *      OUTGOING     *
*R-DIRECT REPLY W/COPY *                            *                    *
*S-FOR-SIGNATURE       *                            *                    *
*X-INTERIM REPLY       *                            *                    *
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REFER QUESTIONS AND ROUTING UPDATES TO CENTRAL REFERENCE
(ROOM 75, OEOb) EXT. 2590
KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING
LETTER AT ALL TIMES AND SEND COMPLETED RECORD TO RECORDS
MANAGEMENT.



International Transport Workers' Federation
Fédération Internationale des Ouvriers du Transport
Internationale Transportarbeiter-Föderation
Federación Internacional de los Trabajadores del Transporte
Internationella Transportarbetarefederationen



ITF, 133-135 Great Suffolk Street, London SE1 1PD

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Washington DC 20500
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London SE1 1PD

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Telex: 8811397 ITF LDN G

Telegrams: Intransfe, London SE1

Please address all communications to the General Secretary
and confine each letter to one subject only.

Your Ref.

Our Ref.

Date: 9th October 1984

Doug Rigg

Dear Mr President

Continental Airlines

The International Transport Workers' Federation is an international trade union organisation which was established in 1896 to represent the interests of transportation unions at international level. It presently has well over 300 affiliated organisations in some 85 countries of the free world - almost all the transportation unions of any importance.

The affiliated unions cover workers in every kind of transportation - by land, sea and air. It is through the ITF that they exchange information and experiences and develop international policies. It is also through the ITF that they promote mutual aid and support when one or other of the unions need international help.

So it was that in September 1983 the International Association of Machinists and Aerospace Workers (IAM) - an ITF affiliate for many years - brought to us the case of Continental Airlines which had employed the device of technical bankruptcy to annul its union contracts and then had resumed operations after cutting wages and benefits by some 50%.

The ITF's reaction to what was a clear attempt to break the unions in Continental is set out in a resolution (copy attached) which was unanimously adopted at the 34th Congress of the ITF, held in Madrid from 20 to 28 October 1983 and attended by 700 participants from 65 countries. This resolution has since been backed by protests, including action against Continental airplanes, in countries to which Continental flies.

We now hear that Continental is making an urgent application to the Civil Aeronautics Board (CAB) to operate a service between Houston and London. I have to advise you that the application would be met with outright hostility by all our civil aviation unions which remain outraged at Continental's violation of all acceptable standards of labour-management relations and practices.

We continue to give our total support to the position of the IAM, the Union of Flight Attendants (UFA) and the American Air Line Pilots' Association (ALPA)

The President of the United States

9th October 1984

- 2 -

all of which have tried sincerely and determinedly to reach a fair negotiated settlement of their differences with the airline.

For Continental to be awarded the Houston - London route would add insult to injury and the world's airline unions would be bound to respond in defence of their American friends and colleagues.

| We therefore urge you, Mr. President, to exert your personal influence to ensure that a deplorable situation is not made even worse. At the very least, Continental's application must be the subject of exhaustive and public examination. Anything less than that will be a gross injustice and a clear signal that union-busting is to be condoned, even encouraged.

Yours sincerely



Harold Lewis
General Secretary

Enc.

EMERGENCY RESOLUTION OF THE MISUSE OF BANKRUPTCY LAWS FOR ANTI-UNION
ACTIVITY

This 34th Congress of the ITF, meeting in Madrid from 20 to
28 October 1983,

HAVING CONSIDERED the events following the adoption of the
resolution on the Deregulation of Air Services by the 33rd ITF
Congress meeting in Miami in July 1980, and

HAVING NOTED that in the current dispute between Continental Airlines
and its employees as represented by United States ITF-affiliated
and other airline unions, the company last month misused Chapter 11
of the US Bankruptcy Act in order to declare itself bankrupt and
then immediately reorganize its operations in order to avoid
complying with existing agreements with those unions and as an
excuse arbitrarily to reduce its labour force, cut wages and impose
lower standards of working conditions,

BELIEVES that bankruptcy laws should in no circumstances be utilised
to undermine workers' rights or as a means of avoiding a company's
social and contractual obligations, and that the example of
Continental Airlines could easily be followed by other companies
in both the airline and other transport industries, providing
employers with a new and extremely pernicious device to destroy
union organization and hard-won wages and working conditions, and

ALSO BELIEVES that these actions by Continental Airlines are yet
another example of the damaging effects of deregulation about which
the ITF expressed its deep concern in its resolution adopted at
the 33rd ITF Congress.

Congress therefore STRONGLY CONDEMNS any attempt by undertakings to
circumvent their social obligations in this way and draws the urgent
attention of all transport workers' unions to the dangers inherent
in allowing companies to abuse bankruptcy legislation for such
purposes.

It also PLEDGES its complete support to the airline union
United States who are at present engaged in fighting again
practice, recognising that if they do not win their battle
unions in other countries may find themselves in turn threatened
by similar tactics.

Submitted by: The United States
ITF affiliates