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THE WHITE HOUSE

WASHINGTON

March 17, 1986

MEMORANDUM FOR DAVID L. CHEW  
STAFF SECRETARY

FROM: JOHN G. ROBERTS  
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: DOT International Aviation Decisions:  
Societe Anonyme Belge d'Exploitation  
de la Navigation Aerienne (Sabena) and  
El Al Israel Airlines Limited

Our office has reviewed the above-referenced Department of Transportation International Aviation decisions, 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 Secretary of Transportation.

# WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence  
Received (YY/MM/DD) \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_Name of Correspondent: David Chew☐ MI Mail Report

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

Subject: DOT International Aviation Decisions re:  
Societe Anonyme Belge d'Exploitation de la  
Navigation Aerienne (Sabena) and El Al Israel  
Airlines Limited.

## 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>CUHOLL</u>	ORIGINATOR	<u>86/03/13</u>			<u>1 1</u>
	Referral Note:				
<u>CUAT18</u>	<u>R</u>	<u>86/03/13</u>		<u>S</u>	<u>86/03/19</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:				

## 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

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

Comments: \_\_\_\_\_

Keep this worksheet attached to the original incoming letter.  
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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 MEMORANDUM

DATE: 3/12/86 ACTION/CONCURRENCE/COMMENT DUE BY: Wed., 3/19/86

SUBJECT: DOT INTERNATIONAL AVIATION DECISIONS RE: Societe Anonyme Belge  
d'Exploitation de la Navigation Aerienne (Sabena) AND  
El Al Israel Airlines Limited

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	LACY	<input type="checkbox"/>	<input type="checkbox"/>
REGAN	<input type="checkbox"/>	<input type="checkbox"/>	POINDEXTER	<input type="checkbox"/>	<input type="checkbox"/>
MILLER	<input type="checkbox"/>	<input type="checkbox"/>	RYAN	<input type="checkbox"/>	<input type="checkbox"/>
BALL	<input type="checkbox"/>	<input type="checkbox"/>	SPEAKES	<input type="checkbox"/>	<input type="checkbox"/>
BUCHANAN	<input type="checkbox"/>	<input type="checkbox"/>	SPRINKEL	<input type="checkbox"/>	<input type="checkbox"/>
CHAVEZ	<input type="checkbox"/>	<input type="checkbox"/>	SVAHN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CHEW	<input type="checkbox"/> P	<input type="checkbox"/> SS	THOMAS	<input type="checkbox"/>	<input type="checkbox"/>
DANIELS	<input type="checkbox"/>	<input type="checkbox"/>	TUTTLE	<input type="checkbox"/>	<input type="checkbox"/>
FIELDING	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
HENKEL	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
HICKS	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
KINGON	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

## REMARKS:

Please provide any comments/recommendations by Wednesday, March 19. Thank you.

## RESPONSE:



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

MAR 12 1986

ACTION

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Department of Transportation International  
Aviation Decisions:

Societe Anonyme Belge  
d'Exploitation de la  
Navigation Aerienne (Sabena)  
Docket 42686  
Date due: April 22, 1986

El Al Israel Airlines  
Limited  
Docket 42457  
Date due: May 4, 1986

The Department of Transportation (DOT) proposes to take the following action with regard to the above international aviation cases:

- Authorize Societe Anonyme Belge d'Exploitation de la Navigation Aerienne (Sabena) to add Boston, Massachusetts as a United States coterminal point to its current authorized service.
- Authorize El Al Israel Airlines Limited to add Portugal, Romania, and Spain as intermediate points, and South America and Asia as beyond points to its current authorized service.

The National Security Council and the Departments of State, Defense, and Justice 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 DOT's decisions by signing the attached letter to the Secretary which indicates that you do not intend to disapprove DOT's orders within the 60 days allowed by statute for your review.

