# National Commission to Ensure a Strong Competitive Airline Industry

Gerald L. Baliles, Chairman
Partner, Hunton & Williams
Former Governor of Virginia

Bette B. Anderson
President
Kelly, Anderson and Associates

Captain J. Randolph Babbitt
President
Airline Pilots Association, International

Charles M. Barclay
President
American Association of Airport Executives

Robert F. Daniell
Chairman and Chief Executive Officer
United Technologies Corporation

Sylvia A. de Leon
Partner
Akin, Gump, Strauss, Hauer & Feld

Daniel M. Kasper
Director
Harbridge House, Inc.

Herbert D. Kelleher
Chairman, President and Chief Executive Officer
Southwest Airlines Co.

Russell W. Meyer, Jr.
Chairman and Chief Executive Officer
Cessna Aircraft Company

John Peterpaul
Vice President for Transportation
International Association of Machinists and Aerospace Workers

Sandra Pianalto
First Vice President
Federal Reserve Bank of Cleveland

John M. Robson
Lester Crown Distinguished Faculty Fellow
Yale University School of Organization and Management

Felix G. Rohatyn
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Lazard Freres & Co.

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Partner
Hughes Hubbard & Reed

Gina F. Thomas
Managing Attorney of International Regulatory Affairs
Federal Express Corporation

EX OFFICIO

Senator John Danforth
Senator James Exon
Senator Slade Gorton
Senator Ernest Hollings
Senator Patty Murray

Representative Robert A. Borski, Jr.
Representative Maria Cantwell
Representative Richard Gephardt
Representative Newt Gingrich
Representative Bud Shuster

Dr. Laura D'Andrea Tyson,
Chairman, Council of Economic Advisors

DOMESTIC AVIATION ISSUES
Team Leader: DOT

**Key Issues**

Airline Taxes & Fees
Regulatory Relief
Capital Needs/Stage 3 Aircraft Conversion

**Likely Recommendations**

The Commission has been pursing three basic avenues for strengthening the airline industry: revenue stabilization, operating cost reduction, and capital subsidies. Of these three, a consensus appears to be forming that reducing operating costs would provide the most effective near-term relief. In this regard, we believe it is highly likely that the Commission will recommend:

- Reducing the airline industry's tax burden by (a) rolling back the passenger ticket tax and the freight waybill tax from their current rates of 10 and 6.25 percent, respectively, to their previous rates of 8.0 and 5.0 percent; and (b) changing the tax code provisions on the Alternative Minimum Tax. Obviously, neither of these recommendations would be revenue neutral to the government.

- Some form of regulatory cost relief via postponement of pending regulations, revisions to existing regulations, regulatory moratoriums, or other means. - Alcohol & Drug testing Rule

- Some provisions to expand federal preemption powers to reduce state taxation of airlines and air express services.

**Recommendations Unlikely**

- It is unlikely that the Commission will recommend any federal guarantee program or government subsidy for financing conversion to Stage 3 aircraft. Similarly, there appears to be little if any sentiment for any form of government intervention or re-regulation to stabilize fares.

Competition issue -- Anti-Trust issue

**Recommendations Uncertain**

There are numerous other issues on the domestic aviation agenda for which the Commission has identified potential options for examination by the Commission study teams, but for which specific recommendations remain uncertain. Those issues include bankruptcy; anti-trust enforcement; computer reservation systems; frequent flyer programs; access to airport gates and slots; and essential air service to small communities.

have not touched this issue, even though Sec. Pena asked them to consider

# Civil Aviation Working Group Teams

| Financial Team | Domestic Aviation Team | International Aviation Team | System Capacity Team |
|---|---|---|---|
| Treasury * | DOT * | State * | Commerce * |
| OMB | Labor | USTR | Science & Technology |
| CEA | Justice | DOD | NASA |
| DOT | | DOT | DOT |
| [redacted] | NEC | CEA | CEA |
| | DPC | Commerce | |
| | CEA | | |

* Team Leader

## NATIONAL COMMISSION TO ENSURE A STRONG COMPETITIVE AIRLINE INDUSTRY

## PRELIMINARY COMMISSION TIMELINE

| Week/Dates | Activities/Meetings |
|---|---|
| 1: May 23-29 | Briefings/Knowledge Base. **(5/24-5/27)** |
| 2: May 30-June 5 | Dialogue with Industry Experts. **(6/1-6/4)** |
| 3: June 6-12 | Work Teams Develop Summaries of Issues and Options. Determine additional need for information, hearings and meetings. |
| 4: June 13-19 | Commission Receives Work Team Reports - Possible Additional Briefings/Discussions. Tuesday and Wednesday afternoons reserved for discussion of pending legislative proposals with Members of Congress. **(6/14-6/16)** |
| 5: June 20-26 | Additional Briefings/Discussions based on reports of Work Teams. **(6/22-6/25)** |
| 6: June 27-July 3 | Commission Meets to Give Direction to Work Teams for First Draft. **(6/29-6/30)** |

| Week/Dates | Activities/Meetings |
|---|---|
| 7-8: July 4-17 | Draft Prepared/Circulated to Members. |
| 9: July 18-24 | Commission Meets for Consideration and Discussion of First Draft. **(7/19-7/20)** |
| 9-10: July 18-31 | Revisions to Draft by Work Teams and Staff. |
| 10: July 25-31 | Second Draft to Members. |
| 11: August 1-7 | Commission Meets - Final Comments on Draft. **(8/2)** |
| 11: August 1-7 | Finalize Report. |
| 11: August 1-7 | Report to Printer on Friday, August 5. |
| 12-13: August 8-21 | Brief Key Officials, Members of Congress, Industry Representatives, etc. |
| 13: August 15-21 | Release Report. **(8/20)** |

**Dates in Bold Indicate Tentative Schedule of Commission Meetings for Planning Purposes**

National Commission To Ensure
A Strong Competitive Airline Industry

633 Indiana Avenue, N.W., Washington, D.C. 20531

## Commission Work Team Assignments

### Financial Issues Team

| Commissioners | Staff |
|---|---|
| Felix Rohatyn | Greg Christopulos (Treasury) |
| Randy Babbitt | Geraldine Gerardi (Treasury) |
| Bob Daniell | Col. Nick Lacey (DOD) |
| Sandra Pianalto | Mary Kay Fuller (PBGC) |
| | Randy Bennett (DOT) |
| | Edward Murphy (Treasury) |
| | Jeff Jackson (Commerce) |
| | Larry Phillips (DOT) |

Issues include: Impact of taxes/tax relief; user fees; bankruptcy (impact, limits); regulatory relief (cost/benefit); capital formation; impact of "loose" credit and new financing mechanisms; foreign investment/ownership of U.S. airlines and manufacturers and U.S. investment in foreign firms; products liability; tort reform; lease/purchase agreements; role of aircraft leasing companies; labor/management costs; infrastructure costs; fare wars, price hikes.

### Domestic Aviation Issues Team

| Commissioners | Staff |
|---|---|
| Herb Kelleher | Jonathan Cross (FAA) |
| Sylvia DeLeon | Randy Bennett (DOT) |
| John Peterpaul | Edward Murphy (Treasury) |
| | MaryKay Fuller (BGC) |
| | Gerry Gerardi (Treasury) |
| | Col. Nick Lacey (DOD) |
| | Bob Young (Justice) |

Issues include: Causes and cures for overcapacity; airport access for domestic vs. international service (slots/gates/ticket counters); Stage 3 conversion; impact of CRSs and frequent flyer programs on competition; market share vs. profitability; regulatory relief; cabotage; new entry; affiliation with regional, foreign airlines; anti-trust issues; user fees and taxes; capital formation; foreign investment; bankruptcy.

