Administration Aviation Strategy Jan 1994

U.S. Department of Transportation
Office of the Secretary of Transportation

Assistant Secretary

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

JAN 14 1994

Mr. Michael T. Schmidt
Senior Policy Analyst
Office of Domestic Policy
Old Executive Office Building, Room 217
Washington, DC 20500

Dear Mr. Schmidt:

Enclosed is a copy of the "Clinton Administration's Initiative to Promote a Strong Competitive Aviation Industry" which was announced by Secretary Peña and Dr. Laura Tyson on January 6, 1994. Also enclosed are news clips which by-in-large were very favorable.

The Secretary asked me to thank you and members of your staff for the hard work that went into making this Aviation Initiative a success. The entire NEC working group process was a good illustration of government agencies working together to address a problem of national interest.

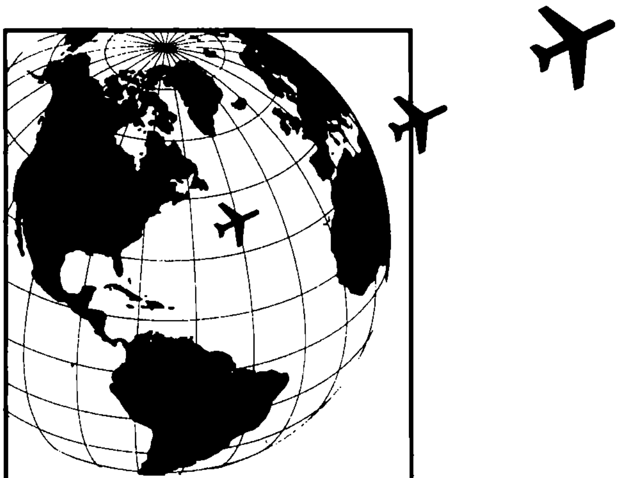
The Secretary also asked that we establish a very visible and ongoing mechanism to follow-up on the many actions outlined in the Aviation Initiative. During the next few weeks, we will be developing a follow-up process.

Again, thank you for your support and I look forward to working with you in implementing the Aviation Initiative.

Sincerely,

Patrick V. Murphy
Acting Assistant Secretary for
Policy and International Affairs

2 Enclosures



GROWING TO MEET

GLOBAL

COMPETITION

The Clinton Administration's Initiative to Promote a Strong Competitive Aviation Industry

January 1994

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STATEMENT OF THE SECRETARY OF TRANSPORTATION

For more than ninety years, the United States' aviation industry has led the world, making air travel safer and more accessible to hundreds of millions of travelers and shippers. Air transportation is now an $80 billion U.S. industry employing half a million Americans. Worldwide, much of the growth of travel and tourism, now a $3 trillion-plus global industry, stems from innovative U.S. aviation technology and services.

In the past few years, though, U.S. airlines and aircraft makers have passed through severe financial stress. The industry has lost money, jobs and aircraft orders. Global recession has constrained the growth of foreign carriers and raised uncertainty over access to foreign markets.

Right from its first days in office, the Clinton Administration has recognized that airlines and aircraft manufacturing are strategically crucial industries for America's future -- sources of high-tech, high-wage jobs and technological innovation with impacts throughout the national economy. That is why speeding and strengthening an airline/aerospace recovery has been one of the Administration's highest priorities, beginning with early discussions with the industry and the appointment in May, 1993, of a 15-member National Commission to Ensure a Strong Competitive Airline Industry.

This *Aviation Initiative* builds on actions that the Administration and the Department of Transportation have already taken. It draws on the recommendations of the Airline Commission, incorporates elements of the Vice-President's National Performance Review, and has been reviewed by the Council of Economic Advisers, the National Economic Council and other agencies.

The most powerful support that any American government can give its airlines and aircraft makers is to spur renewed growth in the overall national economy. On that front, there are some promising signs. Ever since President Clinton's first budget proposal, this Administration's seriousness about reducing the U.S. deficit has kept interest rates low and encouraged faster economic growth. An overall decline in losses and generally improving financial conditions are visible in the U.S. airline industry this year, in part because carriers have acted to cut costs and increase their efficiency.

Even as the Clinton Administration has worked for a broad economic recovery, we have also been shaping a philosophy of active, creative engagement with the aviation industry from the very beginning.

The Department of Transportation has, for example, used the statutory powers that it always retained -- even under deregulation -- to step in and prevent anti-competitive practices designed to limit new airline entrants. We have also firmly resisted efforts by foreign governments, whose own airlines are often losing money, to cut back U.S.

carriers' access to their markets. We have, when appropriate, acted as mediators or conciliators between airline management and labor.

In short, while eschewing any return to regulation, we have defined a role for government as an active "player" in aviation, using the power of government to promote competition at home and abroad in ways consistent with the public interest in safe, affordable, accessible air travel.

This *Aviation Initiative* builds on all of the Administration's actions to support five basic aviation policy goals:

- *Revitalize Domestic Aviation*
- *Bolster International Trade and Competitiveness*
- *Promote Airport Development and Growth*
- *Enhance Safety and Consumer Benefits, Protect the Environment, and Improve Access to Airport and Airlines*
- *Integrate Aviation into the National Transportation System*

To revitalize domestic aviation we call for several specific steps to make air transportation safer and more efficient. The main strategies are: to restructure the Federal Aviation Administration to speed up the delivery of state-of-the-art air traffic control services; to accelerate the use of the Global Positioning System in civil aviation; and to invest more in research and development to sustain America's lead in aerospace technology.

We will also use the statutory power of government, whenever necessary, to promote and preserve competition and to ensure air carriers' financial soundness. We will insist that mergers, acquisitions and sales of route authority foster competition and we will seriously consider the impact of such transactions on airline employees.

Internationally, too, we seek to foster competition and consumer choice because we believe that truly open aviation markets benefit all nations' economies and citizens. To that end, we will ask Congress to liberalize limitations on foreign ownership of U.S. airlines. But we will forcefully defend existing U.S. carriers' rights, even as we seek to move beyond today's outdated bilateral aviation agreements to broader, multi-lateral negotiations and agreements.

To promote airport development and growth, the Department of Transportation will work closely with Congress on specific proposals in conjunction with FAA's legislative re-authorization later this year. Our aims will be to reduce congestion, enhance safety, improve access to airports and airlines and limit environmental impacts of aircraft noise.

The Department of Transportation has also launched a nationwide effort to designate the essential elements of a National Transportation System. For the first time ever, this effort will integrate roads, rail, airports, seaports, waterways, pipelines and urban transit in a coherent national network. It will enable us to better analyze the needs for investment in airport facilities, for example, in a balanced framework with other modes of transportation.

I believe the core elements of a strong revival for the U.S. airline and aircraft industries are emerging. President Clinton's economic policies are taking hold. And the central tenets of what Government's role must be in aviation are clear: we must promote and defend competition, ensure financial soundness, foster new partnerships between airline management and labor, defend and extend U.S. carriers' rights in foreign markets and pry open new foreign markets for U.S. aircraft and airline services.

This *Aviation Initiative*, and other actions that will follow and build on it in coming months, will help us to meet all of these goals.

I want to thank Governor Baliles and the members of the National Airline Commission for their thoughtful and timely recommendations for strengthening the airline industry. I also want to thank the Council of Economic Advisers, the members of the National Economic Council, and all of those from other agencies for their support in developing this *Aviation Initiative*.

Federico Peña

STATEMENT OF THE CHAIR
PRESIDENT'S COUNCIL OF ECONOMIC ADVISERS

The airline and aircraft manufacturing industries are vital to our nation -- and not merely for their large contributions to national output and employment. Each of us is immeasurably enriched when family and friends, a continent apart at breakfast, can be together at dinner, when business meetings can routinely involve residents of different cities, and when scarce medicines and crucial repair parts can be shipped overnight to where they are needed.

Although airline deregulation has been good for the airline and aircraft industries, in recent years these industries have encountered economic difficulties. The air carriers recorded large losses during the past few years, and aerospace manufacturing has been hit hard by the downsizing of the defense sector following the end of the Cold War. When vital industries find themselves in financial distress, we must all be concerned.

We cannot have healthy aerospace industries without a strong economy. Airline profits are extremely sensitive to the business cycle. The most recent financial distress of the airline industry, for example, was triggered by the 1990-91 recession. In addition, industry losses were exacerbated by the over-optimistic expansion and excessive debt financing undertaken by the leading carriers during the 1980's. Losses in the airline industry in turn have adversely affected the profitability and prospects of the aircraft producers.

A strong economy will be the best medicine for what ails the aerospace complex. We believe that the recent budget reconciliation legislation, which reduces the deficit, along with other Administration initiatives, have put the economy on course for strong and sustainable growth. As the current recovery progresses, the major airlines are now reporting a return to profitability.

But a strong economy cannot alone cure these industries' ills. The Administration's *Aviation Initiative* identifies additional steps we are taking to revitalize domestic aviation, encourage aerospace manufacturing and the development of new aviation technologies, and promote trade and competitiveness in international aviation.

Laura D'Andrea Tyson

PART 1. REVITALIZING DOMESTIC AVIATION

Actions To Make The Air Transportation System Safer And More Efficient

The Administration is acutely aware of the importance of operating the nation's air transportation system as safely and efficiently as possible. This entails efficient, high-quality air traffic control services, timely implementation of cost-saving technologies, continued support for the development and application of cutting-edge technology and products, and improved utilization and management of the airspace system. To these ends, we will:

Restructure ATC Services

In response to recommendations of both the National Performance Review and the National Airline Commission, a committee of Administration experts is developing a detailed plan to restructure FAA's Air Traffic Control (ATC) services as a government corporation. Our goal is to make ATC more business-like and to overcome certain chronic impediments to good management, such as inflexible personnel rules and burdensome procurement regulations, that have frustrated efficient and effective delivery of ATC services.

The committee is seeking a corporate structure that will streamline procurement, simplify the personnel process, provide funding stability, ensure continuity of leadership, and reduce the incidence of unnecessarily detailed management oversight. It is also evaluating the implications of the corporate model for aviation safety, productivity, responsiveness to customer needs, national defense requirements, and other key issues. The committee will present its restructuring proposals, together with the draft legislation needed to implement the changes, to the Secretary of Transportation in April 1994. The Secretary will work with Congress to enact any required legislation.

The committee is comprised of senior officials from the Departments of Transportation and Defense, the Office of Management and Budget, the Council of Economic Advisers, the National Economic Council, the National Performance Review, and other agencies. Suggestions and concerns regarding the delivery of FAA services are being solicited from the aviation community, Congressional representatives, industry leaders and other aviation experts.

Accelerate GPS and Related Technologies

The FAA Administrator has been charged with the task of accelerating the use of the Global Positioning System (GPS), a satellite-based navigation system. GPS offers enormous opportunities for enhancing civil aviation safety and efficiency. It enables us to integrate high-precision navigation with air traffic control. This will increase the capacity of our airspace system and reduce delays and the costs they impose on airlines, passengers and shippers.

Our accelerated schedule for the next 3 years calls for GPS to be available for navigation after take-off and for landing beginning in 1994, and to be available for navigation over the oceans in 1995. Augmentation systems allowing broader and more robust GPS applications, such as use of GPS for certain types of precision approaches, are to be put on-line by 1996.

We are also working to ensure successful implementation for the long term. Because GPS was conceived, developed and fielded as a military system, its application to civil aviation presents significant technical and operational challenges. Recognizing the need for coordinated action, the Secretaries of Transportation and Defense jointly established a DOT/DOD task force to undertake a thorough analysis of the policy and security questions regarding civil use of GPS, to define civil requirements for GPS and any barriers to their fulfillment, and to make recommendations for sustaining GPS on a long-term basis. The task force's recommendations on management jurisdiction between the Departments, GPS funding, international acceptance of GPS, and various technical matters concerning civil GPS applications were reported to the Secretaries in December 1993.

In support of these actions to promote civil use of GPS, we will be modernizing the national airspace system to accommodate both civil and military needs by installing new equipment for automating ATC operations, accelerating standards on the operation and certification of GPS components, and working with industry to develop standards for future GPS and ATC enhancements. Furthermore, our plan for restructuring ATC services will include options for creating public-private consortia as a vehicle for expediting the development and implementation of ATC technologies.

Sustain U.S. Technological Leadership and Superiority through Partnership with Industry

A solid working partnership between industry and government will spur the development of technologies having the highest payoffs for our national aviation system and help to sustain America's preeminence in civil aviation research and development. Working with industry, we are committed to building a strong, advanced technology base for civil aviation that will guarantee continued expansion of benefits both domestically and internationally, while ensuring that U.S. industry maintains a strong competitive posture in the manufacture of aircraft and delivery of air services.

In support of these objectives we have increased NASA's aeronautics budget by 18 percent for fiscal year 1994, focusing on increased investment in civil aviation. Working with industry and FAA, NASA has developed research programs to enhance aviation competitiveness, system capacity, environmental compatibility and safety. The principal components are the Advanced Subsonic Technology (AST) program and the High Speed Research (HSR) program. AST provides basic research for the next-generation subsonic transport, and includes capacity and efficiency improvements together with NASA's contribution to GPS implementation. HSR is aimed at providing the research foundation for an industry-developed High Speed Civil Transport that is economically viable and environmentally compatible for the long-haul, over-water market. This fast-growing market is likely to make the High Speed Civil Transport the key to global competitiveness in aircraft manufacturing in the future. Upgraded and new aeronautical facilities also are receiving increased attention in response to the aging of our national facilities and the needs of industry and government. For example, new wind tunnels that do a better job of simulating flight conditions should improve the aircraft design process, enabling production of high-quality aircraft at lower cost with faster delivery to market.

In addition to these programs, we will take full advantage of the Defense Department's investment in "dual-use" aeronautical research, *i.e.*, research on systems and equipment intended for military use that may be applicable to civil aviation. For example, under the President's $470 million Technology Reinvestment Project, federal grants have been awarded to private firms and institutions to support commercial development of products such as a new airport radar system, based on technology originally developed by the Navy, that can detect hazardous weather conditions while simultaneously monitoring air traffic. Furthermore, FAA, in addition to its ongoing support of GPS and ATC modernization, will work with industry in a cooperative research and development effort for new aircraft designs and manufacturing processes.