Original signed by  
Carol T. Crawford  
Carol T. Crawford  
Associate Director for  
Economics and Government

Attachments:

27 letters of transmittal  
27 orders  
letter to the Secretary



**U.S. Department of  
Transportation**

Office of the Secretary  
of Transportation

FOR OFFICIAL USE ONLY

Office of Assistant Secretary

400 Seventh St., S.W.  
Washington, D.C. 20590

MAR 5 1986

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

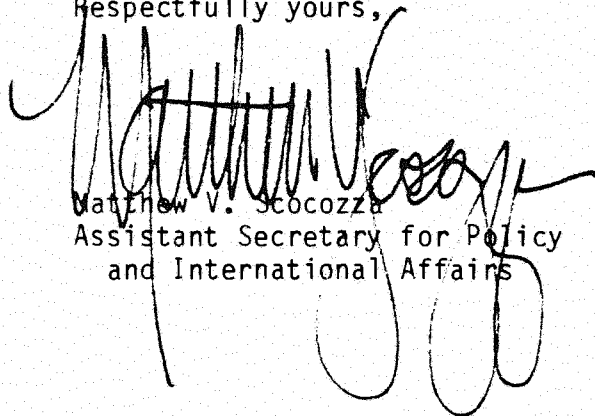
Dear Mr. President:

I transmit the Department's proposed order on the application of El Al Israel Airlines Limited in Docket 42457, for your consideration under section 801(a) of the Federal Aviation Act of 1958, as amended. The order will, unless you disapprove it within 60 days of this transmittal, issue the applicant an amended foreign air carrier permit under simplified procedures.

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, as amended. 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,



Matthew V. Scocozza  
Assistant Secretary for Policy  
and International Affairs

Enclosures

FOR OFFICIAL USE ONLY

# FOR OFFICIAL USE ONLY

UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.

Issued by the Department of Transportation  
on the 21st day of February, 1986

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Application of :  
:   
SOCIETE ANONYME BELGE D'EXPLOITATION :  
DE LA NAVIGATION AERIENNE (SABENA), : Docket 42686  
:   
for an amended Foreign Air Carrier Permit :  
pursuant to Section 402(f) of the Federal :  
Aviation Act of 1958, as amended. :  
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## ORDER ISSUING FOREIGN AIR CARRIER PERMIT

Societe Anonyme Belge d'Exploitation de la Navigation Aerienne (Sabena) has applied for amendment of its foreign air carrier permit<sup>1</sup> to add Boston, Massachusetts, among the U.S. coterminial points authorized for service.<sup>2</sup> Authorization for service to a

<sup>1</sup> Sabena was last reissued an amended foreign air carrier permit by C.A.B. Order 80-5-94. Sabena's application was filed with the Civil Aeronautics Board prior to that agency's "sunset" on December 31, 1984. Responsibility for processing foreign permit applications transferred to the Department of Transportation on January 1, 1985, pursuant to Pub. L. 98-443, October 4, 1984.

<sup>2</sup> Currently Sabena's permit authorizes, inter alia, the carrier to engage in foreign air transportation of persons, property and mail between a point or points in Belgium; via intermediate points; and

- (i) the coterminial points Atlanta, Georgia; Chicago, Illinois; Detroit, Michigan; and New York, New York; and
- (ii) beyond one United States coterminial point to be selected by Belgium from among Atlanta, Georgia; Chicago, Illinois; Detroit, Michigan; and New York, New York, to Mexico City; and
- (iii) beyond the United States coterminial points to points in Canada.

point in the U.S., to be selected by Belgium, in addition to the points already served, is contained in the revised Air Transport Agreement between Belgium and the United States, effectuated by an Exchange of Notes dated October 23, 1980.<sup>3</sup> By Note Verbale, dated October 31, 1984, the Belgian Government designated Boston, Massachusetts, as the additional U.S. point to be served. In addition, Sabena requests that the conditions of the permit reflect the routing flexibility, and unlimited change of gauge rights granted in Annex I of the bilateral.