## International Aviation Issues Team

| Commissioners | Staff |
|---|---|
| Abraham Sofaer | Chuck Angevine (State) |
| John Robson | Dave Modesitt (DOT) |
| Gina Thomas | Terry LaBat (USTTA) |
| | Bernie Ascher (USTR) |
| | Jeff Jackson (Commerce) |
| | Steve Falken (USTR) |
| | Col. Nick Lacey (DOD) |
| | Larry Phillips (DOT) |

Issues include: Bilateral/multilateral policy; access to foreign markets, foreign investment in U.S. carriers and manufacturers and U.S. investment in overseas companies; impact of cross-national investment on trade/bilateral policy; award/transfer of routes; cabotage; customs and immigration facilitation; foreign subsidy of aircraft manufacturers and airlines; basic research on aircraft design and materials; promotion of overseas sales of U.S. aircraft;

## System Capacity Issues Team

| Commissioners | Staff |
|---|---|
| Chip Barclay | Jonathan Cross (FAA) |
| Bette Anderson | Joe Hawkins (FAA) |
| Dan Kasper | Rob Anderson (NASA) |
| Russ Meyer | |

Issues include: ATC system capacity; ATC modernization program; satellite-based systems (GPS/GNSS); airport capacity; High Density Rule; peak hour pricing; funding for capital programs and operations and maintenance: user fees vs. general fund; leveraging user tax revenue stream; customs/immigrations facilities and staffing; noise/environmental concerns; streamlining FAA acquisition and personnel processes; alternative structures for FAA; new aircraft/technology; technology based airport capacity improvements.

Ex Officio Member of All Work Teams: Gerald Baliles

## PROFESSIONAL GOVERNMENT STAFF ASSIGNED TO THE NATIONAL COMMISSION TO ENSURE A STRONG COMPETITIVE AIRLINE INDUSTRY

| NAME | AGENCY | AREA OF EXPERTISE |
|---|---|---|
| Rob Anderson | NASA | Aviation research/technology |
| Charles Angevine | State | Bilateral aviation agreements |
| Bernard Ascher | USTR | International trade agreements |
| Randy Bennett | DOT | Airline economics/finance |
| Greg Christopulos | Treasury | Int'l investment/cabotage |
| Jonathan Cross | FAA | Safety/security/system capacity |
| Steve Falken | USTR | International trade agreements |
| MaryKay Fuller | PBGC | Pension funds/labor issues/bankruptcy |
| Gerry Gerardi | Treasury | Federal tax policy |
| Joe Hawkins | FAA | Safety/security/system Capacity |
| Jeff Jackson | Commerce | Aerospace/manufacturing |
| Terry LaBat | USTTA | Travel and tourism economics |
| Col. Nick Lacey | DOD | CRAF/national defense |
| David Modesitt | DOT | Bilateral aviation agreements |
| Edward Murphy | Treasury | Economic policy |
| Patrick Murphy | DOT | Aviation policy |
| Larry Phillips | DOT | Aerospace economics/finance |
| Bob Young | Justice | Antitrust/competition law |

# AGENDA FOR INITIAL MEETING OF THE INTERAGENCY WORKING GROUP ON CIVIL AVIATION

*Date:* *Wednesday, June 16, 1993*
*Time:* *3 p.m.*
*Place:* *Room 473*
*Old Executive Office Building*

I. PURPOSE AND ROLE OF THE WORKING GROUP

II. SUMMARY OF AIRLINE COMMISSION ACTIVITIES TO DATE

III. KEY QUESTIONS AND CONCERNS LIKELY TO BE FACED BY WORKING GROUP

IV. WORKING GROUP ORGANIZATION AND NEXT STEPS

# *HIGHLIGHTS OF THE AIRLINE COMMISSION'S INITIAL TWO WEEKS*

## FIRST WEEK

***Day 1***
***May 24*** Morning: *Opening Ceremonies*

Members of the National Commission to Ensure a Strong Competitive Airline Industry were sworn in, thereby starting the 90-day clock for completing their work. In his opening address, President Clinton emphasized that the U.S. airline industry is critical to the economic health of the Nation. He pointed out that almost every major economic issue facing the U.S. boils down to how to compete in a global economy, and that the country's efforts to be competitive would be undermined without a vibrant aerospace component. Next, Commission Chair Gerald Baliles set the tone for the Commission's work by asking , "Do we have an ailing airline industry, or do we have group of sick airlines?" Transportation Secretary Peña then urged the Commission to challenge the old ways of doing business -- to shake the very foundation of a generation of aviation policies. The Secretary cited eight critical issues for the Commission's consideration: federal regulations, bankruptcy laws, pricing, tax relief, service to small communities, bilateral relationships, foreign ownership of carriers, and labor issues.

Afternoon: *Government View of the U.S. Airline Industry*

Patrick V. Murphy, Acting Assistant Secretary for Policy and International Affairs, DOT, provided the Commission an overview of the domestic and international airline industries. Commissioners' interest and questions focused on the financial condition of the industry, the state of competition, market position, international market shares, and the status of bilateral relations with foreign governments.

***Day 2***
***May 25*** Morning: *Government View of the Aerospace Industry*

Panel Members: John Menes, Trade Division, Dept. of Commerce
Dr. Wesley L Harris, Office of Aeronautics, NASA
Steve Falken, Aerospace and Automotive, U.S. Trade Representative (USTR)
Tony Broderick, Regulations & Certification, FAA
Dale McDaniel, Policy & International, FAA

The representatives from Commerce, NASA, FAA, and USTR provided the Commission with an overview of the aircraft manufacturing industry and current U.S. government initiatives to address industry needs through research and development, regulatory reforms, and international negotiations. Commissioners' questions focused on (1) the cost of FAA regulations, especially the costs of phasing in Stage 3 aircraft noise regulations, airport security, and rules on employee substance-abuse testing; (2) the degree to which NASA's research and development efforts support the aerospace industry; (3) the tenure of the FAA Administrator; and (4) the possibility of a system for buying and selling marketable rights related to noise pollution allowances.

Afternoon: *What the Financial Markets Are Saying*

Panel Members: Phillip Baggaley, Standard & Poor's
Paul Karos, First Boston Corp.
Jack Modzelewski, Paine Webber Research
Cai von Rumohr, Cowen & Co.
Rose Ann Tortora, Donaldson, Luftkin
Tim Pettes, Alliance Management Corp.

This session featured a free exchange between the Commissioners and the panel of financial experts. Primary points made by the panel members were (1) that much of the industry's problems were due to over expansion, with too many seats chasing too few customers, resulting in cut-throat price competition; (2) the impact of the domestic and worldwide economic down turns; and (3) the willingness/encouragement on the part of the financial community to provide the capital for airline growth, hub development, and new aircraft. The analysts stated that the industry is learning from its mistakes; for example, efforts are underway to de-leverage (reduce debt loads). The analysts also pointed out that the problems facing the industry were not due to a lack of competition. Most panelists felt that airlines operating under bankruptcy had little effect on the industry and that any change to such laws would have a marginal impact. Panelists voiced a similar view regarding any form of re-regulation or other method to change the fare structure. Two specific government actions were discussed: loan guarantees and a rollback of the 2-percent ticket tax. Loan guarantees were seen as a way for airlines to replace stage 2 aircraft and, with the proper incentives, to reduce capacity. A rollback of the 2-percent tax would be one way to provide some immediate relief. Panel members split over whether loan guarantees should be targeted only to the purchase of U.S.-manufactured aircraft.