To guide our partnership with industry, the Administration's Interagency Aeronautics Working Group, co-sponsored by the Office of Science and Technology Policy and the National Economic Council, will (1) establish aeronautics research and development goals by February 1, 1994, and (2) complete an R&D action plan by February 1995.

Evaluate the High Density Rule

The Department of Transportation has begun a comprehensive examination of the High Density Rule to assess its viability as an efficient air traffic and delay management tool and to determine whether certain operating limitations imposed by the rule can be eliminated or modified to better utilize airport capacity. Put in place nearly 25 years ago as a "temporary" measure to deal with airport congestion, the High Density Rule today limits the number of airline operations at four major U.S. airports: Chicago O'Hare, New York's LaGuardia and JFK International, and Washington National. The Department's study is assessing capacity at these airports and the impact of the rule on airline competition, fares and service patterns. It also is evaluating the rule's economic, financial and environmental implications, including the process for allocating domestic and international slots and alternative traffic management techniques such as peak-period pricing. The study will be completed by November 1994.

Actions To Enhance The Aviation Industry's Financial Outlook

The most important action government can take to improve the industry's financial condition has already been taken. Enactment of the President's budget plan establishes the foundation for sustained economic growth and control of the federal deficit. A reinvigorated economy will generate more business for airlines and aerospace firms, boosting their financial prospects. The President's plan also provides relief from the Alternative Minimum Tax for many capital-intensive businesses, including airlines, and a temporary exemption from the 4.3 cents-per-gallon fuels tax for gasoline and jet fuels used in commercial aviation prior to October 1, 1995. For the airline industry, these provisions will provide financial benefits amounting to $1.4 billion for fiscal years 1994-1998. In addition to these measures, we will take the following actions to address financial concerns and promote airline competition:

Seek Bankruptcy Reform

We support, and will work with Congress to secure the passage of, the provisions of Senate bill 540 that would amend the bankruptcy code to:

- Limit to 60 days the time period during which a bankrupt air carrier can either assume or reject unexpired leases or executory contracts with an airport operator, under which the debtor has a right to the use or possession of an airport terminal, aircraft gate, or related facility. This change, while allowing time for a financially troubled airline to reorganize, recognizes the interests of the airline industry and the public in assuring efficient use of limited airport gates and related ground-support assets.

- Codify recent court decisions to clarify that the lease provisions of the bankruptcy code cover parties with security interests, lessors of such equipment, and conditional lessors of such equipment. This change, which would cover maritime and railroad leases as well as aircraft equipment leases, would protect the right of a secured creditor to retake leased equipment 60 days after the filing of a bankruptcy petition in case of failure to make payment or fulfill other obligations specified in the lease. As a result, lessors' concerns over the impact of bankruptcy on their equipment would be allayed, and other carriers would be able to lease aircraft and related equipment on better terms.

- Allow governmental units, such as the Pension Benefit Guaranty Corporation, that have a major financial stake in certain Chapter 11 reorganization cases to participate as members of creditors' committees. Creditors' committees play a key role in Chapter 11 proceedings by gathering financial information, conducting investigations, and participating in decisions bearing on the debtor's fate. Under current law, government agencies and instrumentalities are effectively excluded from creditors' committees even though they are often among the largest creditors involved in a Chapter 11 proceeding. The proposed amendment would allow government entities -- federal, state or local -- to sit on creditors' committees in appropriate cases and exercise a stronger voice in the reorganization process.

In addition to supporting these statutory changes, we have begun a review of the economic impact of bankruptcy laws, giving particular attention to the effects of (1) introducing certain time limits on the filing of reorganization plans and (2) increasing the representation of the public interest in bankruptcy proceedings. These issues require detailed review because they transcend airline bankruptcy cases. Based on the results of our review, which is being conducted under the auspices of the National Economic Council, we will work with Congress to effect appropriate changes to the bankruptcy laws.

Closely Monitor Financial Fitness

Secretary Peña has directed Department of Transportation staff to monitor more closely and report to him regularly on the state of the airline industry and the condition of individual carriers. Given the dynamics of the industry, the Department is giving particular attention to financial factors, especially competition within the industry, ownership changes, and financial trends. Large transactions involving established carriers will be scrutinized to ensure that the carriers' financial health is not undermined by ill-conceived financing schemes.

Under section 401(r) of the Federal Aviation Act, the Secretary of Transportation can, after proper notice and a hearing, modify, suspend or revoke an airline's authority to operate if the Secretary determines the airline no longer meets the Department's fitness requirements. Typically, the Department has under review, and receives confidential data related to, fitness elements for as many as 30 carriers, including data on finance, operations, ownership and control, business plans, and citizenship. Moreover, the Secretary receives diverse perspectives on the airlines' financial and competitive status through continual exchanges, formal and informal, with airline executives, transportation academicians, aviation consultants, financial analysts, and Congressional leaders. These consultations, coupled with the Department's intensified fitness reviews, provide a strong incentive for airlines to comply with fitness requirements and to promptly correct deficiencies identified by the Department. New authority or mechanisms for ensuring financial fitness are not necessary at this time.

Preclude Diversion of Airport Revenues

The Department of Transportation will continue to enforce prohibitions against the diversion of airport revenues for non-airport related purposes, and to scrutinize projects funded by passenger facility charges to ensure they satisfy eligibility criteria. However, the Department is contemplating statutory changes that would authorize the use of airport revenues for a broader array of transportation-related projects and activities. A final decision on this issue will be made in January 1994; any changes would be proposed in conjunction with FAA's upcoming legislative re-authorization.

Some airport sponsors would like to use airport revenues to pay for the costs of projects and services unrelated to airport use. Allowing revenues to be diverted in this manner, however, would be inconsistent with the legislative intent of the Airport Improvement Program (AIP) and Passenger Facility Charges (PFCs). AIP is intended to assist airports in meeting their capital needs and to ensure that capacity and safety improvements are made. Under current law, an airport that has received an AIP grant is prohibited from diverting airport revenues to non-airport purposes. Similarly, PFC revenues, which airports are authorized to collect by charging up to $3 per enplaning passenger, are intended to provide capital for meeting airport-related development needs. Projects to be funded by PFCs must be approved by FAA to ensure they meet statutory criteria for eligibility.

The statutory changes under consideration by the Department would broaden the concept of "airport purposes" to allow revenues to be used for a wider range of transportation-related activities. This could include, for example, expenditures to improve ground access, support intermodal terminals, and defray the costs of state and regional transportation planning activities. It could also include support for other off-airport costs, such as noise abatement programs.

Stay on Course to a Quieter Stage 3 Fleet

FAA will continue to ensure carrier compliance with federal requirements for phasing out noisier Stage 2 aircraft by the year 2000, and to exercise review and approval authority over all local restrictions proposed by airport operators on the use of quieter Stage 3 aircraft. This course of action will ultimately reduce the population affected by significant levels of aircraft noise from 2.7 million to 400,000, while protecting carriers' investment in Stage 3 aircraft during the transition to an all Stage 3 fleet.

Fortunately, that transition is moving forward more rapidly than required. As of December 31, 1992, the fleet mix of Stage 3 aircraft was 59.3 percent overall and 56.3 percent for domestic aircraft. This is ahead of the minimum 55-percent interim goal set for December 31, 1994. In most cases, the transition to Stage 3 should achieve the noise mitigation objective of airports and their affected communities. On occasions when an airport operator concludes that additional noise relief is needed, FAA will urge the airport to work with the local airport users in reaching voluntary agreement on any additional measures.

Promote Competition and New Entrants

Airline competition has lowered air fares, increased service, and encouraged innovation. To preserve and enhance these consumer benefits, the Departments of Justice and Transportation will continue their aggressive enforcement of the antitrust laws and administrative regulations promoting competition. In the recent past, for example, the Government has vigorously attacked conduct facilitating price coordination and practices that thwarted pro-competitive entry by new carriers. In other instances, we have voiced objections privately, pursuing voluntary compliance as our first resort. We will remain vigilant in preventing marketing practices that may be used by airlines to maintain hub dominance, in challenging mergers and acquisitions that may substantially lessen competition, and in scrutinizing international joint ventures and route transfers that may jeopardize the benefits of robust industry competition.

The Federal Aviation Act specifies that the Department of Transportation should encourage entry into air transportation markets by new carriers. This has been and will continue to be the Department's policy. The Department will continue to help educate prospective airline entrepreneurs about certification requirements and procedures, and to provide substantial guidance and assistance to new entrant applicants in perfecting their applications. Furthermore, the Departments of Transportation and Justice will seek to minimize barriers to new entry and to ensure that new firms are not prevented from entering the airline business, and will act to prevent anti-competitive pricing and marketing practices by carriers which have the market power to stifle competition.

Actions To Reduce The Regulatory Burden

The Administration desires both to reduce the regulatory burden imposed on the airline and aerospace sectors and to improve the cost-benefit analysis and reporting that underlie rulemaking decisions. We are particularly mindful of the costs and controversies associated with drug and alcohol testing in the aviation industry, as well as the need to assure the public of the industry's safe operation. The following actions will be taken:

Reassess Existing Regulations

The Deputy Secretary, Department of Transportation, will spearhead a systematic evaluation aimed at eliminating or amending existing rules and regulations to reduce the compliance burden on industry, consistent with safety, environmental protection, and security considerations. This evaluation, which has been launched and is being conducted in accordance with the President's Executive Order on Regulatory Planning and Review, will include implementation schedules and periodic progress reports to the industry and the public.

To avoid wasting resources and duplicating prior reviews, the Department will solicit specific suggestions from the industries involved and the public regarding regulatory areas where the regulatory burden exceeds benefits. FAA's Aviation Rulemaking Advisory Committee, a group of 61 organizations representing a cross-section of aviation interests, will play a key role in identifying regulations for reassessment.

Improve the Quality of Cost-Benefit Data and Reporting

FAA, assisted by its Aviation Rulemaking Advisory Committee, will identify options and opportunities for receiving cost input data early during the regulatory process. Since its inception over 2 years ago, the Advisory Committee has steadily increased its participation in FAA's rulemaking program. Its role has matured to the point that the Committee is now fostering government-industry cooperation and facilitating the early exchange of data so that FAA can make informed decisions before proceeding with a rulemaking proposal. To develop additional ways of facilitating timely exchange of accurate cost data, FAA also has assigned additional resources to the economic analysis component of its regulatory program.

These ongoing efforts to obtain timely and accurate cost data are already paying dividends. In the case of rules mandated by Congress or initiated by the Administration, FAA prepares a preliminary cost-benefit analysis prior to issuing a rulemaking notice and briefs the appropriate officials on the results. Based on guidance received at the briefing, FAA takes whatever additional action is necessary, including but not limited to issuing the notice as prepared, modifying the proposal to mitigate the estimated cost burden, or terminating the project entirely.

With respect to existing rules, FAA will invite the aviation industry to submit data on the actual costs incurred to comply with provisions of the regulations. These cost data, married with data on benefits, will form the basis for an annual cost-benefit report to Congress.

Sharpen Cost-Benefit Methodology

In January 1994 the Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) will establish a working group, including analysts from the Department of Transportation, the Council of Economic Advisers and OMB, to expand and improve regulatory cost-benefit analysis and to resolve significant cost-benefit disputes. Identified improvements in cost-benefit methodologies will be shared with all agencies, including FAA, for use in preparing Regulatory Impact Analyses.

Complete Outstanding Drug and Alcohol Rulemakings

The Department of Transportation, working within the statutory framework of the federal rulemaking process, will complete these proceedings within the next 60 days. With respect to drug testing, the Department issued an Advance Notice of Proposed Rulemaking to gather information on which to consider a change in the random drug-testing rate, which is currently set at 50 percent. This rate for the aviation industry, as for other transportation industries, was established by public rulemaking; any change to the rate must therefore be established in full compliance with rulemaking procedure. With respect to alcohol testing, the Department issued a Notice of Proposed Rulemaking which includes pre-employment and random alcohol testing. Both types of tests are among those mandated by the Omnibus Transportation Employee Testing Act of 1991. Based on the experience with both rulemakings, the Department will work with Congress to determine whether any legislative relief is warranted.

Actions To Foster Labor-Management Collaboration

The Administration is committed to accelerating the evolution of labor-management relations, throughout the economy, in the direction of collaboration and flexibility. This commitment has been evidenced by the involvement of the President and the Secretaries of Labor and Commerce in sponsoring a national Conference on the Workplace of the Future and by the creation of a new Office of the American Workplace within the Labor Department. Moreover, the work of the Dunlop Commission on the future of worker-management relations is now underway and will explore new initiatives in this area. As further manifestations of our commitment to collaborative labor-management relations, we will:

Promote Job Opportunities and Employee Ownership

The Labor Department's Office of the American Workplace has begun a project to encourage the development and expansion of employee stock ownership and other "gainsharing" programs. The project is seeking to identify creative gainsharing programs through outreach with industry groups, associations, labor, and the financial community in 5 or 6 states. Ideas for further development will be explored and industry targets for expanded gainsharing programs will be selected. Results of this project will be available in October 1994 and will be shared with the airline, aerospace and other industries. In addition, in January 1994 the Department of Labor will begin an analysis of the impact of globalization on domestic high-skilled, high-wage jobs in the production, maintenance and other key sectors of the aviation industry. This analysis is aimed at identifying strategies for dealing effectively with the rapid changes in labor demand that are occurring in these aviation sectors. Labor's report will be completed by the end of March 1994 and will include policy options for capitalizing on the U.S.'s competitive advantage for high-skill, high-wage jobs.

Obtain Information on Potentially Displaced Workers

When reviewing proposed mergers, acquisitions and sales of route authority, the Department of Transportation will carefully examine the impact on airline workers in conjunction with its fitness review process. Effective immediately, any carrier seeking approval from the Department for an international route transfer, or undergoing a major change subject to the Department's review, will be directed in the agency's standard evidence request to provide any plans it has developed for protecting potentially displaced workers.