Sabena has submitted evidence for processing its application, filed December 12, 1984, in accordance with section 211.21 of DOT's regulations. A notice of the application was published in the Federal Register on December 24, 1984 (49 Fed. Reg. 49877). No answers to the application have been filed. Since the application is unopposed, and the authority sought is covered by the United States-Belgium Air Transport Services Agreement, we find that further proceedings on the application are not required.<sup>4</sup> We shall, therefore, dispense with a tentative decision and proceed directly to a final decision using simplified Subpart Q procedures.<sup>5</sup>

We will grant the requested permit amendment. The authority requested is provided for in the 1980 Air Transport Services Agreement between the United States and Belgium, and the Government of Belgium has selected Boston for service under the agreement and designated Sabena to provide that service. Sabena continues to be owned and effectively controlled by the Government and nationals of Belgium, and there is no question as to the continued fitness of Sabena to provide the service. (See Attachment A.)

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<sup>3</sup> Annex I, Section 1, par. B., (a) grants a route:

"(a) From Belgium via intermediate points to Atlanta, New York City, and three additional points in the United States and beyond to any point or points in Canada and/or Mexico.<sup>1</sup>"

The footnote restricts beyond traffic rights to: "(a) between one point in the United States and one point in Canada; and (b) between one point in the United States and Mexico City." The three discretionary points are to be designated by the Government of Belgium, with the right to change such points on 60 days' notice.

<sup>4</sup> By Order 85-2-50 we granted Sabena exemption authority to conduct its proposed Boston service commencing on or about March 24, 1985. The carrier filed a renewal application for the authority and relies on the automatic-extensions of Federal law, 5 USC section 558(c), as implemented by 14 CFR Part 377, to keep the exemption in effect, pending final disposition of the renewal request.

<sup>5</sup> 14 C.F.R. Section 302.1701 et seq. Under Rule 29(b), we may, in our discretion, omit a tentative decision in proceedings under Subpart Q and proceed directly to a final decision.



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

1. It is in the public interest to issue an amended foreign air carrier permit to Societe Anonyme Belge d'Exploitation de la Navigation Aerienne (Sabena) in the form attached, authorizing the carrier to serve Boston, Massachusetts, as an additional U.S. coterminal point;
2. Sabena is qualified and designated by its government to provide the additional service under the terms of the 1980 Air Transport Services Agreement between the United States and Belgium;
3. Sabena is fit, willing and able properly to perform the foreign air transportation described in the attached permit and to conform to the provisions of the Act, and to our rules, regulations and requirements;
4. Sabena is substantially owned and effectively controlled by the Government and nationals of Belgium;
5. The public interest requires that the exercise of the privileges granted by the permit should be subject to the terms, conditions, and limitations contained in and attached to the permit, and to such other reasonable terms, conditions, and limitations required by the public interest as we may prescribe;
6. Issuance of this amended foreign air carrier permit will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975, as defined in subsection 313.4(a)(1) of our Regulations;<sup>6</sup> and
7. The public interest does not require an oral evidentiary hearing on the application.

ACCORDINGLY,

1. We amend and reissue, in the form attached, the foreign air carrier permit issued to the applicant by Order 80-5-94, to authorize service to Boston, Massachusetts, as an additional coterminal point;

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<sup>6</sup> Our finding is based on the fact that the the new service under the amendment of applicant's permit will not result in a near-term annual increase in fuel consumption in excess of ten million gallons.