***Day 3***
***May 26*** Morning: *The Policy & Process of International Negotiations*

Panel Members: Steve Falken, Aerospace & Automotive, USTR
Jim Tarrant, Dept. of State
Paul Gretch, International Aviation, DOT

The panel discussed U.S. policy and the process of international negotiations. Commissioners focused their questions on: (1) why it takes so long for USTR negotiations to reach a conclusion, and why it takes so long for USTR to act on complaints; (2) how aviation relations are conducted under comity and reciprocity; (3) the likelihood of achieving multilateral agreements; (4) the need for another Chicago Convention to define international aviation rights and market access; (5) carrier access to foreign airports; and (6) the importance of increasing foreign investment/ownership in U.S. airlines to our success in achieving favorable bilateral/multilateral agreements.

Afternoon: *How Interested Parties Influence U.S. Negotiating Policy*

Panel Members: Nat Wilson, Air Transport Association
Diane Peterson, Airports Council International
Ed Driscoll, National Air Carrier Association
CPT Duane Woerth, Air Line Pilots Association

Most panel members felt that there is ample opportunity for industry input into the U.S. negotiating position, but some expressed frustration at not knowing what the U.S. position would be in advance. Some suggested that the establishment of a career position at the State Department would eliminate the loss of experience through rotational assignments of foreign service officers. Also raised was the need for cost/benefit studies to analyze the impact of various positions favored by carriers, and the desire to assign appropriate weight to community vs. carrier concerns.

Panel Members: Leo J. Schefer, President, Washington Area Task Force, Better International Air Service (USA-BIAS)
Judith M. Trent, USA-BIAS
Robert W. Kneisley, USA-BIAS
Michael Golman, USA-BIAS
John A. Hammack, USA-BIAS

The USA-BIAS panel stated that, while it preferred service by U.S. carriers, the government should also promote service by foreign airlines since that generates significant economic benefits for U.S. cities. The panel also stated that open skies should be pursued with any country, since it would provide greater air service and expand the international market. The panel believed that foreign ownership of U.S. carriers is acceptable, and supported tax relief for carriers through a rollback of the federal tick tax. The need to expand the Air Traffic Control system was also emphasized.

***Day 4***
***May 27*** Morning: *Is There a Shortage of Airport and Airway Capacity?*

Panel Members: Joseph Del Balzo, Acting Administrator, FAA
William H. Pollard, Air Traffic Division, FAA
Quentin S. Taylor, Airports, FAA
Dale E. McDaniel, Policy & International, FAA
David Tornquist, Budget Examiner, OMB

The FAA representatives provided an overview on the status of airport and airway system capacity, and the OMB official addressed questions concerning the methods and adequacy of funding for airport and air traffic control improvements. Commissioners' questions focused on (1) whether or not FAA is managing the utilization of airspace in the most efficient manner given today's technology (e.g., Global Positioning System); (2) why it is taking so long to install the Aviation Safety Analysis System; (3) the rationale and process for converting a slot at a high-density rule airport from domestic to international; (4) whether FAA or parts of FAA could operate more efficiently as an independent agency, private activity, or quasi-private entity; (5) whether the current OST/OMB budget process hampers FAA's ability to operate efficiently and effectively; (6) the tenure of the FAA Administrator; and (7) whether there will always be a "temporary" high-density rule in place.

Afternoon: No Sessions.

## SECOND WEEK

***Day 5***
***June 1*** Morning: No Sessions.

Afternoon: *How Has Airline Deregulation Worked?*

Panel Members: Prof. Paul Stephen Dempsey, University of Denver
Prof. Steven A. Morrison, Dept. of Economics, Northeastern University
Kenneth M. Mead, Director of Transportation Issues, GAO
Dr. Frank Mulvey, Assistant Director, Competition & Consumer Protection, GAO

In addressing how airline deregulation has worked, the GAO experts pointed out that: two-thirds of the industry losses over the last 3 years were accounted for by three airlines, two of which are no longer in business; there is no single cause of the industry's losses; the FAA bears part of the blame; and there are a number of positive signs, such as airline cost cutting and a number of new entrants. One of the academic experts felt some regulation is in order; if nothing is done there would be more bankruptcies and less competition. He suggested use of a trust fund to help airlines buy aircraft, that selling U.S. airlines to foreign companies would reduce international competition, and that the bankruptcy laws should be changed. The other academic expert described the detailed economic evaluation he and a Brookings Institute colleague had performed. He stated that deregulation, while not perfect, had worked well: competition increased and consumers have saved $8 billion per year because of deregulation. The major problem was excess capacity which was the result of the industry's inability to accurately predict demand several years out. The Commission members' questions did not elicit many specific suggestions from the panel beyond those summarized in the experts' opening remarks.

Afternoon: *Has the Public Interest Benefitted?*

Panel Members: Cornish Hitchcock, Attorney, Public Citizen
Paul Ruden, American Society of Travel Agents
David S. Stempler, International Airline Passenger Assn.
Paul Bessel, Association of Retail Travel Agents
Jeff Gilbert, ARTA Member Village Travel, Brookline, MA
Norman Sherlock, National Business Travel Assn.
John Hintz, NBTA President, Travel Manager, Price Waterhouse
Paul A. Verkuil, AAA

Participants on this panel, representing a variety of consumer and travel agency organizations, largely agreed that the public interest has benefitted from deregulation. Most thought the benefits have outweighed any associated problems.

Afternoon: *Does the Industry Have Agreed Solutions?*

Panel Members: John W. Olcott and George Howard, Co-Chairs of the National Aviation Associations Coalition (24 organizations)

The coalition gave the Commission an issues paper it had given to President Clinton. That paper outlines areas in which the associations had a consensus on needed changes, such as improvements to the air traffic control system, regulatory reforms, tax burdens, and tort reform. The coalition was asked by Chairman Baliles to prepare concrete recommendations on how to improve the financial and operational problems of airlines and manufacturers. The Chairman asked the group to be very specific in its recommendations.

***DAY 6***

***June 2*** Morning: *The Critical Role and Needs of Airports*

Panel Members: George F. Doughty, Chairman ACI, Executive Director
Lehigh Northampton Airport Authority, Allentown, PA
James A. Wilding, General Manager, Metropolitan
Washington Airports Authority
Richard C. Leone, Chairman of the Board, Port
Authority of New York & New Jersey
George J. Bean, Executive Director, Hillsborough County
Aviation Authority, Tampa, FL
David Mosena, Commissioner of Aviation, Chicago, IL
George Howard, President, Airports Council International -
North America

This session with the airport representatives focused on the need for additional capacity; airport privatization for capacity enhancement and the transfer of revenues off airport (LAX case); gates, slots, and the high density rule; Passenger Facility Charges (PFCs); rights under bilateral agreements; noise abatement; and the regulatory burdens of the FAA. Airports responding believe there is not enough capacity in the system and additional capacity will reduce delays. Reducing delays will enhance competition by adding to the financial strength (cut costs) of the airlines and also benefit the consumer. In addition to adding runways, capacity should be enhanced by improving air traffic control technology and removing the constraints of the high density rule. Support for preserving user fee funding at airports was evident, with almost no support for taking money off airport. There was strong support for phasing out noisy aircraft at the current schedule. Relaxing the schedule should not be pursued as a means of providing financial support to the airlines. There was also strong support for the PFC program. Airports will provide a list of what they consider to be burdensome FAA regulations by June 14.