PART 2. PROMOTING INTERNATIONAL AVIATION TRADE AND COMPETITIVENESS

Actions To Build A Liberal Multinational Aviation Framework

For several years U.S. air carriers have benefitted from air services agreements negotiated on a country-by-country basis. This bilateral approach has become increasingly ill-suited to the needs of an interdependent world, however: it is limiting commercial opportunities, distorting competition, and denying our communities the broader economic benefits of direct international air service. Given the growth of multinational blocs such as the European Union (EU) and the creation of "multinational" airlines through alliances and investments, the constraints of a bilateral system clearly demand that we develop strategies for building a modern, liberal, and multinational regime for international aviation. Such a regime would provide greater access to foreign airports for U.S. carriers, more travel options for passengers, and enhanced competition that lowers fares. For the near term we must focus on solidifying the rights that our carriers currently have and on seeking the most open and liberal arrangements that we can possibly attain. We should also begin to work toward a liberal multinational aviation regime. To achieve these goals we will act to:

Pursue Alternative Negotiation Strategies

The Administration's Interagency Committee on Aviation will evaluate the role of all potential negotiating alternatives, *e.g.*, bilateral, regional, multinational, global network of like-minded countries, in moving toward a liberal international aviation regime, and will prepare a statement of policy for achieving liberalization objectives over the short, medium and long terms. The policy statement will include the goal of creating a liberal multinational regime for passenger service, and will be completed by June 1994. During the interim our approach to air service negotiations is being guided by the following four strategies, set forth in Secretary Peña's November 1993 address before the International Air Transport Association:

- o First, the United States will actively seek unrestricted, multi-lateral agreements with those groups of nations that are willing to offer comparable benefits for U.S. carriers and the U.S. economy.

- o Second, while pursuing multi-lateral accords, we will also seek to liberalize existing bilateral agreements. We will ensure that any such agreements actually stimulate more air travel, increase competition, and augment any other aviation rights already contained in existing bilaterals.

- o Third, we will vigorously defend all existing U.S. bilateral rights. We will act, through all appropriate means, against any foreign competitors whose governments discriminate against or fail to honor the rights of U.S. airlines.

- o Fourth, we will explore the formation of a global coalition of like-minded, free market-oriented nations that recognize the benefits of expanded air travel to citizens and national economies. Our aim is to determine whether such a group of nations could create sufficient "critical mass" to offer a host of new air rights and services to their carriers and citizens in exchange for comparable benefits for the carriers and citizens of the United States.

The Departments of State and Transportation will take the lead in implementing these strategies in pursuit of liberal, sector-specific agreements over the near term. In particular, we may be able to strike sectoral air-cargo service agreements, either bilaterally or multi-nationally, as a step toward the goal of market liberalization. The EU recently accepted our proposal to establish a working group to explore the creation of a fully unrestricted North Atlantic air cargo market. We expect exploratory talks to begin in early 1994. An open air cargo agreement could be a step toward the longer-term goal of a liberalized air passenger agreement with the EU.

As the Administration develops new approaches to negotiation, we will assess whether organizational changes are needed at the Departments of State and Transportation to assure that international negotiations continue to receive the appropriate level of attention and continuity. State is already taking steps to ensure that key staff remain in place for a longer period of time. At Transportation, Secretary Peña has reorganized responsibilities at the Assistant Secretary level to focus more time and attention on aviation matters.

Liberalize Limitations on Foreign Ownership of U.S. Carriers

We will ask Congress to liberalize current restrictions on foreign ownership of U.S. airlines, which limit such ownership to 25 percent of the voting interest. Reducing restrictions on U.S. air carriers' access to international capital could contribute to their growth and competitive effectiveness, promote competition and consumer benefits, preserve jobs for U.S. workers, and otherwise support the economic interests of the United States. We also recognize the potential value of foreign investment liberalization in promoting the development of a more liberal international aviation regime that can provide U.S. carriers with greater investment opportunities and increased access to foreign markets.

We are keenly aware that a proposal to liberalize foreign ownership must be carefully crafted to be consistent with U.S. economic and security interests and with our international treaty obligations. Air transport is a highly regulated and strategically important industry that is unique in requiring reciprocal bilateral arrangements for "trade" rights. In this structure, a higher foreign ownership component than permitted by current law could disadvantage U.S.-owned carriers by allowing a foreign airline to obtain greater access to the U.S. market without comparable opportunities for U.S. carriers. Access to, through, and beyond the U.S. market through investments greater than 25 percent of the voting interest should be permitted only when it will advance the national interest and contribute to the development of a liberal global regime for air services. In addition, any proposal to liberalize foreign ownership must take into account U.S. international treaty obligations and defense needs.

The Departments of State and Transportation will take the lead in fully evaluating these issues and preparing a legislative proposal. We envision that draft legislation would propose to amend the Federal Aviation Act's definition of "U.S. citizen" to maintain U.S. citizenship status for an air carrier notwithstanding foreign airline ownership of between 25 percent and 49 percent of voting stock, as long as there is in effect with the government of which the investor is a national an air services agreement which permits such ownership. There would also be a provision stating that in negotiating such air services agreements, the U.S. Government should agree to include expanded investment opportunities for privately-owned and controlled foreign investors only in the context of a package that provides the United States with comparable opportunities, including liberal market access rights and liberal foreign investment opportunities.

Safeguard Defense Airlift Capacity

The availability of civil aircraft to meet emergency airlift requirements, as set forth in the National Airlift Policy, is vitally important and, along with other national defense and security needs, must be taken into account in decisions on cross-border investment and ownership. The Departments of Transportation and Defense will take the lead in ensuring that national defense and security are adequately considered in all such decisions. By the end of January 1994, the Defense Department will complete a review of airlift requirements, specifically to include Civil Reserve Air Fleet requirements by participating U.S. international air carriers. Transportation and Defense will then develop specific proposals to ensure availability of the needed commercial airline capacity, culminating in the award of the fiscal year 1995 Civil Reserve Air Fleet contract by the target date of June 30, 1994.

Actions To Expand And Facilitate Aviation Commerce

In addition to building a liberal multinational framework, the Administration seeks to expand commercial opportunities for U.S. aircraft manufacturers in the global marketplace and to facilitate the flow of international aviation commerce. We are developing strategies for modernizing aviation systems in specific countries and regions, cultivating knowledge of the U.S. aviation system around the world, and targeting and promoting U.S. products abroad. For example, in conjunction with the Administration's new national export promotion policy, the Secretaries of State, Commerce and Transportation earlier this year headed missions to Saudi Arabia, Bahrain, the United Arab Emirates and other countries to promote sales of U.S. commercial aircraft, airport equipment and services, and other U.S.-produced goods and services. In addition to such activities, we will expand and facilitate international aviation commerce by working to:

Ratify the Montreal Protocols

We will urge the Senate to ratify Montreal Protocols 3 and 4 to the Warsaw Convention, subject to enactment of a statutory supplemental compensation plan on death and injury in international air travel. These actions will create a liability system for American citizens and permanent residents traveling on international flights, ensuring full and expeditious compensation of all damages, economic and non-economic, for death or injury. This system would cover all passengers purchasing tickets in the United States for international travel, as well as all U.S. citizens and permanent residents traveling internationally anywhere in the world, thus avoiding the quagmire and uncertainty of conflicting laws of hundreds of nations and local jurisdictions. The supplemental compensation plan will also cover acts of terrorism or war. In the case of Montreal Protocol 4, ratification will streamline cargo documentation requirements for shippers.

Ensure Sufficient Export Financing

We will continue to provide the necessary level of support to the Export-Import Bank (Eximbank) to ensure that competitive financing is available to the U.S. aerospace industry.

The need for competitive credit financing in the aerospace sector has increased since the late 1980's. Eximbank support for aircraft exports, for example, has risen from less than $500 million in 1989 to a projected $3.3 billion this year, accounting for about 22 percent of overall Eximbank activity. In response to this increased demand, we have sought flexibility in the limitations imposed on Eximbank's budget, which take the form of both an annual authorization limit on the dollar volume of new loans, guarantees, and insurance, and a subsidy budget covering the funding and risk subsidies inherent in Eximbank's authorizations. The appropriation enacted for fiscal year 1994 contains no limit on total loan and insurance authorizations, thus affording Eximbank greater flexibility in using its subsidy budget. The appropriation also provides a subsidy budget of $1 billion, including a one-time increase of $300 million for Russia and the other Newly Independent States.

Meanwhile, Eximbank has been working to strengthen its financing operations. For example, through its exposure (or risk) fees and related risk-management policies, the bank has reduced the budgetary cost of supporting aircraft and other credit transactions. And by using asset-based financing structures, the bank has increased its assurance of repayment in many high-risk markets. In addition, each financing request is being carefully examined to ensure that it will in fact generate additional exports.

For fiscal year 1995 and beyond, U.S. support of Eximbank financing will be shaped by the anticipated demand for export financing, the President's recently enacted budget plan, and the results of a review of international affairs priorities being conducted under a Presidential Review Directive.

Harmonize International Regulation

Airlines, manufacturers and civil aviation authorities are saddled with unnecessary costs due to substantial variance among nations' aviation regulations. To reduce this cost burden, FAA will expedite its ongoing global effort to harmonize international regulation. Specifically, FAA will work with European nations to develop common, performance-based aviation safety standards, and to ensure that European Joint Aviation Requirements are harmonized with Federal Aviation Regulations. FAA will also continue to provide technical assistance to other nations on safety and airworthiness regulations, and to encourage the development of regional aviation authorities.

To support and complement these efforts, the Department of State and FAA are seeking opportunities to update existing bilateral airworthiness agreements with broader and more flexible aviation safety agreements. Airworthiness agreements currently provide for technical cooperation between FAA and the civil aviation authority of a foreign nation, and facilitate airworthiness certification of civil aeronautical products on a reciprocal basis. A broader and more flexible safety agreement format, in addition to covering airworthiness certification, could encompass such areas as crew training facilities (*e.g.*, simulators), aircraft maintenance, and aircraft noise standards, and could allow technical agreements to be implemented on a timelier basis.

Facilitate International Cooperation

Globalization of aircraft manufacturing necessitates an active role by the U.S. Government in facilitating international cooperation. Our objectives are to ensure that U.S. aerospace firms are not disadvantaged in global competition and to foster a climate in which U.S. companies can continue to participate as technology and marketing leaders. For example, to facilitate innovative and efficient production ventures, the President, on June 10, 1993, signed into law the National Cooperative Production Amendments of 1993. These amendments extend to joint production ventures certain statutory antitrust protections that already exist for joint research and development ventures.

In support of our objectives we will expand the distribution of information on bid opportunities and competitions to U.S. firms; monitor international competitions to ensure that U.S. aerospace manufacturers have the opportunity to participate in international programs on a fair and equitable basis; fully and expeditiously investigate complaints by U.S. industry regarding foreign trade barriers; and act to eliminate, or to counteract as necessary, impediments identified by industry, such as restrictions stemming from foreign or domestic trade policies.

Evaluate Product Liability Issues

The Administration, as part of a comprehensive review of federal product liability laws, will consider whether to support a statute of repose for manufacturers of general aviation aircraft. The National Airline Commission concluded that a statute of repose limiting product liability to 15 years from the date of manufacture would help to regenerate domestic production of general aviation aircraft. Annual sales of piston engine aircraft, which averaged 13,000 per year during 1965-1982, have decreased to about 500 per year. The Commission noted that many factors underlie the decline in sales, but pointed to the added costs of liability insurance as forcing prices up, causing sharply increased costs for personal and short-range business flying and contributing to the loss of more than 100,000 jobs in general aviation aircraft manufacturing, sales, service and related industries.

Actions To Enforce International Treaty Obligations

The Administration will vigorously enforce existing trade agreements and U.S. trade laws affecting international aviation commerce to protect the rights and interests of U.S. airlines and aerospace firms. Specifically, we will:

Closely Monitor Airbus Agreement

The Office of the United States Trade Representative (USTR), along with other agencies, has been and will continue to be vigilant in monitoring compliance by the Airbus partner governments with the terms and conditions of the 1992 U.S.-European Community (EC) Agreement Concerning the Application of the GATT (General Agreement on Tariffs and Trade) Agreement on Trade in Civil Aircraft. This agreement imposes strict limits on government support for aircraft production. Our monitoring activities include:

-- regular consultations with the EC to ensure full compliance with the bilateral agreement;

-- having U.S. embassies in the Airbus partner countries track host government actions with respect to Airbus, and report information relevant to the implementation of the bilateral aircraft agreement and to compliance with obligations under the 1979 GATT Agreement on Trade in Civil Aircraft and the General Agreement on Tariffs and Trade; and

-- exchanges of information with the EC, as required by the bilateral agreement, concerning government support to large civil aircraft producers.

Tighten Disciplines on Government Subsidies under GATT

As part of the outcome of the Uruguay Round negotiations, the U.S. and the EC, and subsequently all other GATT parties, agreed to bring civil aircraft under the new Agreement on Subsidies and Countervailing Duties, applicable to all aircraft products and to all member countries. This was a major objective of the U.S. aerospace industry, whose foreign competitors have often benefitted from government subsidies. The new agreement establishes substantially stronger disciplines on government subsidies for the aircraft sector, and will result in more rapid and binding dispute resolutions.

USTR has also been seeking to tighten the disciplines on government support and subsidies for aircraft development currently contained in the 1979 GATT Agreement on Trade in Civil Aircraft, and to expand the coverage of that agreement to other countries which produce civil aircraft and components. We have agreed to continue these negotiations with the goal of reaching an agreement by the end of 1994.

The status of the 1992 U.S.-EC Agreement Concerning the Application of the GATT Agreement on Trade in Civil Aircraft, which provides special disciplines over support for large civil aircraft of 100 seats or more, has not been changed as a result of the Geneva negotiations.

Employ All Available Enforcement Tools

The U.S. Government will vigorously defend the air service rights exercised by U.S. carriers under the terms of our bilateral aviation agreements. When disputes cannot be resolved expeditiously through negotiation or, when appropriate, through dispute resolution mechanisms, we will not hesitate to use other enforcement tools, including the procedures and remedies provided by the International Air Transportation Fair Competitive Practices Act of 1974 and the imposition of sanctions such as the suspension of privileges and services. The option of denouncing unsatisfactory or disadvantageous bilateral agreements will be considered in appropriate cases.