2. The exercise of the privileges granted by the amended permit shall be subject to the terms, conditions and limitations contained in and attached to the permit, and to such other reasonable terms, conditions and limitations as may be prescribed by the Department;

3. Unless disapproved by the President of the United States under section 801(a) of the Act, this order and the attached permit shall become effective on the 61st day after its submission to the President,<sup>7</sup> or upon the date of receipt of advice from the President that he does not intend to disapprove this order under that section, whichever is earlier;

4. We shall serve this order upon Societe Anonyme Belge d'Exploitation de la Navigation Aerienne (Sabena), the Ambassador of the Kingdom of Belgium in Washington, D.C., the Federal Aviation Administration (AFS-220), and the United States Department of State; and

5. Except to the extent granted, the application of Sabena in Docket 42686 is denied.

By:

MATTHEW V. SCOCOZZA  
Assistant Secretary  
for Policy and International Affairs

(SEAL)

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<sup>7</sup> This order was submitted to the President on February 21, 1986.

SUMMARY OF APPLICATION

Homeland Country: Belgium

Current Permit Issued By: Order 80-5-94, effective May 14, 1980

Agreement Basis For Authority Sought: Air Transport Services Agreement, effective October 23, 1980

Holds Government License For Authority Sought: Yes

Aircraft Maintenance Performed By: Sabena; Continues to comply with the provisions of ICAO Pilots and Airmen Annexes 1, 6 (Part 1) and 7.

Financial Indicators (As Of):	<u>Dec. 31, 1983</u> (Millions)	<u>Dec. 31, 1982</u> (Millions)
Total Assets	\$ 441.0	\$ 434.3
Total Liabilities	399.5	510.6
Owners' Equity	41.5	(76.3)
Operating Profit--12 mos. ended	24.2	(16.0)

Majority Ownership By Nationals Of: Substantial majority ownership by the Government of Belgium.

Effective Control By Nationals Of: Government of Belgium.

Safety Or Tariff Violations During Last 5 Years: No

Near-term Annual Fuel Consumption Exceeds 10 Million Gallons: No

UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D. C.

-----  
PERMIT TO FOREIGN AIR CARRIER  
(as amended and reissued)  
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SOCIETE ANONYME BELGE D'EXPLOITATION  
DE LA NAVIGATION AERIENNE (SABENA)

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

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

Sabena may engage in charter foreign air transportation:

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

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

This permit and the exercise of the privileges granted in it shall be subject to the terms, conditions, and limitations attached, and to the following:

1. The holder's beyond-United States traffic rights to Mexico City, and beyond-United States combination service traffic rights to Canada, shall not become effective until the Government of Belgium designates through diplomatic channels, respectively, (a) the authorized coterminal point in the United States from which service to Mexico City will be provided, and (b) the authorized coterminal point in the United States and the point in Canada from or to which such combination service will be provided. The Government of Belgium shall provide notice of its selection at least 60 days prior to Sabena's commencing such service. Changes in the selected points can be made without limitation, subject only to 60-days' notice of intent to change the points authorized.
2. Beyond points in Mexico and Canada on route A, and in Mexico on route B, other than Mexico City and the Canadian point selected under condition 1, may be served by the holder without traffic rights from authorized United States points.
3. The holder may, on any or all scheduled flights, at its option, operate flights in either or both directions and without directional or geographic limitation; serve points on the routes in any combination and in any order; and omit stops at any point or points without loss of any right to uplift or discharge traffic otherwise permissible under this amended permit.
4. Points in Canada on route B, the selected Canadian point on its route segment on route A, and Mexico City on its route segment on routes A and B, may be served as either intermediate or beyond points, or both with a single landing.
5. The holder may, at its option, operate on any segment or segments of the authorized routes without any limitation as to change in type or number of aircraft operated.
6. The authority of the holder to perform charters under paragraph C shall be subject to the charterworthiness rules of the Governments of either Belgium or the United States. Except as otherwise authorized by this permit, the holder shall operate U.S.-originating charters in conformance with the Department's regulations governing charters.
7. Flights authorized by paragraph D shall comply with the Department's regulations governing charters, and must be individually approved by the Department unless this requirement is waived by Department order.