Afternoon: *Issues for the Workforce*

Panel Members: Dee Maki, President, Association of Flight Attendants
William Hoffman, V.P., International Assn. of Flight Attendants
Gordon Ingraham, International Representative-Aerospace Division, United Auto Workers
Marvin Griswold, Director Airline Division, International Brotherhood of Teamsters
Ellen Hennessy, Chief Negotiator, Pension Benefit Guaranty Corporation
Carol Flowe, General Counsel, Pension Benefit Guaranty Corporation

This session focused on the impact of work rules and wage structure on airline profitability; under-funding/termination of pension plans and exposure within the airline industry; labor protective provisions; the impact on labor of changing the cabotage laws; productivity; chapter 11 bankruptcy and cost differentials; and safety and drug testing.

Afternoon: *Noise and Environmental Concerns*

Panel Members: Sharron Spenser, Councilwoman, Grapevine, TX
Patrick Russell, National Airport Watch Group, Mudge, Rose, Guthrie, Alexander & Ferdon
Barbara F. Lichman, National Airport Watch Group, Jackson, DeMarco & Peckenpaugh
Charles F. Price, Executive Director, National Organization to Insure a Sound-Controlled Environment
The Hon. Paul Tauer, Mayor, Aurora, CO
Eliot R. Cutler, Cutler & Stanfield
Joseph Karaganis, Karaganis & White, Chicago, IL

The second afternoon session dealt with noise and environmental concerns. Panelists expressed views on a variety of noise-related issues, including: the role of state's rights in noise control; environmentally sound airport construction; land use planning; and financial assistance (tax incentives and loan guarantees) to airlines for the scheduled phaseout of noisy aircraft. One recommendation was that jurisdiction over noise should be taken from the FAA and placed with the EPA.

***DAY 7***
***June 3***

Morning: *Domestic Competition -- Is There Enough? Is It Fair?*

Panel Members: Robert L. Crandall, American Airlines
Michael Conway, American West
Robert R. Ferguson, Continental
Ronald W. Allen, Delta
Richard B. Hirst, Northwest
Robin Wilson & Glenn Zander, TWA
Stephen M. Wolf, United Air Lines
Seth E. Schofield, USAir
David G. Neeleman, Morris Air
Robert W. Iverson, Kiwi Air
Patricia Will, UltrAir
Rob Swenson, Mesaba
George Pickett, Atlantic Southeast

This panel of the major airline CEOs, representatives of new airline entrants, and representatives of regional airlines was unanimous in calling for less government interference, less taxation, and less burdensome and more realistic safety and security regulations. Although some stated that there were major problems, all agreed that re-regulation of the industry is not the answer. The industry executives were divided on the causes of the problems and the solutions. Several laid blame on the bankrupt airlines and urged revisions in the bankruptcy laws. Others claimed that the large airlines which expanded greatly were the cause of the over-capacity problem. One airline representative saw the root cause as a lack of demand over the past several years, which has led airlines to underprice service to keep market share.

Afternoon: *International Competition -- Is There Enough? Is It Fair?*

Panel Members: Robert L. Crandall, American Airlines
Robert R. Ferguson, Continental
Ronald W. Allen, Delta
Richard B. Hirst, Northwest
Robin Wilson & Glenn Zander, TWA
Stephen M. Wolf, United Air Lines
Seth E. Schofield, USAir
Morris Nachtomi, Tower Air

Coleman Andrews, World
Hollis Harris, Air Canada
Bernard Attali, Air France
Sir Colin Marshall, British Airways
Dr. Cheong Choong Kong, Singapore

The afternoon session on international aviation was dominated by the issue of market access and what constitutes equivalent economic opportunities for U.S. airlines overseas. The panel generally agreed that the industry would eventually evolve from the current system of bilateral relationships to one of a more liberal multilateral regime. There was no agreement on exactly how or when the industry would get there, however. Two of the largest U.S. airlines serving Europe opposed the notion that the U.S. induce other countries into open-skies agreements by offering increased access to the U.S. market to foreign airlines. A smaller U.S. airline countered that it sounded like the large airlines want the status quo.

***DAY 8***
***June 4*** Morning: *The Manufacturing Side of the Equation*

Panel Members: Dean Thornton, Boeing Commercial Airplane Group
John Wolf, Douglas Aircraft Company
Brian H. Rowe, GE Aircraft Engines
Alan Boyd, Airbus Industries, NA
Carl A. Albert, Fairchild Aircraft
E. Glenn Parr, Piper Aircraft Corp.
Don Fuqua, Aerospace Industries Assn.

Building on the day's theme, "Aerospace and Air Cargo: Home Runs for Commerce and Trade," the morning session featured panelists from the airframe and engine manufacturing sectors, who discussed numerous issues involving the airline and aviation manufacturing industries. Questions from the Commissioners included: (1) what are the specifics of the agreement between the U.S. and E.C. regarding Airbus and how does the industry view it; (2) how does the present financial condition of the airline industry and the defense cutbacks affect the manufacturing sector, especially from a long-term perspective; (3) how would product liability legislation or general tort reform help the industry; (4) to what extent would legislation enacting an investment tax credit aid the industry; (5) what is the role of the Export-Import Bank and should any changes be made in its policies; and (6) whether the industry sees a need for policy changes at the FAA.

Afternoon: *The State of the Air Cargo Industry*

Panel Members: Steve Alterman, Air Freight Association
Richard Haberly, Arrow Air
Tom Weidemeyer, UPS
William Langton, Southern
Delford M. Smith, Evergreen
Joseph Hete, Airborne

This session with panelists representing the air cargo segment of the airline industry focused on questions from the Commissioners regarding: (1) whether the current noise regulations affect the air cargo industry and should be changed; (2) whether the industry would support multilateral international agreements involving cargo; (3) the role of the air cargo industry in the CRAF Program; (4) how the industry supports and competes with the U.S. Postal Service; (5) whether the industry believes their is a "level playing field" in international cargo competition; and (6) how the industry views the FAA from a policy and organizational standpoint.

* * * * * * * *

## *Commission's Next Steps*

The Commission organized itself into four "Issues Teams," as listed below. During the week of June 6-12, the Commission staff was to prepare issues summaries for the individual teams as a basis for focusing the remainder of the investigation. The staff summaries and decisions on specific issues to be examined further are scheduled to be discussed when the Commission reconvenes starting on June 14.

### Financial Issues Team

Impact of taxes,/tax relief; user fees, bankruptcy (impact/limits); regulatory relief (cost/benefit); capital formation; impact of "loose credit and new financing mechanisms; foreign investment/ownership of U.S. airlines and manufacturers; U.S. investment in foreign firms; products liability; tort reform; lease/purchase agreements; role of aircraft leasing companies; labor/management costs; infrastructure costs; fare wars & pricing.

Domestic Aviation Issues Team

Causes and cures for overcapacity; airport access for domestic vs. international service (slots/gates/tick counters); Stage 3 aircraft conversion; impact of Computer Reservation Systems and frequent flyer programs on competition; market share vs. profitability; regulatory relief; cabotage; new entry; affiliation with regional and foreign airlines; anti-trust issues; user fees and taxes; capital formation; foreign investment; bankruptcy.