U.S. Department of Transportation

Office of the Secretary of Transportation

Memorandum

Subject: Aviation Policy Announcement

Date: January 11, 1994

From: Richard Mintz RM

Reply to Attn of: Jim Cullinan x65563

To:

Dr. Laura D'Andrea Tyson
Tom O'Donnell
David Hinson
Linda Daschle
Christine Varney
Rahm Emanuel
Bill Burton
Michael Deich
Arthur Jones
Ann Bormolini
Steve Kaplan
James New
Mark Gerchick
Steve Palmer
Bob Buckhorn

The announcement of the Clinton Administration's Domestic Aviation Initiative was favorably covered by the television and print media. The Secretary was pleased with the coverage and would like to thank everyone for their participation and hard work. The Secretary appeared on "the Today Show", "Fox Morning News", "Good Morning America", CNN "Daybreak", CNN "Moneyline", PBS "Nightly Business Report" and CNBC "Business Report", to discuss the initiative. The aviation announcement was the lead on the CBS and ABC evening news on Wednesday, January 5, 1994. Attached are print stories and editotials resulting from the announcement. Please feel free to call me or Jim Cullinan if you have any questions.

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WASHINGTON POST FEDERAL PAGE A19 1/7

Plan Would Reorganize Air Traffic Controllers

Administration Proposes Shift From FAA

By Don Phillips
and Richard M. Weintraub
Washington Post Staff Writers

In what could be one of the big- changes in the Washington bureaucratic landscape in recent s, the Clinton administration yesterday proposed forming a new government corporation to run the air traffic control system.

The proposal, designed to streamline procurement and operations, is centerpiece of a plan to ucture federal aviation and aircraft policies.

Removing air traffic control from the Federal Aviation Administration immediately drew skepticism from Capitol Hill. But the idea is supported by the airline industry and organized labor and gives the administration a strong political base should it choose to go all-out for the proposal.

Administration sources said Vice President Gore and the staff of his National Performance Review effectively quashed opposition by some FAA staff, and are likely to use the air traffic control corporation as a key illustration of how the administration plans to "reinvent government."

If the initiatives clear congression- hurdles, as many as 35,000 FAA air traffic controllers, support staff and the system's multibillion-dollar budget, would come under a new government corporation, similar to the Tennessee Valley Authority or Amtrak.

The plan was one of the main proposals of the national airline commission, which completed its study of the financially troubled airline industry this summer.

The administration introduced its proposal at a news conference featuring Transportation Secretary Federico Pena, Council of Economic Advisers Chairman Laura D'Andrea Tyson and Federal Aviation Administrator David R. Hinson.

Hinson promised to complete a detailed air traffic control proposal by April. He and Pena generally offered few details but said the main purpose of the corporation would be to free procurement decisions from the federal government's cumbersome purchasing process, which often means that expensive equipment is obsolete before it is installed.

The agenda announced yesterday included:

- Changes in the bankruptcy laws that would limit actions airlines could take under Chapter 11 bankruptcy protection and give government units, such as the Pension Benefit Guarantee Corp., a role in creditors' committees.
- Closer monitoring of the financial condition of airlines.
- Review of traffic limitations at airports such as Washington National and New York's LaGuardia.
- Reduced regulatory burdens.
- Support for changes in laws allowing foreign airlines to own up to 49 percent of a U.S. carrier, on condition that U.S. airlines get greater competitive access to the investor's country.

The administration disappointed the industry, however, by rejecting tax reduction proposals and agreeing only to study one of the aircraft industry's most-sought goals: limitation of product liability lawsuits that many small-plane manufacturers say is putting them out of business.

Two key members of Congress expressed misgivings about the proposed corporation. Sen. Ernest F. Hollings (D-S.C.) promised to work with Pena but said he has "serious concerns" about the proposal's effect on safety.

Rep. James L. Oberstar (D-Minn.) was more negative, saying such a corporation could jeopardize safety.

The Transportation Trades Department of the AFL-CIO generally expressed support but criticized the proposals for not going far enough. In a statement, President Walter J. Shea called for stronger oversight of the financial fitness of airlines and stronger procedures for dealing with employees affected by mergers and acquisitions.

The National Air Traffic Controllers Association, representing 14,900 controllers, gave "wholehearted support" to the corporation proposal.

The major airlines, airline associations, aircraft manufacturer groups and other unions also voiced support in a statement and promised a strong lobbying effort.

WALL STREET JOURNAL A2 1/7

Pena Unveils Proposal for Corporation To Manage Air-Traffic Control System

By KEVIN G. SALWEN
And DAVID WALL
Staff Reporters of THE WALL STREET JOURNAL

WASHINGTON – The Clinton administration unveiled its plan for creating a government corporation to manage the nation's air-traffic control system.

Transportation Secretary Federico Pena said the administration will send Congress a legislative proposal this spring. If approved by Congress, the corporation would be free from government restric- on procurement, personnel and financing.

Such a system would be able to finance its long-term debt more easily, Mr. Pena said. The nation's skies would be safer, the transportation secretary said, because the agency would be able to adopt the latest technology more quickly.

The air-traffic control system needs to be "as flexible and entrepreneurial as the industry," Mr. Pena said.

Other Proposals

The administration said it will p- pose a string of other changes for the industry, including:

- Allowing foreign carriers to buy as much as 49% of U.S. airlines, up from the current 25%—but only if U.S. carriers have the same opportunities in the foreign carriers' countries.
- Limiting how long carriers in bankruptcy proceedings can hold leases on airport space and gates. The Senate already has a bill that would enforce a 60-day limit on such airport holdings.
- Studying ways to loosen the so-called high-density rule that limits air traffic into four major airports: Chicago's O'Hare, New York's La Guardia and Kennedy, and Washington's National.
- Examining ways to encourage more employee ownership of airlines, along the l of United Airlines' recent accord with its workers.

Support From Industry

The airline and aerospace industries ally cheered the administration's initiatives. Air-traffic delays cost the airline industry more than $2 billion a year, said Chip Barclay, president of the American Association of Airport Executives. He was a ber of the National Airline Commission, a group established by the Clinton administration that laid much of the groundwork for yesterday's proposals.

A spokesman for the Air Transport Association said, "The current system cannot move quickly enough to implement new technology before it becomes obsolete."

Industry officials complained that the administration's plan didn't include tax breaks for the airlines. "The burdensome level of taxation and fees imposed on airlines by the U.S. government has had a significant impact on air carrier costs, yields and profitability," said Ronald Allen, chief executive of Delta Air Lines.

Nevertheless, he and other industry officials said they will push hard to get the administration's proposals through Congress.

A concerted effort may be necessary. Sen. Ernest Hollings (D., S.C.), chairman of the Senate Commerce Committee, said he has "serious concerns regarding the proposals to separate the air-traffic control system" from the Federal Aviation Administration, particularly "how such a move would impact safety."

Rep. James Oberstar (D., Minn.), chairman of the House Aviation Subcommittee, also voiced concern about loss of government control over the air-traffic system. "If they need to cut costs to improve their budget because landing fees are down or whatever, does that mean they're going to lay off controllers, or have controllers watch larger portions of airspace?" he asked. "What does that do for the safety of the traveling public?"

But administration officials argued that the plan would increase safety in the skies by giving controllers better equipment.

Predatory Pricing

The administration also is seeking suggestions from the airline industry about regulations that could be repealed. FAA Administrator David Hinson earlier this week put a general call for suggestions in the Federal Register, saying that "the costs of the regulatory burden are real: We probably have some [rules] out there we don't need."

The Transportation Department also threatened to step up its efforts against airlines that use predatory pricing to keep competitors out of key cities or important routes. The agency said it will actively work with start-up airlines or entrepreneurs to help them compete.

Delta Air Lines

Petition Is Filed With DOT On London Route Decision

Delta Air Lines said it filed a petition with the federal appeals court in the District of Columbia, challenging a decision by the Department of Transportation to give AMR Corp.'s American Airlines two new routes to London.

The DOT move last November was a blow to Delta and to Salt Lake City, where that airline had proposed establishing one of the routes at its westernmost hub. Instead, the DOT selected Nashville, Tenn., and the Raleigh-Durham area of North Carolina. American Airlines plans to begin flying both routes May 26. Last month, Delta appealed the DOT decision, but the agency rejected that request.

As previously reported, the DOT said it chose the two markets because each serves more people than Salt Lake City.

But in a statement yesterday, Delta said the DOT's choice ignores the lack of London service in Salt Lake City.

United Air Traffic Gains

CHICAGO—United Airlines said its December traffic rose 5.4% to 7.98 billion revenue passenger miles from 7.57 billion a year earlier.

A revenue passenger mile is one paying passenger flown one mile.

Administration endorses 49 of 61 proposals by airline panel; Capitol Hill fight looms

by Robert P. James

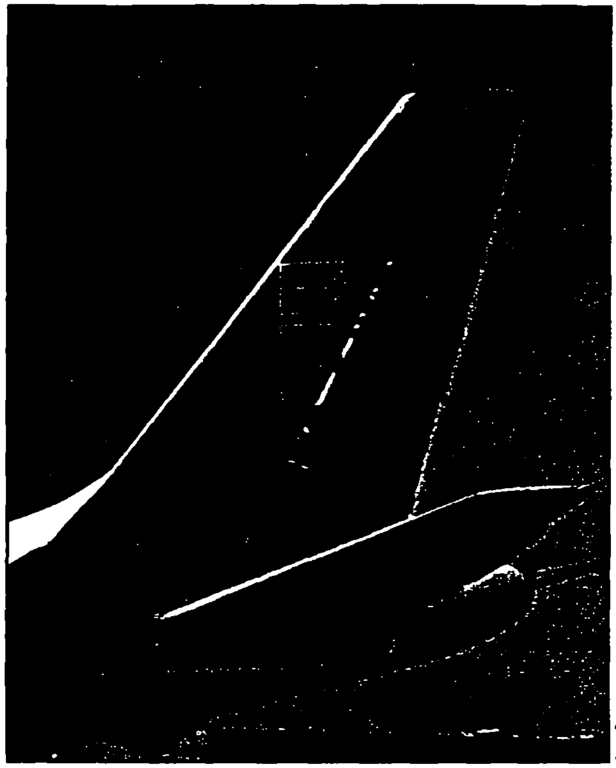
The Clinton administration has signed on to most of the recommendations made last year by the national airline commission, but refused to endorse proposals that would lower taxes for carriers and shippers.

Transportation Secretary Federico Pena said the administration will move to enact 49 of the 61 suggestions made by the 15-member panel, including privatizing the Federal Aviation Administration's air traffic control functions, doubling the amount of foreign investment allowed in airlines and stepping up review of carriers' financial fitness. The White House, however, rejected calls to roll back the 6.25 percent cargo waybill tax to 3.25 percent and 10 percent passenger ticket taxes to 8 percent, exempt carriers from the alternative minimum tax and fuel levies, and increase the government's contribution to the FAA budget.

That the Transportation Department's recommendations so closely mirrored the airline commission's surprised many industry executives who were disappointed with the panel's report. Yet, while the commission's study won only faint praise, the administration's endorsement of it spawned new optimism that the government might finally lend a hand to cut costs for the struggling industry.

Chris Chiames, spokesman for the Air Transport Association, said carriers have worked hard to build a coalition with airports, aircraft makers and shippers aimed at making the industry more competitive. "In endorsing 49 of the 61 recommendations, ... DOT is now part of that coalition," he said. "The target now will be Congress. There are a lot of skeptics up there (who) prefer to do nothing."

Indeed, opposition to some of the administration's plans will be fierce on Capitol Hill, particularly to the FAA privatization and endorsement of a bankruptcy-reform bill that would force carriers entering Chapter 11 protection to give up airport gates within 60 days if they don't renew their lease and require them to file a reorganization plan within a year.



The chairmen of the House and Senate's aviation subcommittees — Rep. James Oberstar, D-Minn., and Sen. Wendell Ford, D-Ky. — already are on record opposing formation of a government corporation to run the air traffic system. It's also opposed by FAA chief David Hinson, although he apparently was overruled by Pena, who said he will send enacting legislation to Congress in April.

Also set for a statutory change is the current 25 percent restriction on investment in U.S. airlines by foreign nationals. DOT endorsed the commission's call for allowing foreign interest to hold up to 49 percent voting equity in a U.S. carrier, providing U.S. interests can get reciprocal rights in airlines from the investors' country. If enacted, the change would help clear the way for British Airways' current plans to acquire a large stake in USAir.

One of the more controversial proposals will be for DOT to step up its review of the industry's financial fitness. The air panel called for a new commission to periodically review carriers' business, capital and financial plans as well as give greater scrutiny to ownership changes.

As part of its aviation reform plan, however, DOT will encourage continuation of the recent move toward employee ownership of airlines. The Labor Department plans to release this spring its proposal on how to foster more employee buyouts, officials said.

That recommendation was a clear nod to airline commission member John Peterpaul, president of the International Association of Machinists and Aerospace Workers, who dissented bitterly with the commission's findings. Peterpaul believed the panel "ignored workers" by refusing to recommend stronger measures to protect airline jobs. As part of its plan, the administration said it would require airlines to submit information on how ownership changes, international route sales and other matters affect their workforce.

While such a recommendation falls short of Peterpaul's desire for a requirement that airlines which buy international routes from another carrier also hire workers on that route, airline executives still might consider DOT to be meddling in private commercial decisions.

"No industry in this country can guarantee a job for life," ATA's Chiames said. "While everyone would like that assurance, it's unreasonable to expect that only the airline industry should have to guarantee that right."

DOT officials said improving relations between labor and management, carriers and airports, and industry and government are major goals of its aviation reform plan. As part of that, the administration will continue to work to mediate disputes over airport fees, as it did recently in Los Angeles.

DOT plans to call for new legislative language to further restrict the diversion of federal airport funds to city coffers. At the same time, however, it will push for language allowing cities to use aviation funds for other transportation projects, provided they tie airports into the coming National Transportation System.

Administration officials clearly believe their plans — which also include increasing export financing for aircraft, upgrading the Global Positioning System for navigation, cutting unnecessary regulations, and reviewing product liability codes — will go a long way toward improving the industry's bottom line short-term and giving carriers a clear map of where the government is going long-term.