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

This permit shall be effective on

Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the dissolution or liquidation of the holder to which it was issued; (2) upon the effective date of any treaty, convention, agreement or amendment, which shall have the effect of eliminating the bilaterally authorized service authorized by this permit from the service which may be operated by airlines designated by the Government of Belgium (or in the event of the elimination of any part of the authorized service, the authority granted shall terminate to the extent of such elimination); or (3) upon the effective date of any permit granted by the Department to any other carrier designated by the Government of Belgium in lieu of the holder; or (4) upon the termination or expiration of the Air Transport Services Agreement between the Government of the United States of America and the Government of Belgium, as amended (or in the event of the termination or expiration of any part of the Air Services Agreement the authority granted by this permit shall cease to the extent of such termination or expiration). However, clause (4) of this paragraph shall not apply if, prior to the occurrence of the event specified in clause (4), the operation of the authorized foreign air transportation becomes the subject of any treaty, convention, or agreement to which the United States of America and Belgium are or shall become parties.

The Department of Transportation has executed this permit and affixed its seal on February 21, 1986.

By:

MATTHEW V. SCOCOZZA  
Assistant Secretary for Policy  
and International Affairs

(SEAL)



PERMIT TO FOREIGN AIR CARRIER

Docket 42686

The holder's authority to conduct operations under the permit to which this is attached shall also be subject to the following terms, conditions, and limitations:

- (1) The privileges granted by this permit are subject to the condition that the foreign air carrier complies with the requirements of 14 CFR 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (2) The privileges granted by this permit are subject to the condition that the foreign air carrier complies with the requirements for minimum insurance coverage contained in 14 CFR 205;
- (3) By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit;
- (4) The holder shall not operate any aircraft under the authority granted by this permit, unless the holder complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention;
- (5) The holder shall conform to the airworthiness and airman competency requirements prescribed by its home Government for international air service;
- (6) Except as specifically authorized by the Department of Transportation, all flights to/from the United States must originate or terminate in the holder's homeland;
- (7) The holder shall not provide the foreign air transportation authorized by this permit unless it holds a currently effective authorization from its Government for such operations and such document is on file with the Department of Transportation;
- (8) The exercise of the privileges granted by this permit shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation; and shall be subject to compliance with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States; and
- (9) This permit cannot be sold or otherwise transferred without explicit Department approval under section 402(g) of the Federal Aviation Act of 1958, as amended.

UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D. C.

Issued by the Department of Transportation  
on the 5th day of March , 1986

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Application of :  
EL AL ISRAEL AIRLINES LIMITED : Docket 42457  
for amendment of its foreign air carrier :  
permit under section 402 of the Federal :  
Aviation Act of 1958, as amended :  
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ORDER ISSUING FOREIGN AIR CARRIER PERMIT

Background

El Al Israel Airlines Limited has held a foreign air carrier permit since 1950. Its most recent foreign air carrier permit was issued by the Civil Aeronautics Board in 1984 (see CAB Order 84-6-44). Under that permit, El Al holds authority to conduct charter flights to and from the United States and to engage in scheduled foreign air transportation as follows:

Between a terminal point or points in Israel; intermediate points in Cyprus, Turkey, Greece, Italy, Switzerland, Austria, Federal Republic of Germany, France, Luxembourg, Belgium, The Netherlands, United Kingdom of Great Britain and Northern Ireland, Ireland, and Montreal, Canada (without traffic rights between Montreal and points in the United States); and the coterminal points New York, New York; Chicago, Illinois; Boston, Massachusetts; Miami, Florida; and Los Angeles, California; and beyond one U.S. point selected by Israel to Mexico City, Mexico (without traffic rights between the selected U.S. point and Mexico City).