International Aviation Issues Team

Bilateral/multilateral policy; access to foreign markets; foreign investment in U.S. carriers and manufacturers and U.S. investment in overseas companies; impact of cross-national investment on trade/bilateral policy; award/transfer of routes; cabotage; customs and immigration facilitation; foreign subsidy of aircraft manufacturers and airlines; basic research on aircraft design and materials; promotion of overseas sales of U.S. aircraft.

System Capacity Issues Team

ATC system capacity; ATC modernization program; satellite-based systems (GPS/GNSS); airport capacity; High Density Rule; peak hour pricing; funding for capital programs and operations and maintenance; user fees vs. general fund; leveraging user tax revenue stream; customs/immigrations facilities and staffing; noise/environmental concerns; streamlining FAA acquisition and personnel processes; alternative structures for FAA; new aircraft/technology; technology based airport capacity improvements.

PROFESSIONAL GOVERNMENT STAFF ASSIGNED TO THE NATIONAL COMMISSION TO ENSURE A STRONG COMPETITIVE AIRLINE INDUSTRY

| NAME | AGENCY | AREA OF EXPERTISE |
|---|---|---|
| Rob Anderson | NASA | Aviation research/technology |
| Charles Angevine | State | Bilateral aviation agreements |
| Bernard Ascher | USTR | International trade agreements |
| Randy Bennett | DOT | Airline economics/finance |
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| Jeff Jackson | Commerce | Aerospace/manufacturing |
| Terry LaBat | USTTA | Travel and tourism economics |
| Col. Nick Lacey | DOD | CRAF/national defense |
| David Modesitt | DOT | Bilateral aviation agreements |
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| Patrick Murphy | DOT | Aviation policy |
| Larry Phillips | DOT | Aerospace economics/finance |
| Bob Young | Justice | Antitrust/competition law |

# Civil Aviation ~~Commission~~ 7-7-93

## Work Groups Reports

- Next Commission meeting -- 2 weeks -- to discuss draft reports - July 18-20 Public Session

## Domestic Issues

- Tax Relief - 17-18% of
- Regulatory relief - DOT currently working on Drug & Alcohol Regulations, which are mandated by Congress - has some room to relax regs.
- Reduce State Taxation

- How do we deal with the problem of Congressionally-mandated rules?

New regulatory structure being set up in admin -- looking at regs in terms of effectiveness & regulatory burden -- a systematic ~~retrean~~ review -- eventually, legislation goes to Congress

Regulatory Review Group

- Propose Cong. Moratorium on regs until Commission reports & Admin can review

Domestic Aviation Group -- look into entry barriers issue

2

Issue - commission seems to be drifting toward avoiding issues relating to possible lack of competition (inadequate comp. -> entry barriers)

2. Financial Issues

Taxes
user fees
Bankruptcy
Finan fitness
Loan Guarantees
Employee ownership

- Industry is recovering but very unstable. Feeling that restructuring must continue, need more access to ~~foreign~~ markets

Taxes - will have some recommend. here
- how to pay for tax changes?
- Ticket tax roll back, relief from AMT, per-diem for Air staff

Bankruptcy
- use financial fitness standards to make it harder for airline to linger on Bankruptcy?

Financial Standards
- de-regulation of financial regs more at fault than de-regulation of industry

Loan Guarantees
- not an industry that needs more debt!

Profits
`not even what commission will recommend here.

---

-- Must be careful not to propose remedies that will hurt industry in long run. -- Part of problem is cyclical. Taxes did not cause this problem -- tax relief without future guarantees is not logical.

- Don't want to have tax policy that ~~favors~~ favors a particular industry -- but industry claims it is ~~unjust~~ over taxed.

---

(3) International taxation
Commission feels
- De-regulation is not likely to be considered
- Bi-lateral aviation agreement approach has run out of steam -- move to multi-lateral agreements
- US needs to be concerned with reciprocity ~~of~~ as guiding force of negotiation.

- Liberalization of Foreign Investment Rules -- Likely recommendation on this. - won't be over 49% Foreign Invest at most. - a Congressional mandate

- Cabotage used as leverage in negotiations?

-

System Capacity
(see handout)

- Air Traffic Control Improvements

· move as quickly as possible on this . .
new GPS technology should be installed - -
how quickly to implement?
· GPS satellite network in DOD budget

FAA Structure
· consideration of possibility of Privatization of FAA traffic control system. - will probably be recommended. · significant National Security Concern.

· Private corp to leverage private funds to ensure stable funding.

· Likely recommendation
- Top to bottom review of high density rule in hopes of abolishing it (next Funding)

July ~~[illegible]~~ 16 - next meeting

# NATIONAL AVIATION ASSOCIATIONS COALITION

June 14, 1993

The Honorable Gerald L. Baliles
Chairman
National Commission to Ensure a Strong Competitive Airline Industry
633 Indiana Avenue, N.W., Suite 400
Washington, DC 20531

Dear Governor Baliles:

The organizations participating in the National Aviation Associations Coalition (see attached list of endorsements) welcome the opportunity to respond to the challenge presented to us during our appearance before the National Commission to Ensure a Strong Competitive Airline Industry on Tuesday, June 1, 1993. We also look forward to discussing our response, and other matters that may be of interest, during our appearance before the Commission tomorrow.

While the consensus view presented through our *Aviation Agenda for Economic Recovery* (Appendix A) serves as the foundation for our response, more specific and detailed recommendations are being provided, as requested, in a format involving three key areas of focus – (1) to improve the U.S. economy by facilitating air transportation, increasing the efficiency and effectiveness of the FAA and the air traffic management and control system; (2) rationalization of the regulatory process to reduce regulatory burdens; and (3) enlightened legislation relative to taxes and product liability reform. We also comment on the importance of ensuring an effective and continual partnership between the Federal Aviation Administration and the aviation industry which directly relates to the three focal points of our presentation.

We strongly believe that these considerations will assist the Commission in satisfying its responsibilities relative to the airline and aerospace manufacturing industries, while also benefiting the other diverse segments of the aviation community. And, again, it is our hope that the results will serve as a significant contribution to efforts to strengthen the Nation's economy and reinvent government.

Sincerely,

George Howard
President
Airports Council International, N.A.

John W. Olcott
President
National Business Aircraft Association

Attachments
GH & JWO/pw

## NATIONAL AVIATION ASSOCIATIONS COALITION

**Aerospace Industries Association (AIA)**
The Honorable Don Fuqua, President
Aerospace Industries Association
1250 Eye Street, N.W., Suite 1100
Washington, DC 20005
(202) 371-8400
*AIA is the trade association representing the nation's manufacturers of commercial, military, and business aircraft, helicopters, aircraft engines, missiles, spacecraft, and related components and equipment.*

**Air Freight Association (AFA)**
Mr. Stephen A. Alterman,
Executive Vice President & General Counsel
Air Freight Association
1710 Rhode Island Avenue, N.W., 2nd Floor
Washington, DC 20036
(202) 293-1030
*AFA is a nationwide organization representing the interests of the all-cargo air carriers. Membership includes virtually all major air cargo carriers and others in the air freight industry.*

**Air Line Pilots Association (ALPA)**
Captain J. Randolph Babbitt, President
Air Line Pilots Association
1625 Massachusetts Avenue, N.W.
Washington, DC 20036
(202) 797-4010
*ALPA is the largest labor union and professional organization of U.S. airline pilots. It is affiliated with the AFL-CIO, holds bargaining rights for 43,000 members at 44 carriers, and is a leading air safety advocate.*