"We feel this is the most-comprehensive government strategy since deregulation in 1980," said DOT spokesman Richard Mintz. "Taken as a whole, it reflects the administration's view about the importance of the industry to the nation and its economy." ■

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NEW YORK TIMES 1/6

Let New Corporation Control Air Traffic, U.S. Says

By MARTIN TOLCHIN

Special to The New York Times

WASHINGTON, Jan. 5 — In an effort to improve efficiency and reduce airline delays and confusion, the Clinton Administration plans to ask Congress to create a Government-owned corporation like Amtrak to operate the nation's air traffic control system, Administration officials said today.

Under the proposal, the Federal Aviation Administration, which now operates the air traffic control system, would continue to oversee safety standards and would promulgate and enforce regulation of controllers.

But the chairman of the House panel that oversees aviation, Representative James L. Oberstar of Minnesota, said such a move would compromise safety. He vowed to fight the plan and predicted that Congress would reject it.

Additional Proposals

The Administration will also seek to increase to 49 percent the amount of voting stock that a foreign carrier can own in a United States airline, provided the foreign carrier offers a reciprocal arrangement to airlines in this country. This proposal has strong Congressional support as a way to pump needed money into domestic carriers. At present, foreign carriers can own 49 percent of the stock of United States carriers but only 25 percent of their voting stock.

The Administration also plans to propose a change in the bankruptcy laws, which some airlines believe give ailing carriers a financial benefit over healthy ones. Airlines operating under protection of current bankruptcy laws have received numerous extensions of time to emerge from bankruptcy and are able to pay a fraction of the costs they concur whereas healthy carriers have to pay 100 cents on the dollar.

Administration officials said disenchantment with the air traffic control system was a major factor in deciding to propose creation of a corporation to run the system.

"The air traffic control system is a problem," said Richard Mintz, a spokesman for Transportation Secretary Federico F. Peña. "We want it to work better and in a more businesslike manner. This is something we believe will make the system more responsive to technological change, allow the airlines to reap the benefits of more efficient management and allow passengers to benefit from less delays."

The F.A.A. has, for example, had severe problems installing a new generation of air traffic control technology called the Advanced Automation System. It is already three years behind schedule.

Reasons for Efficiency

Administration officials, who want to finance the new setup through a tax on airline tickets, believe that a corporation operating independently but owned by the Government would be more efficient because it would be freed of Government procurement rules, would be allowed to undertake expansions and other programs without competitive bidding and would not have to operate under Government hiring regulations.

The plan was hailed by the airline industry, which has lost $11 billion in the last four years. "It will bring efficiency to the operation," said Jim Landry, president of the Air Transport Association, which represents the major carriers. "The F.A.A. is burdened with cumbersome procurement rules, antiquated personnel rules and uncertain funding."

But Mr. Oberstar, the Democrat who heads the aviation subcommittee of the Public Works and Transportation Committee, expressed strong opposition.

"I think it is fraught with danger," he said, "because there are just too many opportunities for safety to be compromised. If financial benefit to the airlines is the principal driving force for this recommendation, it scares me because I can see the airlines saying that distances should be reduced between aircraft so they can pump more aircraft into the skies and into airports."

Mr. Landry said the financing mechanism had not been worked out.

Mr. Mintz, the airlines' representative, said the goal was to have the new setup financed by the airlines and removed from the Federal budget. By buying better equipment and not being bound by bureaucratic restraints, he said, the air traffic control system would be safer.

"We will never compromise safety," Mr. Mintz said.

CHICAGO SUN-TIMES 1/7

U.S. Unveils Program to Revitalize Air Industry

By Robert Trautman
Reuters

WASHINGTON—Transportation Secretary Federico Pena unveiled plans Thursday to help revitalize the nation's airlines, but officials stressed the economy would have to play a central role in any industry recovery.

The proposals call for creation of a new government corporation to oversee the air traffic control system to make it more businesslike and responsive. But the plans struck down any lingering industry hopes of tax relief.

Flight limits at O'Hare Airport also will be studied.

Pena will also seek to relax limits to foreign investment in U.S. carriers, opening the way for more joint-ventures and access to capital. Finally, he wants to reform bankruptcy laws that shield weak carriers and to dismantle unneeded regulations.

"This initiative is good for consumers, it's good for the industry and its employees, and it's good for communities," Pena said in a statement.

Few airline industry officials had sought massive government intervention to turn the industry around, and few saw the final proposals as a dramatic change for the industry.

"It's much ado about nothing. If the airlines were going to wait for the government to bail them out, they'd be out of business," said an industry official who did not want to be identified.

United Airlines applauded the main points in the Clinton plan, saying "Allowing increased foreign investment in U.S. airlines tied to liberalized aviation agreements makes critical sense."

Regarding privatizing the FAA, United said it favors "anything that makes our federal airways more efficient and effective."

The administration endorsed 49 of 61 proposals to aid the financially struggling airline industry recommended last summer by a bipartisan commission headed by former Virginia Gov. Gerald Baliles.

Some of the key proposals:

■ Raising from 25 percent to 49 percent the amount of voting stock a foreign entity may own in a U.S. airline, but only if the home country of the foreign company reciprocates.

■ Study easing a 25-year-old rule that limits flights at four of the nation's busiest airports—O'Hare in Chicago, LaGuardia and Kennedy International in New York and Washington National. The study is to be completed by November.

Associated Press

U.S. Transportation Secretary Federico Pena Thursday detailed administration proposals to help spur recovery in the airline industry.

■ Toughen federal bankruptcy law to reduce what some claim is an unfair advantage for financially weaker airlines. For example, a carrier that files for reorganization under the law's protection would be forced within 60 days to assume or reject unexpired leases for airport facilities.

ommendations by an emergency commission formed last year to find ways to end The airline industry has lost more than $10 billion since 1989—more than the airlines ever earned.

Laura Tyson, chair of the White House Council of Economic Advisers, made clear the now-growing economy would have to play a central role in the airlines' recovery.

"A strong economy will be the best medicine for what ails the aviation industry," said Tyson, an ex-officio member of the commission of 15 airline, labor and banking executives that closely studied the industry.

In response to the downturn, the airline industry has sold equity stakes to workers in return for concessions, cut staff, gotten rid of excess airplanes, struck deals with foreign carriers and revamped routes in dramatic restructurings.

A key item they were seeking—tax relief—was not forthcoming at a time when the Clinton administration is trying to cut the massive budget deficit.

USA TODAY 1/7
(FRONT PAGE)

Privatizing of air traffic control urged

By Julie Schmit
USA TODAY

The Clinton administration's proposed overhaul of the air traffic control system faces an uphill battle in Congress.

Thursday's proposal — to create a corporation to handle air traffic control and take it away from the Federal Aviation Administration — is designed to reduce delays.

If it succeeds at that goal, the plan could save U.S. airlines up to $2 billion a year.

Transportation Secretary Federico Peña says the change would benefit fliers, too.

More flights would run on schedule, and airlines would pass their savings on through lower fares, he says.

That's not a sure bet: U.S. airlines have lost $11 billion the past four years.

The air traffic control proposal is the cornerstone of Clinton's "Aviation Initiative" — a broad plan to help U.S. airlines.

It doesn't include the airlines' No. 1 wish: $1.5 billion a year in tax relief.

But it does include a proposal to let foreigners own up to 49% of U.S. airlines — if their governments give U.S. airlines more access.

Airlines say they're disappointed at no tax relief, but heartened by the chance of air traffic reform.

They say the FAA has been too slow to fix problems.

Under the plan, the new corporation would be allowed to sell bonds and collect fees from the airlines to finance its operation. The FAA can't sell bonds and is dependent on the federal budget.

Last year, U.S. airlines collected $4.5 billion in taxes from fliers — money for air traffic and other aviations projects.

LOS ANGELES TIMES 1/7
(FRONT PAGE)

FAA May Lose Air Traffic Duty

■ **Government:** A quasi-private corporation would take over control of U.S. skies. The Administration says that would improve safety and reduce delays.

By WILLIAM J. EATON, TIMES STAFF WRITER

WASHINGTON—The Clinton Administration unveiled a controversial plan Thursday to create a government-owned corporation to take over air traffic control from the Federal Aviation Administration, contending that it would speed modernization of equipment, improve safety and reduce aircraft delays.

Transportation Secretary Federico Pena, who announced the proposal, said a quasi-private corporation could move more quickly than the FAA to buy the most up-to-date air traffic control equipment. Insufficient funding and alleged mismanagement have slowed down the acquisition of modern equipment, which air traffic controllers and airline officials claim would be safer and faster.

The initiative, which would require congressional approval, ran into immediate criticism from a leading House Democrat who argued that it could jeopardize air safety. Aviation industry officials generally supported the plan but acknowledged that it would face strong opposition on Capitol Hill.

Pena's announcement came nearly a year after the government created a 15-member national airline commission, headed by former Virginia Gov. Gerald L. Baliles, to look into problems confronting the financially troubled airline industry. The commission made a series of far-ranging recommendations, many of which Pena endorsed Thursday.

He said a government-owned corporation, similar to the Tennessee Valley Authority or Amtrak, could raise capital quickly by augmenting public funds with private money and through borrowing. It also could move faster to acquire equipment because it would not face the bureaucratic burdens of government.

Such an agency would have more freedom than the FAA but would still be subject to some level of government oversight. Existing government-owned corporations are run by boards of directors appointed by elected officials.

Pena described the current air traffic control system as the safest and most efficient in the world. But, he added, "we can do better."

A major issue not yet addressed, however, is the source of the money needed to operate a quasi-independent system. Pena said he has set an April deadline for resolving that issue and others before the proposal is formally presented to Congress.

Even before the announcement, the idea drew a vow of opposition from Rep. James L. Oberstar (D-Minn.), chairman of the aviation subcommittee of the House Public Works and Transportation Committee that will consider the proposed legislation.

"In the final analysis, my deepest fear is that when profit margins start to influence air traffic control practices, the safety margins may be eroded, and that does not serve the public interest," Oberstar said in a statement. "I believe the FAA can take the necessary steps to improve management and procurement within the existing system."

CONTINUED ON NEXT PAGE

FROM PRECEDING PAGE

Oberstar earlier expressed concern that airlines would try to get more planes into the air traffic system than safety considerations would allow, describing the proposed change as "fraught with danger."

David Hinson, the new head of the FAA, said stringent government regulations on buying equipment and federal hiring rules often prevented the agency from buying the most modern computers and advanced radar before they became obsolete.

"I'm reasonably convinced there is no adverse effect on safety from moving to a government corporation," Hinson told reporters. Britain and Germany, he said, have had no adverse experience since they shifted their air traffic control systems away from direct government operation.

The proposed revamping of the FAA drew applause from a coalition of major airlines, the Air Line Pilots Assn. and the National Air Traffic Controllers Assn.

Chip Barclay, president of the American Assn. of Airport Executives, said Pena's initiative "is essential to the future economic growth and technical advancement of the air transportation system." He estimated that air traffic delays cost the industry more than $2 billion a year.

Other changes Pena outlined included:

- A new evaluation of flight limitations at four key airports—Washington National, Chicago O'Hare and New York's La Guardia and Kennedy—to see if they can accommodate more planes.
- Faster adoption of a satellite-based navigation system known as the Global Positioning System that would provide far greater precision than existing systems in pinpointing the position of aircraft.
- Legislation to increase the amount of foreign investment in voting stock of U.S. airlines from the existing ceiling of 25% to 49%, but only if U.S. investors have the same kind of investment opportunities in foreign carriers.
- Requiring airlines seeking government approval for international routes and other major changes in their operations to outline plans for protecting any workers displaced by the moves.
- Starting a comprehensive review of aviation regulations with a view toward reduction of the burden on industry, consistent with safety, environmental and consumer protection.
- Encouraging formation of new airlines and preventing existing carriers from driving out potential competitors by slashing fares in certain markets.

Pena's list did not include the commission's recommendation to reduce an airline passenger ticket tax to 5% from 8% now, however.

Financial problems of the airline industry, which recorded a loss of $11 billion during the past four years, were not related to taxation, said Laura D'Andrea Tyson, chair of the President's Council of Economic Advisers.

Even so, the Air Line Pilots' Assn. and other aviation industry organizations said they would ask Congress to provide tax relief for the airlines, anyway.

Times staff writer Jesus Sanchez in Los Angeles contributed to this story.

Administration unveils proposals to help domestic air industries

Financial Times 1/7/94

By Nancy Dunne

The Clinton administration yesterday unveiled a package of legislative proposals, including one to increase foreign ownership of US airlines, which are designed to reinvigorate the ailing US airline and aircraft industries.

The initiatives, announced by Mr Federico Peña, transportation secretary, and Dr Laura D'Andrea Tyson, head of the Council of Economic Advisers, grew out of recommendations prepared by a presidential commission last summer.

The proposals will provoke much controversy in Congress. However, the White House is presenting them with much fanfare as "the most comprehensive government aviation strategy since deregulation of the industry in 1978."

President Bill Clinton has moved swiftly on the problems of the US airline and aircraft industries, which have lost more than $10bn (£6.7bn) since 1990. The commission he appointed in April was given 90 days to make recommendations. It found, among other things, that the US air transportation system was being "hobbled by self-imposed and government-mandated attitudes and policies that are dysfunctional."

It said the system must be made "efficient and technologically superior," and that the FAA must be "reinvented." Furthermore, it must have the financial strength to respond to rapid change.

Mr Peña said the new proposals will encourage carriers into the market, heighten scrutiny of airline financial fitness and promote employee ownership. They propose a change in US law to let officials negotiate bilateral agreements by which foreign investors could hold up to 49 per cent equity in US airlines.

Foreign investors can now own 49 per cent of a US carrier's stock but only 25 per cent of its voting stock.

The commission advanced two conditions for increasing the share of foreign companies: bilateral agreements would have to contain equivalent opportunities for US investors and the change would have to advance the US national interest and the development of a liberal global regime for air services.

The US administration has rejected one commission recommendation - a reduction of air ticket taxes from 8 to 5 percent - on the grounds that the airline industry is recovering with the rest of the economy and no longer needs such help.

Other steps advocated in the initiative include:

- a thorough review of all aviation regulations to lessen industry burdens wherever possible;
- a requirement that airlines seeking approval for international routes and other big changes outline plans to protect any displaced workers;
- accelerated use of satellite-based navigation and completion of an aeronautical research and development plan to support technological advances;
- evaluation of modifications to the high-density rule, which limits flights at busy airports, to use airport capacity better.