Application

By application filed August 30, 1984, as supplemented September 19, September 27, and November 12, 1985, El Al requests that we amend its foreign air carrier permit under section 402 of the Federal Aviation Act, to authorize it to serve intermediate points in Portugal, Romania, and Spain, and to provide beyond service to South America and Asia, but without traffic rights between U.S. points and the beyond points. 1/ In support of

1/ A summary of the application was published in the Federal Register, 49 FR 35969, September 13, 1984.



its application, which is summarized in Attachment A, El Al asserts that it is: (1) owned and controlled by the Government and nationals of Israel; (2) financially and operationally fit to conduct the proposed scheduled operations; (3) licensed by its homeland to do so; and (4) designated by its government to provide the services under the United States-Israel Protocol, signed August 16, 1978 (1978 Protocol).

### Answers

No answers to the application were filed.

### Decision

We have thoroughly reviewed the record and have decided to grant the application using the simplified Subpart Q procedures. 2/ The public was informed of El Al's application by notices in the Federal Register and the CAB's weekly list of applications filed, describing the authority sought and giving interested persons an opportunity to submit evidence and objections to the award of authority. These notices provided the required notice and filing opportunities. Simplified procedures are appropriate in this case because there are no material, determinative issues of fact requiring other procedures.

We are granting El Al the route authority it requests. The scheduled authority we are adding to the carrier's permit is, as El Al notes, encompassed by the 1978 Protocol. Based on the record, we find that El Al is substantially owned and effectively controlled by the Government and nationals of Israel, and that it is fit, willing, and able to perform properly the charter and scheduled foreign air transportation described in the attached permit, and to conform to the provisions of the Act, and to our rules, regulations, and requirements. In this case no party has challenged El Al's ownership and control by homeland government and nationals, the airline's financial and operational fitness, 3/ or the adequacy of the carrier's compliance disposition. Moreover, in 1984 the Civil Aeronautics Board found El Al to be fit to conduct substantially similar permit operations, and we have no information that would now warrant a different finding. 4/

2/ 14 CFR § 302.1701 et seq. Under Rule 29(b) we may, in our discretion, omit a tentative decision in proceedings under Subpart Q and proceed directly to a final decision, after providing an opportunity for interested parties to submit evidence and to object to grant of authority under section 402 of the Act.

3/ By memorandum dated March 15, 1985, and informally updated on February 3, 1986, the Acting Manager, Air Transportation Division, Federal Aviation Administration, stated that El Al conducts its operations within the United States in accordance with Part 129 of the FAA's Federal Aviation Regulations, and that he knows of no reason why the Department should act unfavorably on this application.

4/ While El Al has lost money in past operations, it indicates that its government is a source of additional funds.

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

1. It is in the public interest to issue an amended foreign air carrier permit to El Al Israel Airlines Limited, in the form attached, authorizing the carrier, in addition to the authority held under the permit issued by the Civil Aeronautics Board by Order 84-6-44, to serve, in its scheduled U.S. operations, intermediate points in Portugal, Romania, and Spain, and beyond the United States to South America and Asia, but without traffic rights between the authorized U.S. points and the beyond points;
2. El Al Israel Airlines is qualified and designated by its government to provide the proposed additional scheduled services under the terms of the United States-Israel Protocol, signed August 16, 1978;
3. El Al Israel Airlines is fit, willing, and able to perform properly the foreign air transportation described in the attached permit and to conform to the provisions of the Federal Aviation Act of 1958, as amended, and to our rules, regulations, and requirements;
4. El Al Israel Airlines is substantially owned and effectively controlled by the Government and nationals of Israel;
5. The public interest requires that the exercise of the privileges granted by the permit should be subject to the terms, conditions, and limitations contained in and attached to the permit, and to such other reasonable terms, conditions, and limitations required by the public interest as we may prescribe;
6. Issuance of this amended foreign air carrier permit will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975, as defined in subsection 313.4(a)(1) of our Regulations; 5/ and
7. The public interest does not require an oral evidentiary hearing on the application.

5/ Our finding is based on the fact that the new scheduled operations under the amendment of the applicant's permit will not result in a near-term annual increase in fuel consumption in excess of ten million gallons.