**Air Traffic Control Association (ATCA)**
Mr. Gabriel A. Hartl, President
Air Traffic Control Association
2300 Clarendon Blvd., Suite 711
Arlington, VA 22201
(703) 522-5717
*ATCA is a national professional association which has as its goal advancement in the science and profession of air traffic control. Its membership consists of individuals and organizations representing all aspects of the air traffic control discipline.*

**Air Transport Association of America (ATA)**
Mr. James E. Landry, President
Air Transport Association of America
1301 Pennsylvania Avenue, N.W.
Washington, DC 20004-1707
(202) 626-4168
*ATA is the trade association for the major U.S. flag airlines. Its members collectively account for approximately 97 percent of the revenue passenger miles flown in the United States and over 95 percent of the freight ton miles.*

**Aircraft Electronics Association (AEA)**
Mr. Monte R. Mitchell, Executive Director
Aircraft Electronics Association
P.O. Box 1963
Independence, MO 64055
(816) 373-6565
*AEA represents over 900 FAA Part 145 Certified Repair Stations as well as most manufacturers of general aviation avionics equipment and airframes.*

**Aircraft Owners and Pilots Association (AOPA)**
Mr. Phil Boyer, President
Aircraft Owners and Pilots Association
421 Aviation Way
Frederick, MD 21701
(301) 695-2000
*AOPA represents 300,000 general aviation aircraft owners and pilots who use their aircraft for non-commercial, personal and business transportation. AOPA members constitute 60 percent of the active pilots in the nation.*

**Airport Consultants Council (ACC)**
Mr. James D. McCormick, Executive Director
Airport Consultants Council
421 King Street, Suite 220
Alexandria, VA 22314
(703) 683-5900
*ACC is a non-profit trade association representing consulting firms which specialize in serving the airport industry, as well as the suppliers of airport equipment, materials and products.*

**Airports Council International, North America (ACI-NA)**

Mr. George P. Howard, President
Airports Council International, N.A.
1220 19th Street, N.W., Suite 200
Washington, DC 20036
(202) 293-8500

*ACI-NA represents 143 local, regional, and state governing bodies that own and operate approximately 300 commercial service airports in the United States, Canada and Bermuda. ACI-NA member airports service more than 90 percent of the U.S. domestic scheduled air passenger and cargo traffic and virtually all U.S. scheduled international travel.*

**American Association of Airport Executives (AAAE)**

Mr. Charles M. Barclay, President
American Association of Airport Executives
4212 King Street
Alexandria, VA 22302
(703) 824-0500

*AAAE is a professional organization representing the men and women who manage airports which enplane 99 percent of the passengers in the United States.*

**American Institute of Aeronautics and Astronautics (AIAA)**

Mr. Cort Durocher, Executive Director
American Institute of Aeronautics and Astronautics
370 L'Enfant Promenade, S.W.
Washington, DC 20024
(202) 646-7504

*AIAA is the principal society and voice serving the aerospace profession. Its primary purpose is to advance the arts, sciences and technology of aeronautics and astronautics and to promote the professionalism of those engaged in those pursuits.*

**Experimental Aircraft Association (EAA)**

Mr. Thomas P. Poberezny, President
Experimental Aircraft Association
3000 Poberezny Road
Oshkosh, WI 54903-3086
(414) 426-4800

*EAA is a sport aviation association with a worldwide membership of over 132,000 aviation enthusiasts, pilots and aircraft owners. The organization includes an active network of over 740 chapters.*

**General Aviation Manufacturers Association (GAMA)**

Mr. Ed W. Stimpson, President
General Aviation Manufacturers Association
1400 K Street, N.W., Suite 801
Washington, DC 20005-2485
(202) 393-1500

*GAMA represents 46 U.S. manufacturers of general aviation airplanes, engines, avionics and related equipment.*

**Helicopter Association International (HAI)**

Mr. Frank L. Jensen, Jr., President
Helicopter Association International
1619 Duke Street
Alexandria, VA 22314-3406
(703) 683-4646

*HAI is a non-profit professional trade association with over 1,100 member organizations in 51 nations. HAI is dedicated to promoting the helicopter as a safe and efficient method of transportation.*

**National Aeronautic Association (NAA)**

Mr. Malvern J. Gross, President & CEO
National Aeronautic Association
1815 N. Fort Myer Drive, Suite 700
Arlington, VA 22209
(703) 527-0226

*NAA's purpose is to coordinate and promote sport aviation within the United States; to represent sport aviation internationally; to oversee the establishment of all aviation and space records set in the U.S. and to promote aviation through national recognition of individual achievement.*

**National Air Carrier Association (NACA)**

Mr. Edward J. Driscoll, President & CEO
National Air Carrier Association
1730 M Street, N.W., Suite 710
Washington, DC 20036
(202) 833-8200

*NACA represents U.S. certificated airlines which specialize in low-cost scheduled and charter services transporting passengers and cargo in domestic and international markets. The majority of members operate worldwide and are major participants in the Civil Reserve Air Fleet program.*

**National Air Transportation Association (NATA)**
Mr. Lawrence L. Burian, President
National Air Transportation Association
4226 King Street
Alexandria, VA 22302
(703) 845-9000
*NATA represents the business interest of the nation's general aviation service companies providing fueling, flight training, maintenance & repair, and on-demand charter service by more than 1,700 member companies with more than 100,000 employees.*

**National Aircraft Resale Association (NARA)**
Ms. Susan Sheets, Executive Director
National Aircraft Resale Association
4226 King Street
Alexandria, VA 22302
(703) 671-8273
*NARA represents aircraft brokers and dealers organized to promote high standards of ethical business practices in the resale market.*

**National Association of State Aviation Officials (NASAO)**
Mr. Edward M. Scott, Executive Vice President
8401 Colesville Road, Suite 505
Silver Spring, MD 20910
(301) 588-0587
*NASAO represents the state government aviation service agencies in all the states, as well as the aviation departments of Puerto Rico and Guam.*

**National Business Aircraft Association (NBAA)**
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National Business Aircraft Association
1200 18th Street, N.W., Suite 200
Washington, DC 20036
(202) 783-9000
*NBAA represents the interests of over 3,200 companies which operate general aviation aircraft as an aid to business. NBAA members earn annual revenues in excess of $3 trillion and employ more than 16 million people worldwide.*

**National Business Travel Association (NBTA)**
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National Business Travel Association
1650 King Street
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(703) 684-0836
*NBTA represents major corporations and their travel managers who are involved in $130 billion travel and entertainment expenses annually. Corporate travel accounts for 60 percent of airline and Aviation Trust Fund revenues.*

**Professional Aviation Maintenance Association (PAMA)**
Mr. David S. Wadsworth, Executive Director
Professional Aviation Maintenance Association
500 Northwest Plaza, Suite 401
St. Ann, MO 63074
(314) 739-2580
*PAMA is a national professional association of aviation maintenance technicians, with some 4,000 individual members and 250 affiliated company members.*

**Regional Airline Association (RAA)**
Mr. Walter S. Coleman, President
Regional Airline Association
1101 Connecticut Avenue, N.W., Suite 700
Washington, DC 20036
(202) 857-1170
*RAA represents airlines engaged in short and medium haul scheduled airline transportation of passengers and cargo as well as suppliers of products and services for the industry.*

**Small Aircraft Manufacturers Association (SAMA)**
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Sport Aircraft Manufacturers Association
1400 L Street, N.W., 9th Floor
Washington, DC 20005
(202) 842-8101
*SAMA is the national association of the leading producers of kit aircraft and of engines, propellers, avionics and equipment for owner-flown single-engine aircraft used for sport, personal and business transportation.*

# National Aviation Associations Coalition

## Recommendations To The

## National Commission to Ensure a Strong Competitive Airline Industry

June 14, 1993

# TO IMPROVE THE U.S. ECONOMY BY FACILITATING AIR TRANSPORTATION, INCREASE THE EFFICIENCY AND EFFECTIVENESS OF THE FAA AND THE AIR TRAFFIC MANAGEMENT AND CONTROL SYSTEM.