Clinton raises limits on foreign stakes in airlines

The London Guardian

The Guardian, 1/7/94

Mark Tran in New York

THE Clinton administration yesterday raised the limits on foreign investment in American carriers as part of an initiative to help revitalise the US airline industry.

The Department of Transportation said it would allow foreign companies to increase control of voting shares in a US carrier to 49 per cent from the present 25 per cent but only within the context of a package that would allow increased market access and foreign investment opportunities for US airlines.

Foreign investment in American airlines became a highly contentious issue when British Airways last year acquired a stake in troubled USAir, which welcomed the administration's relaxation on foreign investment in US carriers. "We support increased foreign investment as a means of strengthening competition in the domestic marketplace and preserving jobs at home," said chairman Seth Schofield, who noted, however, that the USAir-British Airways deal does not need new legislation.

While transportation secretary Frederico Peña described yesterday's initiative as the most comprehensive government aviation strategy since deregulation in 1978, the administration stopped short of going along with a key request from the airlines to reduce the airline ticket tax from 8 per cent to its 1990 level of 5 per cent. Most of the tax, which has cost the airlines about $1 billion (£700 million) annually, has been used to cut the federal budget deficit.

The proposals announced yesterday arose from a bipartisan study commissioned by Congress and President Clinton to help the airline industry, buffeted by $10 billion in losses since 1990. But the airline industry has begun to make money again, easing the pressure on President Clinton to embrace far-reaching measures.

Among the specific steps advocated in the initiative were a plan to restructure federal air traffic control services as a government corporation by April and a thorough review of all aviation regulations to lessen bureaucratic burdles. But critics faulted the administration for failing to set a timetable for this or legislation to reform bankruptcy laws.

The major carriers have complained that carriers under the protection of bankruptcy laws have forced solvent carriers to match unprofitable fares. There are moves in Congress to set a limit for submitting reorganisation plans, including a bill proposing a 180-day limit.

While the Clinton initiative proved to be an anti-climax, it was as much as analysts expected since industry problems were largely self-inflicted.

- Meanwhile, Delta has challenged the US Government's decision to award new US-London routes to its rival American Airlines, in which its own application for a route between London and Salt Lake City was rejected.

The Times, 1/7/94

The London Times

22 BUSINESS NEWS

US ready to ease curbs on airline ownership

FROM PHILIP ROBINSON IN NEW YORK

THE US Transport Department yesterday proposed sweeping changes for its aviation industry that will make it easier for foreign airlines to effectively control an American carrier. The plans, described as the most dramatic since deregulation in 1978, are the of recommendations from President Clinton's airline commission and were broadly welcomed by the industry, which has lost $10 billion over the past three years.

Rules covering voting control are to be changed to allow non-American companies to hold up to 49 per cent of a US carrier's votes, although they will not be allowed to own a majority stake. BA owns almost 25 per cent of USAir and wants to take its stake much higher.

Seth Schofield, chairman, president and chief executive of USAir, said he was delighted with the new plan. "We support increased foreign investment as a means of strengthening competition in the domestic marketplace and preserving jobs at home," he said.

Whether BA will be allowed to increase its USAir stake is one of the most contentious issues of the tense debate between Britain and the US in re-writing the joint aviation agreement known as Bermuda II. The Americans say they will allow an increase in voting control only for airlines whose countries offer American airlines reciprocal access. But the US believes Britain is not doing that. International talks virtually broke down last month. Negotiations were due to resume this month. But US officials say there is little evidence that Britain wants a fresh agreement with sweeping changes and claims to have been offered just one additional route a year into Heathrow for the next three years. Last month's flashpoint came after the US failed to grant permission for BA and USAir to fly as one airline into 28 US cities for the usual 12-month period, approving it for just three months. The approval is an extension of a code-sharing permission granted for just six months. Britain threatened to ban some flights into Heathrow if the BA code-sharing arrangement was not extended.

US Transport and State Department executives have said privately that they may not give further code-sharing approvals and may even rescind existing BA-USAir arrangements unless Britain allows more access to Heathrow for US carriers. The three-month extension expires on March 17. Meanwhile, yesterday's US plan will heighten scrutiny of airline financial fitness, promote employee ownership and make it more difficult for airlines under bankruptcy protection to launch air fare wars. It also proposes to transfer air traffic control from the Federal Aviation Administration to a quasi private government agency.

□ USAir last night announced the first phase of a drive designed to cut costs. From next month, it will cut the turn round time on short-haul domestic flights for 22 110-seat Boeing 737-200 jets and, without increasing staff, lift the number of daily departures 17 per cent.

□ BA shares added 6p to 463p after the group reported its revenue per passenger kilometres rose 9 per cent in December. BA's premium business and first class traffic also grew, outpacing that of its main cabin business. The airline reported year-on-year growth of 11 per cent for its premium traffic in the third quarter.

The Daily Telegraph 1/7/94

The London Daily Telegraph

US airlines give way on investment

US Transportation Secretary Federico Pena last night unveiled a plan to revitalise America's troubled airline industry, which included relaxing the limits on foreign investment in US carriers.

Mr Pena said the Clinton Administration would ask the US Congress to allow foreign airlines to own up to 49pc of the voting stock in US carriers. This is up from the present 25pc limit.

The announcement is good news for British Airways, which last year invested $300m in the loss-making USAir, giving it 19·9pc of the company's voting stock. The initial investment was made despite strong protests from America's biggest airlines—American, Delta and United.

British Airways plans to invest a further $200m within three years and another $250m in five years.

Mr Pena also announced a planned reform of the US air traffic operations, reform of the bankruptcy law and promised to review unneeded US federal airline regulations. But his plan did not contain the major tax relief that US airlines had been seeking.

The Atlanta Journal
THE ATLANTA CONSTITUTION
Today's editorial pages are edited by the editorial board of The Atlanta Constitution.

Air-traffic system needs reform

Since 1990, U.S. airlines have lost more than $11 billion. During those same few years, many carriers either have died, like Eastern Airlines and Pan American, or slipped into bankruptcy, like America West.

The long recession contributed to the airlines' troubles, but the problems didn't end with the business cycle. Despite a healthier economy today, carriers still are having a tough time making money. Profits are just too hard to scratch out in this capital- and labor-intensive industry.

To boost airline stability, President Clinton is proposing industry reforms that should increase profits. The centerpiece of his plan is the creation of a government corporation to run the air-traffic control system.

The current system, operated by the Federal Aviation Administration, is so inefficient it's costing a fortune. Airline losses stemming from unnecessary flight delays exceed $2 billion a year.

For more than a decade, the FAA has promised to update equipment used by air-traffic controllers in an effort to speed up takeoffs and landings. Unfortunately, the FAA has been incapable of carrying out this task.

The agency is hampered by cumbersome procurement rules that make purchasing dec[isi]ons absurdly slow. The installation of computers is years and years behind schedu[le] because of bureaucratic red tape.

The Clinton plan calls for the creation of [a] government-owned corporation that woul[d] function more like a private business than [a] Washington bureaucracy. This is not a ne[w] idea; it's how the Tennessee Valley Authorit[y] works. Other examples include Amtrak, the S[t.] Lawrence Seaway Development Corp. and th[e] Government National Mortgage Association.

Airline executives like the plan, but members of Congress don't want to see th[e] FAA lose its clout.

Sen. Ernest Hollings (D-S.C.), chairman [o]f the Senate Commerce Committee, said he ha[s] "serious concerns" about whether a government corporation would keep safety as its highest priority.

Unfortunately, the current system is fa[r] more dangerous than it should be because [o]f understaffing and antiquated equipment. [A] more entrepreneurial way of running the system is likely to boost safety by allowing airtraffic controllers to get the tools they need. Given how lousy the status quo is, th[e] president's plan is worth a try.

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COMMENT

TAKING THE INITIATIVE

Anybody who expected the US Government's Aviation Initiative to provide a panacea for the airline industry's ills will be disappointed — and justifiably so. All the Initiative can do is improve the environment in which that industry must operate: it is only the airlines themselves which can cure their inherent ills.

For any government — and particularly for one which has been bedevilled by wrong-footing and vacillation — the Clinton Administration has done a good job in producing this Initiative. It is a response to the recommendations of its 15-person National Airline Commission, which it set up only in May 1993. That Commission had a remit to report back to the Government within 90 days and this Initiative includes actions on 49 of the 61 recommendations made by the Commission in that report-back.

"The Airline Initiative at least signals that the USA is interested in having such a policy."

Many of those actions are timely and sensible: some, indeed, are overdue. The splitting of the USA's air traffic control (ATC) system from the national regulatory body, the Federal Aviation Administration, is a case in point. That is a low-risk strategy for which precedents exist (not the least of which being the privatised New Zealand example), but which could also remove much of the lingering after-taste of the disastrous ATC sackings of the Reagan era.

Equally, the Initiative's support for the proposed tightening of the bankruptcy-protection rules comes none too early, pointing as it does to the overhaul of a system which has been abused to the detriment of both the protected and those from whom they were being protected.

The Clinton Administration also deserves some praise for failing to include greater tax benefits in the Initiative — indeed, it could be argued that the $1.4 billion fuel-tax "holiday" which it has conceded is a concession too many. The US airline industry has a poor record in squandering most of the potential savings which aircraft manufacturers, fuel suppliers and Government regulators have offered it in the past and there is no reason to suppose that it would not squander again any potential savings offered through tax concessions.

The US airline industry (like most of its overseas counterparts) is still inherently a net loss-maker. Its losses owe far more to structural weaknesses, such as overcapacity and high overheads, and the unsound chasing of market share at almost any price, than to government taxation. Some US airlines have addressed these problems and are true profit-earners, but many have not yet done so. Until they do, tax concessions merely continue the support of bad practice.

Where the Government has not yet gone far enough is in looking beyond its own borders over the thorny issue of foreign investment in US airlines. It proposes that the limit of foreign investment be raised from 25 to 49%, but only in return for similar concessions from the countries from which investors might emerge. There is no guarantee that the sources of such much-needed investment are countries which have investment opportunities for US companies in return. Unless the US Government can engineer a universal international GATT-type agreement on foreign investment in airlines, it would be better off making the concession anyway and leading by example, rather than clogging the industry with yet another set of pointless bilateral confrontations.

On balance, however, the Clinton Administration has done well: its Airline Initiative might not be a substitute for a full-blown civil aviation policy, but it at least signals that the USA is interested in having such a policy — a far cry from the attitudes of other governments, notably that of the UK.

What the Clinton Administration has yet to achieve is the convincing of the USA's airlines that they, too, should have a policy: that of assuming for themselves the responsibility of making profits (especially in their protected home market) instead of relying on their Government's own Initiative to do it for them. □

U.S. Department of Transportation
Office of the Secretary of Transportation

GENERAL COUNSEL
January 12, 1994

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

The Honorable Leon E. Panetta
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Panetta:

This letter transmits proposed legislation to fulfill important elements of the administration's aviation strategy and provide for continued investment in the Federal Aviation Administration's safety and security infrastructure and airport development programs.

The first proposal is the Federal Aviation Administration's multi-year reauthorization of infrastructure and operational programs. Without legislation, we are unable to make airport development grants for transportation infrastructure improvement in the current fiscal year. Other authorizing legislation is also set to expire and we must obtain new authority as quickly as possible. Because both the House and Senate are already considering related legislation, it is important that we are able to bring our own initiative to the table quickly. Therefore, we seek clearance as soon as possible. ✓

As we have indicated publicly, work on the restructuring of the Federal Aviation Administration is progressing independently and, as appropriate, would be the subject of a later legislative proposal.

We also seek clearance of a second proposal (enclosed), which seeks ratification of Montreal Protocols 3 and 4 to the Warsaw Convention and the enactment of a Supplemental Compensation Plan to accompany ratification. (Circulated by OMB on 1/13 under LRM # M-1020.)

Both of these proposals are required to implement the recommendations of the Airline Commission. We plan to transmit a third proposal covering international matters shortly. A transmittal letter for the FAA bill will also be provided soon.

Your advice is requested as to whether there would be any objection to the submission of these proposals to Congress.

Sincerely,

Stephen H. Kaplan

A BILL

"To provide for the continued improvement and expansion of the Nation's airports and airways, and for other purposes."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I -- AVIATION INVESTMENT ACT OF 1994

SEC. 101. SHORT TITLE.

This Act may be cited as "The Aviation Investment Act of 1994".

SEC. 102. INNOVATIVE TECHNOLOGY.

Section 502(a) of the Airport and Airway Improvement Act of 1982, as amended, (49 U.S.C. App. 2201(a)) is amended by striking the word "and" following paragraph (13), by substituting "; and" for the period at the end of paragraph (14), and by adding a new paragraph (15) to read as follows:

"(15) It is in the national interest to encourage projects that employ innovative technology, concepts, and approaches that will promote safety, capacity, and efficiency improvements in the air transportation system and it is therefore an objective of this Act that the Secretary encourage and solicit innovative technology proposals and activities in the expenditure of funding pursuant to the Act."

SEC. 103. DEFINITIONS.

Section 503(a) of the Airport and Airway Improvement Act of 1982, as amended, (49 U.S.C. App. 2202(a)) is amended:

(1) By inserting in clause (2)(B)(ii) the phrase "(including explosives detection devices and universal access systems)" after the phrase "or security equipment"; and

(2) By deleting the phrase "and if funded by a grant under this title," in subparagraph (F).

SEC. 104. AIRPORT IMPROVEMENT PROGRAM.

(a) Section 505(a) of the Airport and Airway Improvement Act of 1982, as amended, (49 U.S.C. App. 2204(a)) is amended by striking the word "and" which appears immediately before "$15,966,700,000" and inserting the following immediately after the phrase "October 1, 1993":

", $17,656,700,000 for fiscal years ending before October 1, 1994, $19,346,700,000 for fiscal years ending before October 1, 1995, $21,136,700,000 for fiscal years ending before October 1, 1996, and $23,026,700,000 for fiscal years ending before October 1, 1997".

(b) Section 505(b)(1) of the Airport and Airway Improvement Act of 1982, as amended, (49 U.S.C. App. 2204(b)(1)) is amended by striking "1993" and by inserting in lieu thereof "1997".