ACCORDINGLY,

1. We amend and reissue, in the form attached, the foreign air carrier permit issued to the applicant by Order 84-6-44, to authorize the carrier, in addition to the authority held under Order 84-6-44, to serve, in its scheduled U.S. operations, intermediate points in Portugal, Romania, and Spain, and beyond authorized U.S. points to South America and Asia (but without traffic rights between the U.S. points and the beyond points);
2. The exercise of the privileges granted by the amended permit shall be subject to the terms, conditions, and limitations contained in and attached to the permit, and to such other reasonable terms, conditions, and limitations as may be prescribed by the Department;
3. Unless disapproved by the President of the United States under section 801(a) of the Act, this order and the attached permit shall become effective on the 61st day after its submission to the President, 6/ or upon the date of receipt of advice from the President that he does not intend to disapprove this order under that section, whichever is earlier;
4. We shall serve this order upon El Al Israel Airlines Limited; the Ambassador of Israel in Washington, D.C., the Federal Aviation Administration (AFS-220), and the United States Department of State; and
5. Except to the extent granted, the application of El Al Israel Airlines Limited in Docket 42457 is denied.

By:

MATTHEW V. SCOCOZZA  
Assistant Secretary for Policy  
and International Affairs

(SEAL)

6/ This order was submitted to the President on March 5, 1986.  
The 61st day is May 5, 1986.

SUMMARY OF APPLICATION  
 El Al Israel Airlines Limited  
 Docket 42457

Homeland Country: Israel

Current Permit Issued By: CAB Order 84-6-44, effective June 14, 1984

Evidence Incorporated By Reference From: Docket 41676

Authority Covered By Bilateral Agreement: Yes

Designated By Its Government: Yes

Holds Government License For Authority Sought: Yes, see supplement filed November 12, 1985, in this docket.

Operating History: El Al commenced airline operations in 1949. The CAB issued the carrier its initial foreign air carrier permit by Order E-4341, effective June 22, 1950. El Al has been conducting operations to the United States for more than 30 years.

Aircraft Maintenance Program Complies With The Provisions of ICAO Pilots and Airmen Annexes 1, 6 (Part 1) and 7: Yes

Financial Indicators (Last 2 years):	<u>March 31, 1983</u>	<u>March 31, 1982</u>
	(000)	(000)
Total Assets	\$ 265,111	\$ 343,939
Total Liabilities	548,478	503,978
Deficiency in Capital	(283,367)	(160,039)
Operating (Loss) for the year	(123,328)	(32,640)

Majority Ownership And Effective Control By: the Government and nationals of Israel

Insurance Coverage: Yes, meets the requirements of 14 CFR Part 205.

Safety Violations During Last 5 Years: No

Tariff Violations During Last 5 Years: No

Near-term Annual Fuel Consumption Exceeds 10 Million Gallons: No

Other: El Al suspended operations in September 1982 during a labor dispute, and resumed them four months later.

UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D. C.

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PERMIT TO FOREIGN AIR CARRIER  
(as amended and reissued)

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EL AL ISRAEL AIRLINES LIMITED

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

- A. Between a terminal point or points in Israel; intermediate points in Cyprus, Turkey, Greece, Romania, Italy, Spain, Portugal, Switzerland, Austria, Federal Republic of Germany, France, Luxembourg, Belgium, The Netherlands, United Kingdom of Great Britain and Northern Ireland, Ireland, and Montreal, Canada (without traffic rights between Montreal and points in the United States); and the coterminal points New York, New York; Chicago, Illinois; Boston, Massachusetts; Miami, Florida; and Los Angeles, California; beyond one U.S. point selected by Israel to Mexico City, Mexico (without traffic rights between the selected U.S. point and Mexico City); and beyond any specified U.S. points to South America and Asia (without traffic rights between the specified U.S. points and points in South America and Asia).
- B. Between a point or points in Israel and any point or points in the United States, either directly or via intermediate or beyond points in other countries, with or without stopovers.
- C. Between a point or points in the United States and any point or points not in Israel or the United States.