The Coalition believes the following recommendations (associated with items 1, 3, 4, 9 and 11 of our *Aviation Agenda for Economic Recovery* (Appendix A)), if acted upon, will contribute to ensuring needed air transportation system capacity and economic growth.

## FAA STRUCTURE

A number of improvements may be achievable within the context of the existing DOT/FAA structure, given the will of Congress and the Administration to innovate. However, we reiterate the need to explore alternative organizational structures that may be helpful or necessary.

We are providing the previous statement of most of the members of the Coalition, presented to the House Aviation Subcommittee on May 9, 1989 by the Honorable Najeeb E. Halaby concerning reform of the FAA. (Appendix B)

## EMPOWERING THE FAA ADMINISTRATOR

The FAA Administrator (with stable tenure and balanced aviation experience) <u>must</u>...

- have the authority, as well as the responsibility, to manage the FAA without bureaucratic impediments, regardless of the reporting level of the Agency within the Executive Branch, and be recognized as requiring a capability to respond to the needs of the users.
- have the authority to organize the Agency without bureaucratic "red tape" and delays and maintain a personnel structure appropriate for the needs of FAA, including the ability to select managers on merit and capability alone.
- be assured of consistent funding (at least 3-5 year authorization/appropriation for all programs concurrently), avoiding continuous changes in priorities and amounts.
- have the authority to discharge or relocate personnel, as well as to promote and reward competence, and the opportunity and funds to hire a substantial number of promising, technically-current scientists and engineers to ensure a high level of technical excellence.
- be granted relief from excessive, nonproductive oversight of FAA's activities.

## HELPING SOLVE THE FAA ACQUISITION/PROCUREMENT PROBLEMS

At a minimum, the FAA should be enabled to...

- eliminate the notion that quality high-tech equipment can be specified and bought in the rigid manner currently used in the acquisition/procurement process. To that end, funds must be requested and appropriated to pay for inevitable and desirable changes and improvements.
- use well-defined, enforceable specifications of needed product performance. These should be complemented by simple, comprehensible statements of acceptable workmanship practices coupled with tough requirements to demonstrate achievable integrity, reliability, maintainability and availability.
- choose contractors based on their reputation and performance record, as well as price.
- empower or encourage FAA managers to use their judgment as to when sole source procurement makes sense.
- develop an administrative practice (through legislation if needed) to help FAA adjudicate contract protests rapidly.
- empower the FAA Administrator to create a new procurement process with the flexibility to modify and adapt contracts to practical realities.
- change the current FAA procurement culture to encourage project engineers and managers to innovate and ensure relevance. Require senior managers to back them when they do.

## OBSERVATIONS/RECOMMENDATIONS ON FAA PERSONNEL/MANAGEMENT DIFFICULTIES

The following are observations for consideration as to personnel/management difficulties:

- The FAA Facilities and Equipment program has grown ten-fold in the last few years, while staffing has remained essentially static. Outside support contractors cannot substitute for a cadre of capable insiders.
- FAA in recent years has been buffeted by reductions in its force of technical experts and by loss of a great deal of its technical leadership, even as the demands on FAA have grown dramatically.
- To FAA's detriment, the emphasis on continuing and advanced education has declined, and the lines between the various service disciplines have been drawn even more sharply, rather than being eliminated.
- The FAA R, E&D Advisory Committee discussed this issue area, as well. (Appendix C)

Some recommendations for dealing with these difficulties are incorporated in earlier Coalition commentary on empowering the FAA Administrator.

## STRENGTHENING FAA INTERNATIONAL CAPABILITY

It is important to strengthen the effectiveness of the FAA in the international aviation community through the Agency's role with the International Civil Aviation Organization (ICAO), the Joint Airworthiness Authorities (JAA) and other bodies, as well as through action on the following recommendations:

- Increase funding for the FAA certification and harmonization program to improve it and reduce the burden of international regulations on U.S. aviation interests.

- Increase staffing of "overseas" inspection and certification services that facilitate international operations of U.S. aircraft operators.

## FAA RESEARCH, ENGINEERING AND DEVELOPMENT

The Coalition supports the report of the "blue-ribbon" panel headed by Norman Augustine, Chairman and Chief Executive Officer, Martin-Marietta Corporation, *Review of the FAA Research, Engineering and Development Program* (Appendix D), and stresses support for funding of the FAA R&D budget at $300 million for FY 1994, $350 million for FY 1995 and $500 million for FY 1996 and beyond. We also restate the importance of cooperation between the FAA, NASA and DOD relative to R&D activities to advance civil aviation and enhance U.S. technological leadership and competitiveness. (Specifically, NASA should support ATC modernization with enhanced liaison with FAA and an appreciable increase in permanent staff as required).

Specifically with regard to airport and airway system capacity technology and procedure development needs, the R&D Plan Review Panel, mentioned above, as had other bodies, identified the safe achievement of additional airspace and airport capacity as the No.1 priority for the FAA R&D efforts. It is widely agreed that a great deal of additional capacity is achievable, much of it by better use of our resources. While airspace capacity is, of course, ultimately a limited resource, far more efficient use is possible. Airport capacity can be improved by 20-30 percent by use of existing and available technology, according to experts. Beyond that, new runways and new airports will be required.

The FAA Aviation System Capacity Advisory Committee identified a set of recommendations, developed over several years, on ways to achieve additional airport and airway system capacity through the development and application of beneficial technology and procedures. (Appendix E)

### SYSTEM ACCESS/CAPACITY

The Aviation Trust Fund was created to add system efficiency and capacity (reducing congestion and delays) using revenues from user taxes. The Coalition continues to believe that the Trust Fund should be dedicated solely to these purposes.

The Coalition further reiterates that the FAA should ensure fair and reasonable access to the Nation's system and avoid artificial constraints and policies that stifle growth.

We also recommend that any consideration of reforming the High Density Rule be done on an airport-by-airport basis.

FAA should continue rapid implementation of the Global Navigation Satellite System (GNSS). Focus should be upon Automatic Dependent Surveillance (ADS) in oceanic areas and development of non-interfering "precision RNAV" GPS approach routes into secondary airports located near major airports.

### NATIONAL AIRLIFT POLICY OF 1987

The Commission should recommend full implementation of the National Security Council's Airlift Policy of 1987. (Further details to be provided.)

## RATIONALIZATION OF THE REGULATORY PROCESS TO REDUCE REGULATORY BURDENS

The Coalition believes the following recommendations (associated with *Agenda* items 5, 6, 7, & 10) will assist the Commission in focusing on ways to eliminate burdensome regulations (existing and proposed) and inefficient and ineffective aspects of the regulatory process.