SEC. 105. AIRWAY IMPROVEMENT PROGRAM.

Section 506(a) of the Airport and Airway Improvement Act of 1982, as amended, (49 U.S.C. App. 2205(a)) is amended by striking the word "and" immediately before "$14,000,000,000" in paragraph (1), and inserting immediately after "October 1, 1995" the following:

", $16,500,000,000 for fiscal years ending before October 1, 1996, and $19,000,000,000 for fiscal years ending before October 1, 1997".

SEC. 106. RESEARCH, ENGINEERING AND DEVELOPMENT, AND DEMONSTRATIONS.

Section 506(b) of the Airport and Airway Improvement Act of 1982, as amended, (49 U.S.C. 2205(b)) is amended:

(1) By striking everything following the phrase "Trust Fund" through and including the letter "(B)" and by inserting the following immediately after "$297,000,000":

", for fiscal year 1995 $267,000,000; for fiscal year 1996 $296,000,000; and for fiscal year 1997 $316,000,000"; and

(2) By striking paragraphs (3) and (4) and renumbering paragraph (5) as paragraph (3).

SEC. 107. OTHER EXPENSES.

Section 506(c) of the Airport and Airway Improvement Act of 1982, as amended, (49 U.S.C. App. 2205(c)) is amended by striking subsection (c) and inserting in lieu thereof a new subsection (c) to read as follows:

"(c) Other Expenses.--The balance of the moneys available in the Trust Fund may be appropriated for costs incurred by the Federal Aviation Administration in operating and maintaining the aviation system in a safe and efficient manner. The total of amounts made available and appropriated from the Trust Fund for purposes specified in sections 505 and 506 of this Act in each fiscal year shall equal 75 percent of the total amount made available and appropriated to the Federal Aviation Administration for all purposes in that fiscal year, without regard to the repayment of indebtedness to the Secretary of the Treasury incurred in connection with aircraft loan guarantees."

SEC. 108. OPERATIONS ACCOUNT.

Section 106(k) of title 49, United States Code, is amended by striking the remainder of the sentence after the word "Administration" and inserting "such sums as may be necessary." in lieu thereof.

SEC. 109. PRESERVATION OF FUNDS AND PRIORITY FOR AIRPORT AND AIRWAY PROGRAMS.

Section 506(e)(5) of the Airport and Airway Improvement Act of 1982, as amended, (49 U.S.C. App. 2205(e)(5)) is amended by striking "September 30, 1995," and inserting in lieu thereof "September 30, 1997,".

SEC. 110. APPORTIONMENT OF FUNDS.

Section 507(b)(3)(A) of the Airport and Airway Improvement Act of 1982, as amended, (49 U.S.C. App. 2206(b)(3)(A)) is amended:

(1) By striking the phrase "or reducing the amount authorized or" and inserting in lieu thereof the phrase "the amount"; and

(2) By inserting the phrase "to less than $1,900,000,000" after the phrase "to be obligated", and by deleting the phrase "limited or reduced".

SEC. 111. USE OF APPORTIONED AND DISCRETIONARY FUNDS.

Section 508(d) of the Airport and Airway Improvement Act of 1982, as amended, (49 U.S.C. App. 2207(d)) is amended:

(1) By striking the number "10" in paragraph (1) and inserting in lieu thereof the number "5";

(2) By inserting the phrase "and for the purposes of section 535 of this title" in paragraph (2) after the phrase "104(c) of such Act";

(3) By striking the number "2.5" in paragraph (3) wherever it appears and inserting in lieu thereof the number "1.5"; and

(4) By striking the words "each of" immediately before the phrase "fiscal years 1994" in paragraph (5) and by striking the year "1995" in paragraph (5) and inserting in lieu thereof the word "thereafter".

SEC. 112. MILITARY AIRPORT PROGRAM.

Section 508(f) of the Airport and Airway Improvement Act of 1982, as amended, (49 U.S.C. App. 2207(f)) is amended:

(1) By striking the caption "Designation of Current or Former Military Airports" and inserting in lieu thereof "Military Airport Program";

(2) By striking paragraph (1) and inserting the following in lieu thereof:

"(1) Designation.--The Secretary may designate one or more military airports to receive funds distributed under this subsection (d)(5) of this section. Airports designated under this subsection prior to the enactment of the Aviation Investment Act of 1994, shall remain eligible to receive grants under section 508(d)(5), as amended by the Aviation Investment Act of 1994, subject to 508(f)(3) as in effect prior to the enactment of the Aviation Investment Act of 1994.";

(3) By deleting paragraph (2);

(4) By deleting in paragraph (3) the phrase "and in conducting the survey under paragraph (2)" and by deleting everything after the phrase "consider only those" and inserting the following in lieu thereof:

"military airports listed in the reports issued by the Defense Base Closure and Realignment Commission whose conversion, in whole or in part, would enhance civil airport and air traffic control system capacity.";

(5) By striking the second sentence in paragraph (4);

(6) By striking "for fiscal years 1993, 1994, and 1995" in paragraph (5); and

(7) By renumbering paragraphs (3) through (6) as paragraphs (2) through (5), respectively, and by adding a new paragraph (6) to read as follows:

"(6) Short-term Funding For Operations And Management.-- The Secretary may designate military airport program participants to obtain grants to operate, maintain, and repair airport facilities during the transition to civil operations, subject to such assurances as the Secretary may consider necessary. No participant may receive more than $250,000 under this paragraph."

SEC. 113. SUBMISSION AND APPROVAL OF PROJECT GRANT APPLICATIONS.

Section 509(a)(3) of the Airport and Airway Improvement Act of 1982, as amended, (49 U.S.C. App. 2208(a)(3)) is amended by striking the number "2" wherever it appears and inserting "1" in lieu thereof, and by striking the word "similar".

SEC 114. REIMBURSEMENT FOR CERTAIN PAST EXPENDITURES.

Section 513(a)(2) of the Airport and Airway Improvement Act of 1982, as amended, (49 U.S.C. App. 2212(a)(2)) is amended:

(1) By striking the word "or" at the end of subparagraph (A) and by adding the word "or" immediately after the semicolon in subparagraph (B); and

(2) By adding a new subparagraph (C) to read as follows:

"(C)(i) it was incurred--(aa) not more than 2 years before the grant agreement for such project was executed; (bb) after September 30, 1993; (cc) in accordance with an airport layout plan approved by the Secretary and in accordance with all applicable statutory and administrative requirements that would have been applicable to such work if the project had been carried out after the grant agreement had been executed; and (dd) in the case of projects initiated on or after 90 days following the enactment of this provision, after receiving the Secretary's approval of the project.

"(ii) allowable costs under subparagraph (C)(i) may include (aa) interest payable on, and the retirement of, the principal of bonds or other evidence of indebtedness incurred to initiate the project involved and before the grant agreement for such project was executed; and (bb) interest payable on, and the retirement of, the principal of bonds or other evidences of indebtedness the proceeds of which were used to finance the development work for which reimbursement is provided under this subparagraph.

"(iii) only the sums apportioned under subsections 507(a)(1) and 507(a)(2) of this title may be obligated for project costs allowable under paragraph (C)(i)."

SEC. 115. TERMINAL DEVELOPMENT.

Section 513(b) of the Airport and Airway Improvement Act of 1982, as amended, (49 U.S.C. App. 2212(b)) is amended:

(1) By inserting after the phrase "may be used" in paragraph (2) the phrase "subject to the approval of the Secretary";

(2) By adding a new sentence at the end of paragraph (2) to read as follows:

"All or any portion of the sums to be distributed at the discretion of the Secretary under sections 507(c) and 507(d) for any fiscal year may be distributed for use by commercial service airports each of which annually has .05 percent or less of the total enplanements in the United States for project costs allowable under paragraph (1) of this subsection."; and

(3) By striking paragraph (5) and renumbering paragraph (6) as paragraph (5).

SEC 116. LETTERS OF INTENT.

Section 513(d)(1) of the Airport and Airway Improvement Act of 1982, as amended, (49 U.S.C. App. 2212(d)(1)) is amended:

(3) By adding a new subparagraph (H) to read as follows:

"(H) Limitation of Statutory Construction.--Nothing in this section shall be construed to prohibit the obligation of amounts pursuant to a letter of intent under this paragraph in the same fiscal year as the letter of intent is issued."

SEC. 117. STATE BLOCK GRANT PROGRAM.

(a) Section 534(a) of the Airport and Airway Improvement Act of 1982, as amended, (49 U.S.C. App. 2227(a)) is amended by striking "September 30, 1996" and inserting in lieu thereof "September 30, 1997".

(b) Section 534(b) of the Airport and Airway Improvement Act of 1982, as amended, (49 U.S.C. App. 2227(b)) is amended by striking the remaining portion of the first sentence after the phrase "under this title," and inserting in lieu thereof the following:

"for such airports, other than primary airports, that the Secretary may approve annually. Such funding may include funding for integrated airport system planning. For purposes of this section, an integrated airport system plan must include at least one primary airport enplaning 0.25 percent or more of the total number of passengers enplaned annually at all commercial service airports."

SEC. 118. COMPATIBLE LAND USE.

The Airport and Airway Improvement Act of 1982, as amended, (49 U.S.C. App. 2201 et seq.) is amended by adding a new section 535 to read as follows:

"SEC. 535. COMPATIBLE LAND USE.

"(a) Subject to the conditions in subsection (c), the Secretary is authorized to make grants to States and units of local government for any land use compatibility planning or project as defined in this section for the purposes of making the use of land areas around airports compatible with aircraft operations.

"(b) Definitions.

(1) 'Compatible land use' means land use that is normally compatible with: (A) the noise levels associated with an airport, as established under the Aviation Safety and Noise Abatement Act of 1979; (B) airport design standards as issued by the Secretary; and (C) regulations promulgated under the authority of section 1101 of the Federal Aviation Act of 1958, as amended.

(2) 'Land use compatibility plan' means the product of a process to determine the extent, type, nature, location, and timing of measures to improve the compatibility of land use with the existing and forecast level of aviation activity at an airport.

(3) 'Land use compatibility project' means a project that is contained in a land use compatibility plan and determined by the Secretary to enhance land use compatibility.

"(c) Conditions.

(1) The sponsor must be a public agency that is not the owner or operator of the airport with which the land use compatibility planning project is associated.

(2) The sponsor of the land use compatibility plan must have authority to plan and adopt land use control measures, including zoning, in the planning area.

(3) A land use compatibility plan may not duplicate or be inconsistent with an airport noise compatibility program prepared by an airport operator under the Aviation Safety and Noise Abatement Act of 1979 or with other planning carried out by the airport. The public agency which is the sponsor of a land use compatibility plan shall consult with the owner or operator of the airport with which the plan is associated regarding any recommended land use compatibility measures identified in the plan and any aviation data on which such recommendations are made.

(4) The Secretary shall make project grants under this section contingent upon a verification by the associated airport owner or operator that the land use compatibility plan,

including the use of any noise exposure contours on which land use planning or projects are based, has been coordinated with the airport and is consistent with airport operation and planning.

(5) The Secretary may establish guidelines to administer this section in accordance with the purposes and conditions described herein.

"(d) Sponsorship. As a condition precedent to approval of a proposal by a public agency to undertake preparation of a land use compatibility plan or implementation of a land use compatibility project under this section, the Secretary shall receive such assurances, in writing, from the sponsor of the plan or project as the Secretary may determine to be necessary to achieve the purposes of this section."

SEC. 119. AIRPORT SAFETY DATA COLLECTION.

The Airport and Airway Improvement Act of 1982, as amended, (49 U.S.C. App. 2201 et seq.) is amended by adding a new section 536 to read as follows:

"SEC. 536. AIRPORT SAFETY DATA COLLECTION.--Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may contract with the Center for Aviation Research and Education of the National Association of State Aviation Officials for the collection of airport safety data, to be funded from amounts made available under section 508(d)(4) for integrated airport system planning."

SEC. 120. INTERMODAL SYSTEM PLANNING

(a) Section 503(a) of the Airport and Airway Improvement Act of 1982, as amended (49 U.S.C. App. 2202(a)) is amended by inserting in the second sentence of paragraph (7) the phrase "the role which airports play in the transportation system in a specific area," after the phrase "identification of system needs,".

(b) Section 508(d)(4) of the Airport and Airway Improvement Act of 1982, as amended (49 U.S.C. App. 2207(d)(4)) is amended:

(1) By striking the phrase "1/2 of" in paragraph (4);

(2) By inserting in paragraph (4) the letter "(A)" before the phrase "Not less than" and inserting "; and" in lieu of the period; and

By inserting in paragraph (4) a new subparagraph (B) to read as follows:

"(B) Prior to the Secretary's approval of a grant to a planning agency for integrated airport system planning, the planning agency shall, insofar as its powers permit, certify that the sponsor of any airport enplaning 0.25 percent or more of the total number of passengers enplaned annually at all commercial service airports is considered to be an operator of a major mode of transportation pursuant to the provisions of section 1024(a) of the Intermodal Surface Transportation Efficiency Act of 1990 (23 U.S.C. App. 134(b)(2)), and that any such sponsor is a member, or will be appointed a member as soon as practicable, of such planning agency."

SEC. 121. INTERMODAL PROJECTS.

[To be supplied later.]

TITLE II. FEDERAL AVIATION ACT OF 1958 AMENDMENTS

SEC. 201. COOPERATIVE AGREEMENTS FOR RESEARCH, ENGINEERING, AND DEVELOPMENT.

Section 312 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. App. 1353) is amended:

(1) By adding at the end a new subsection (j) to read as follows:

"(j) Cooperative Agreements.--The Administrator may enter into cooperative agreements on a cost-shared basis with Federal and non-Federal entities that the Administrator may select in order to conduct, encourage, and promote aviation research, engineering, and development, including the development of prototypes and demonstration models."

(2) Conforming Amendment. The table of contents of the Federal Aviation Act of 1958 is amended by adding at the end of the item relating to section 312 the following:

"(j) Cooperative agreements."

SEC. 202. ASSISTANCE TO FOREIGN AVIATION AUTHORITIES.