This permit and the exercise of the privileges granted in it shall be subject to the terms, conditions, and limitations attached, and to the following:

- 1. The exercise of the authority granted by paragraph A shall be limited to scheduled foreign air transportation of persons, property and mail.
- 2. The exercise of authority granted by paragraphs B and C shall be limited to charter transportation of persons and their accompanying baggage, and property.

3. The holder may serve Mexico City from any point specified in paragraph A, but such service shall be conducted from only one U.S. point at any given time. The holder shall provide the Department with 30 days' notice of the U.S. point from which it will be conducting such service.
4. The authority of the holder pursuant to paragraph B to perform charters which originate in Israel is subject to the rules, regulations and licenses issued by the government and aeronautical authorities of Israel.
5. The authority of the holder pursuant to paragraph B to perform charters which originate in the United States is subject to applicable Department regulations, except where waivers of these regulations have been explicitly granted by the Department.
6. The authority of the holder pursuant to paragraph B to perform charters which originate in the United States and terminate at points beyond Israel is limited to charters which stop over in Israel for at least two consecutive nights. All traffic originating in the United States and stopping over in Israel for less than two consecutive nights shall be carried pursuant to paragraph C of this permit.
7. Charter air transportation authorized by paragraph C is subject to the Department's regulations governing such charters.
8. This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective to which the United States and Israel are or shall become parties.

This permit shall be effective on . Unless otherwise terminated at an earlier date under the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the dissolution or liquidation of the holder to which it was issued; (2) upon the effective date of any treaty, convention, or agreement, or amendment, which shall have the effect of eliminating the route or routes authorized by this permit from the routes which may be operated by airlines designated by the Government of Israel (or in the event of the elimination of any part of the authorized route, the authority granted shall terminate to the extent of such elimination); or (3) upon the effective date of any permit granted by the Department to any other carrier designated by the Government of Israel in lieu of the holder; or (4) upon the termination or expiration of the Air Transport Agreement between the Government of the United States of America and the Government of Israel dated June 15, 1950, as amended (or in the event of the termination or expiration of any part of the Air Transport Agreement, the authority granted by this permit shall cease to

the extent of such termination or expiration). However, clause (4) of this paragraph shall not apply if, prior to the occurrence of the event specified in clause (4), the operation of the foreign air transportation authorized becomes subject to any treaty, convention, or agreement to which the United States and Israel are or shall become parties.

The Department of Transportation has executed this permit and affixed its seal on March 5, 1986 .

MATTHEW V. SCOCOZZA  
Assistant Secretary for Policy  
and International Affairs

(SEAL)



PERMIT TO FOREIGN AIR CARRIER

Docket 42457

The holder's authority to conduct operations under the permit to which this is attached shall also be subject to the following terms, conditions, and limitations:

- (1) The privileges granted by this permit are subject to the condition that the foreign air carrier complies with the requirements of 14 CFR 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (2) The privileges granted by this permit are subject to the condition that the foreign air carrier complies with the requirements for minimum insurance coverage contained in 14 CFR 205;
- (3) By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit;
- (4) The holder shall not operate any aircraft under the authority granted by this permit, unless the holder complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention;
- (5) The holder shall conform to the airworthiness and airman competency requirements prescribed by its home Government for international air service;
- (6) Except as specifically authorized by the Department of Transportation, all flights to/from the United States must originate or terminate in the holder's homeland;
- (7) The holder shall not provide the foreign air transportation authorized by this permit unless it holds a currently effective authorization from its Government for such operations and such document is on file with the Department of Transportation;
- (8) The exercise of the privileges granted by this permit shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation; and shall be subject to compliance with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States; and
- (9) This permit cannot be sold or otherwise transferred without explicit Department approval under section 402(g) of the Federal Aviation Act of 1958, as amended.

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