Section 313 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. App. 1354) is amended:

(1) By adding at the end a new subsection (g) to read as follows:

"(g) Assistance to Foreign Aviation Authorities.--(1) The Administrator may provide safety-related training and operational services for foreign aviation authorities with or without reimbursement, if the Administrator determines that providing such services promotes aviation safety or U.S. aviation interests. To the extent practicable, air travel reimbursed under this subsection shall be conducted on United States air carriers.

(2) Funds received by the Administrator pursuant to this section shall be credited to the appropriation from which the expenses were incurred in providing such services."

(2) Conforming Amendment. The table of contents of the Federal Aviation Act of 1958 is amended by adding at the end of the item relating to section 313 the following:

"(g) Assistance to foreign aviation authorities."

SEC. 203. FOREIGN FEE COLLECTION.

Section 313(f) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1354(f)) is amended:

(1) By redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) By inserting immediately after paragraph (2) a new paragraph (3) to read as follows:

"(3) Recovery of Cost of Foreign Aviation Services.--

"(A) Establishment of Fees.--Notwithstanding the limitation of paragraph (4), the Administrator may establish and collect fees for providing or carrying out the following aviation services outside the United States: any test, authorization, certificate, permit, rating, evaluation, approval, inspection, or review. Such fees shall be established as necessary to recover the additional cost of providing or carrying out such services outside the United States, as compared to the cost of providing or carrying out such services within the United States, except that in the case of foreign repair stations, and for such other aviation services as the Administrator may determine appropriate, recovery shall be for the full cost of providing such services.

"(B) Crediting of Preestablished Fees.--Fees described in subparagraph (A) that were not established before the date of enactment of this Act may be credited in accordance with paragraph (5)."

SEC. 204. PASSENGER FACILITY CHARGES.

Section 1113(e)(2) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. App. 1513(e)(2)) is amended:

(1) By striking the period at the end of subparagraph (B)(iii) and inserting "; and"; and

(2) By adding a new subparagraph (C) to read as follows:

"(C) that the application includes adequate justification for each of the specific projects."

SEC. 205. AVIATION INSURANCE.

Section 1306(b) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. App. 1536(b)) is amended to read as follows:

"(b) Such sums as may be necessary to carry out the provisions of this title shall be available to such fund for expenditure without further appropriation."

TITLE III. AVIATION SAFETY AND NOISE ABATEMENT ACT OF 1979 AMENDMENTS

SEC. 301. UNIFORM GOVERNMENT SHARE.

Section 104(c)(1) of the Aviation Safety and Noise Abatement Act of 1979, as amended, (49 U.S.C. App. 2104(c)(1)) is amended:

(1) By deleting the fourth sentence and inserting in lieu thereof the following:

"The United States share of the allowable cost of a project for which a grant is made to an airport or to a public agency under this subsection shall be the United States share of the allowable cost of an eligible project as set forth in section 510 of the Airport and Airway Improvement Act of 1982, as amended."; and

(2) By striking the phrase "(except section 510 of that Act relating to United States share of project costs)" in the fifth sentence.

SEC. 302. SOUNDPROOFING RESIDENTIAL BUILDINGS.

(a) Section 104(c)(2) of the Aviation Safety and Noise Abatement Act of 1979, as amended, (49 U.S.C. App. 2104(c)(2)) is amended:

(1) By inserting "(A)" before the word "operators" in paragraph (2); and

(2) By striking the period at the end of paragraph 2 and inserting "; and (B) For projects to soundproof residential buildings --(i) if the operator of the airport involved received approval for a grant for a project to soundproof residential buildings pursuant to section 301(d)(4)(B) of the Airport and Airway Safety and Capacity Expansion Act of 1987;

"(ii) if the operator of the airport involved submits updated noise exposure contours, as required by the Secretary; and

"(iii) if the Secretary determines that the proposed projects are compatible with the purposes of the Act."

(b) Section 104(c) of the Aviation Safety and Noise Abatement Act of 1979, as amended, (49 U.S.C. App. 2104(c)) is amended:

(1) By adding a new paragraph (4) to read as follows:

"(4) Soundproofing and Acquisition of Certain Residential Properties.--The Secretary is authorized under this section to make grants to operators of airports and to units of local government referred to in paragraph (1) for projects to soundproof residential buildings located on residential properties, and for projects to acquire residential properties, at which noise levels are not compatible with normal operations of an airport--

"(A) if the operator of the airport involved amended an existing local aircraft noise regulation during calendar year 1993 to increase the maximum permitted noise levels for scheduled air carrier aircraft as a direct result of implementation of revised aircraft noise departure procedures mandated for aircraft safety purposes by the Administrator of the Federal Aviation Administration for standardized application at airports served by scheduled air carriers;

"(B) if the operator of the airport involved submits updated noise exposure contours, as required by the Secretary; and

"(C) if the Secretary determines that the proposed projects are compatible with the purposes of this Act."

SEC. 303. REPEAL OF ANNUAL REPORT REQUIREMENT.

Section 401 of the Aviation Safety and Noise Abatement Act of 1979, as amended, (Public Law 96-193; 94 Stat. 57) is repealed.

TITLE IV--GENERAL PROVISIONS.

SEC. 401. RELOCATION OF AIRWAY FACILITIES.

Compensation received by the United States for transfer of the San Jacinto Disposal Area by the United States to the city of Galveston, Texas, shall include compensation to be provided to the Federal Aviation Administration for all costs of establishing airway facilities to replace existing airway facilities on the San Jacinto Disposal Area. Such compensation shall include but is not limited to the replacement of the land, clear zones, buildings and equipment, and demolition and disposal of the existing facilities on the San Jacinto Disposal Area.

SEC. 402. WAIVER AUTHORITY FOR FOREIGN AIR CARRIERS.

Section 9308(b)(1) of the Aviation Noise and Capacity Act of 1990 is amended by inserting the phrase "or a foreign air carrier" immediately after the phrase "air carrier" wherever it appears in section 9308(b)(1).

SEC. 403. REPEAL.

Section 31 of the Airport and Airway Development Act of 1970, as amended (49 U.S.C. App. 1731) is hereby repealed.

TITLE V. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

SEC. 501. EXTENSION OF AVIATION-RELATED TAXES AND TRUST FUND SPENDING AUTHORITY.

(a) Sections 4091(b)(3)(A), 4261(g) and 4271(d) of the Internal Revenue Code of 1986 and sections 9502(b)(1), (2), and (3) of the Trust Fund Code of 1981 (26 U.S.C. 4091(b)(3)(A), 4261(g), 4271(d), and 9502(b)(1), (2), and (3)) are amended by striking "January 1, 1996" each place it appears and inserting in lieu thereof "January 1, 1998".

(b) Section 4041(c)(5) of the Internal Revenue Code of 1986 (26 U.S.C. 4041(c)(5)) is amended by striking "December 31, 1995" and inserting in lieu thereof "December 31, 1997".

(c) Section 9502(b) of the Trust Fund Code of 1981 (26 U.S.C. 9502(b)) is amended:

(1) By inserting the phrase "and before" after "August 31, 1982," in paragraph (2) and by inserting the word "and" after the semicolon at the end of paragraph (2);

(2) By striking "; and" at the end of paragraph (3) and substituting a period in lieu thereof; and

(3) By deleting paragraph (4).

(d) Section 9502(d)(1) of the Trust Fund Code of 1981 (26 U.S.C. 9502(d)(1) is amended by striking the phrase "October 1, 1995" and inserting in lieu thereof "October 1, 1999".

(e) Section 9502(d)(1)(A) of the Trust Fund Code of 1981 (26 U.S.C. 9502(d)(1)(A)) is amended by striking the phrase "(as such Acts were in effect on the date of enactment of the Airport and Airway Safety Capacity, Noise Improvement, and Intermodal Transportation Act of 1992);" and inserting in lieu thereof the phrase "or the Airport and Airway Safety Capacity, Noise Improvement, and Intermodal Transportation Act of 1992 or the Aviation Investment Act of 1994 (as such Acts were in effect on the date of the enactment of the Aviation Investment Act of 1994);".

(f) Section 9502(f)(3) of the Trust Fund Code of 1981 (26 U.S.C. 9502(f)(3)) is amended by striking "December 31, 1995" and inserting in lieu thereof "December 31, 1999".

SECTION-BY-SECTION ANALYSIS OF THE AVIATION INVESTMENT ACT OF 1994 AND RELATED AMENDMENTS

Title I

SEC. 101. This section provides that this Act may be cited as "The Aviation Investment Act of 1994."

SEC. 102. This section encourages the use of innovative technology in the Airport Improvement Program (AIP) to improve the safety, capacity, and efficiency of the air transportation system. It is an objective of this Act that the Secretary encourage and solicit innovative proposals and activities in the expenditure of funding pursuant to the Act.

SEC. 103. This section amends certain definitions as follows:

Paragraph (1) clarifies that the security equipment eligible for AIP grant funding includes explosives detection devices and universal access systems.

Paragraph (2) expands Passenger Facility Charge (PFC) eligibility to include any construction, reconstruction, repair, or improvement of an airport necessary for compliance with the Americans with Disabilities Act of 1990, the Clean Air Act, and the Federal Water Pollution Control Act.

SEC. 104. This section extends contract authority through FY 1997 for AIP grants and provides authorization levels for such grants.

SEC. 105. This section provides new authorizations for the FAA's Facilities and Equipment (F&E) program through FY 1997.

SEC. 106. This section provides new authorizations for the FAA's Research, Engineering, and Development (R,E,&D) program through FY 1997.

SEC. 107. This section restates the purposes for which the Trust Fund may be used and establishes that 75 percent of the FAA's total budget, which is made available and appropriated in a particular fiscal year, shall be funded from the Airport and Airway Trust Fund.

SEC. 108. This section provides for operations funding of the Federal Aviation Administration to be appropriated at such levels as may be necessary in any fiscal year.

SEC. 109. This section extends the Secretary's authorization to obligate amounts from the Trust Fund for the purpose described in section 506(c) through September 30, 1997.

SEC. 110. This section limits the amount of entitlement funds under sections 507(a)(1) and 507(a)(2) to 44 percent if the amount available to be obligated in any fiscal year is less than $1,900,000,000. The provision ensures that a sufficient amount of discretionary funds remains available to provide for important capacity, safety, and security projects and for letters of intent.

SEC. 111. This section changes the reliever airport set-aside provisions from 10 percent to 5 percent; changes the commercial service airport set-aside from 2.5 percent to 1.5 percent; and makes permanent the 2.5 percent set-aside for the military airport program. In addition, the section permits the noise compatibility set-aside to be used for land use compatibility under new section 535 of this title.

SEC. 112. This section expands the scope of the military airports program to all airports listed in reports issued by the Defense Base Closure and Realignment Commission. In addition, the section expands coverage of the military airport program to include general aviation airports. To encourage and assist sponsors with base closure transitions, short-term operation and management funding would be authorized.

SEC. 113. This section expands the State role in AIP by permitting States to sponsor individual projects at one or more airports.

SEC. 114. This section expands allowable project costs under AIP to include the cost of development work performed within 2 years prior to the execution of a grant. Under the new subsection, allowable costs would include interest and the retirement of the principal of bonds used to finance such development work. Only a sponsor's entitlement funds could be used for such costs.

SEC. 115. This section removes the limitation in existing law that no more than $200,000 of discretionary funds may be made available for terminal development at small airports. In addition, the section amends section 513(b) to provide for uniform Federal share percentages.

SEC. 116. This section permits the FAA to obligate funds pursuant to a letter of intent in the same fiscal year that the letter of intent is issued.

SEC. 117. This section extends the State Grant Block Program to 1997, and allows system planning under block grants.

SEC. 118. This section authorizes the Secretary to issue grants to States or units of local government for land use compatibility projects if those projects are included in a land use compatibility plan approved by the Secretary.

SEC. 119. This section authorizes the Administrator to contract with the Center for Aviation Research and Education of the National Association of State Aviation Officials for the collection of airport safety data, to be funded from amounts made available for integrated airport systems planning grants.

SEC. 120. This section permits the Secretary to provide intermodal system planning grants to planning organisations. It also increases the set-aside for system planning from 1/2 of 1 percent to 1 percent to provide additional funding for such purposes.

SEC. 121. [To be supplied later.]

Title II

SEC. 201. This section authorizes the FAA to enter into cooperative agreements with Federal and non-Federal entities to pursue research, engineering, and development activities on a cost-shared basis.

SEC. 202. This section permits the FAA to provide safety training and operational services to foreign aviation authorities with or without reimbursement if the services are deemed by the Administrator to promote safety or United States aviation interests. Any associated travel is to be on U.S. air carriers, if practicable. Reimbursement received by the Administrator for services provided under the section would be credited to the appropriation from which expenses are incurred.

SEC. 203. This section allows the FAA to establish and collect fees for services performed outside the United States for certification, evaluation, inspection, and review. These fees cover the difference in cost between performing such services within the United States and performing them outside the United States, except that full cost recovery shall be achieved for work associated with foreign repair stations and for such other services as the Administrator may determine appropriate.

SEC. 204. This section requires that, before approving a PFC, the Secretary must find that the application for approval of the PFC includes adequate justification for each of the projects to be funded by the PFC.

SEC. 205. This section facilitates the immediate payment of claims for losses incurred under the Aviation Insurance Program.

Title III

SEC. 301. This section establishes uniform Federal share percentages based on airport type, not on the type of work performed.

SEC. 302. This section permits the Secretary to make grants for the soundproofing of residential buildings at certain airports without a Part 150 noise abatement program. Eligibility is limited to airports that received such grants under an exemption in the 1987 amendments to the Airport and Airway Improvement Act.

SEC. 303. This section repeals a provision requiring a yearly report on the status of the development of an air traffic collision avoidance system. A more recently-mandated Congressional report provides adequate information on collision avoidance systems.

Title IV

SEC. 401. This section provides that the FAA will be reimbursed for all costs incurred as a result of conveyance of the San Jacinto Disposal Area to the city of Galveston, Texas.

SEC. 402. This section provides that foreign air carriers are eligible to be considered for the same Stage 2 aircraft waiver as domestic air carriers.

SEC. 403. This section repeals a provision in existing law establishing special procedures before grants are made for runway development at a general aviation airport astride a county line.

Title V

SEC. 501. This section extends aviation user taxes through calendar year 1997 and authorizes the continued use of the Trust Fund through fiscal year 1999.