### REDUCING REGULATORY BURDENS

Federal mandates associated with environmental regulations, security and safety requirements, federal inspections and other areas impose tremendous costs. The Commission should recommend more careful consideration of burdensome regulations and their impact on the aviation industry. The Coalition reiterates the need for greater understanding that regulations must be founded upon documented, practical analysis and concrete understanding of economic ramifications. Recommendations presented earlier relative to FAA reform suggest solutions to this problem.

There is a need to strengthen the FAA's ability to regularly review the applicability of existing regulations for relevance to current economic and technological conditions.

## Rationalization of the Regulatory Process

The Coalition also recommends Commission support for establishment of a new regulatory review process. Organizations associated with the Coalition submitted specific recommendations, in response to the previous Administration's regulatory moratorium, for review of regulations (existing and proposed) that, if eliminated or modified, would reduce the burden on the aviation industry. Examples of these are provided for consideration by the Commission (Appendix F) and additional input will be provided if necessary.

The moratorium produced few, if any, results for reasons not quite understood. However, the standards for the review process associated with that moratorium are worth consideration. They were as follows:

- The expected benefits to society of any regulation should clearly outweigh the expected costs it imposes on society.
- Regulations should be fashioned to ensure net benefits to society, and primarily emphasize safety.
- Regulatory agencies should set performance standards instead of prescriptive "command-and-control" requirements, thereby allowing the regulated community to achieve regulatory goals at the lowest possible cost.
- Regulations should provide clarity and certainty to the regulated community and should be designed to avoid needless litigation.

The Coalition recommends the following additional standards:

- The rulemaking process must be streamlined to eliminate undue delay in the issuance of technically justified regulations and advisory material.
- The economic analysis and cost/benefit examination of proposed regulations should not be examined singly but should include a look-back requirement to determine recent economic burdens imposed on various elements of the industry.

If a regulatory moratorium/review process is established, it should ensure that action is actually taken on recommendations that make sense and meet these standards. As well, the process in the future should include periodic review of assumptions on which conditions for regulatory action are based.

## "Enlightened" Legislation Relative To Taxes And Product Liability Reform

The Coalition believes that the following recommendations concerning "enlightened" legislative proposals (associated with *Agenda* items 2 and 8) concerning aviation taxes and general aviation product liability reform will contribute greatly to efforts to assist the distressed aviation industry.

## EXCISE TAXES

The aviation community is experiencing severe economic pressures resulting from factors well beyond their control. Yet, instead of working to moderate these economic pressures, there is, unfortunately, a serious threat of new energy taxes which will significantly increase the cost of doing business.

In some sectors of the economy, this may result in beneficial changes in behavior, such as encouraging use of alternative fuels or conservation. However, in the aviation sector, these increased costs can have only one result: a reduction in transportation by air. Commercial and business aircraft operators especially do not need increased fuel costs to encourage the most fuel-efficient use of their aircraft. Economic realities have already accomplished that goal.

An alternative to petroleum-based fuel used in aviation is not foreseen. Again, the only result of an increased tax on aviation fuel will be to reduce air transportation. Scheduled air carriers will be forced to increase ticket prices, resulting in a drop in traffic. Businesses will see the cost of operation of their aircraft increase and will consequently reduce operation.

We oppose increasing aviation fuel taxes.

## ALTERNATIVE MINIMUM TAX

The Administration has proposed substantial changes in the corporate alternative minimum tax to ameliorate disincentives against investment in business assets. These changes would simplify the rules concerning depreciation deductions and shorten the write-off period for many assets. The change is estimated to reduce Federal revenues by nearly $9 billion over five years.

Unfortunately, this relief is not designed in a way that will provide uniform benefit across the aviation community. Commercial airlines would receive substantial benefit. Aircraft, other than helicopters used in commercial and contract carrying of passengers and freight, would receive substantial benefit as their cost recovery period would be reduced from 12 years to seven years. On the other hand, the cost recovery period for all other aircraft used in business would only be reduced from six years to five years.

As the Administration's proposal would also reduce the so-called "acceleration" method from a 150 percent declining balance method to a 120 percent declining balance method, business aircraft other than those used in commercial or contract carriage will receive worse tax treatment under this provision than they receive under present law. If the Government believes that AMT depreciation relief is important enough to reduce Federal revenues by nearly $9 billion, it should allocate at least some of this relief on an equal basis to all sectors of the aircraft industry.

We support the broader allocation of this relief associated with the Alternative Minimum Tax.

## GENERAL AVIATION TAXES/FEES

President Clinton's FY 1994 budget package, as passed by the U.S. House of Representatives, calls for $215 million in additional taxes designated to be collected from general aviation over five years. These proposed taxes include new general aviation aircraft registration fees based on aircraft weight which would result in an increase of 4,000 to 200,000 percent. In addition, an average $200 aircraft recording and title fee would be chargeable against new and used aircraft sales, flight surgeons who perform medical examinations would be charged an annual $500 license fee, and pilots would pay a triennial $12 fee to renew pilot certificates.

These taxes are totally arbitrary and without justification and will have a debilitating effect on an already distressed general aviation industry and would, in fact, be counterproductive to the industry's growth and the national economy.

We recommend the elimination of these taxes from the President's budget package.

## INVESTMENT INCENTIVES

Both manufacturers and users of aircraft strongly believe that if a simple and significant investment tax incentive were enacted, it would be a very effective tool to encourage investment in new aircraft.

We understand that the Administration proposed an investment tax credit to encourage business investment in capital assets and that the proposal was not met with great enthusiasm by any segment of the business community. It is very important, however, to understand precisely why the proposal was not well received. The simple answer is that the proposal was too complicated and provided too little actual incentive to be useful to most businesses.

If budgetary limitations prohibit an investment tax credit that will significantly reduce the cost of purchasing an aircraft, we suggest consideration of an alternative that would reduce the cost of <u>replacement</u> of existing aircraft.

One alternative would be to provide that the tax basis of a newly purchased aircraft not be reduced for any depreciation taken on an aircraft that is being replaced. Such an incentive would have the benefit of providing users of an aircraft with a financially significant tax incentive to replace older aircraft which would not have as great a one-time tax cost as a comparable tax credit.

It might be argued by some that this treatment should be provided for all types of business assets. However, if the cost of such a broad incentive would be prohibitive, a good policy basis exists to limit such relief to aircraft. There is a public interest in quieter, more efficient, more "environmentally friendly" aircraft. The problem is that industry cannot afford to move as quickly as would be optimal. It is completely appropriate under these circumstances that the public share in these costs through a tax incentive of this nature. All aircraft should be eligible for these incentives as all are subject to these standards. Some have proposed loan guarantees to accomplish this same goal. This alternative should be fully explored.

## GENERAL AVIATION PRODUCT LIABILITY REFORM

The Coalition recommends that the Commission endorse passage of general aviation product liability legislation, specifically S. 67 introduced by Senators Kassebaum (R-KS) and Dole (R-KS) and House legislation to be introduced by Representatives Glickman (D-KS) and Hansen (R-UT) (Appendix G).

The Coalition recognizes that product liability problems associated with general aviation aircraft are a fundamental problem for the entire U.S. aviation industry. General aviation produces the majority of the industry's future airline pilots and provides the vital air-link to small communities where scheduled passenger airline service is unavailable. Also, when an airline chooses to offer first-time scheduled air service to a small community, the presence of a general aviation airport is an obvious prerequisite. Many large hub airports, such as Los Angeles International, were once small, general aviation airports. In many ways, general aviation forms the foundation of our entire air transportation system.

Production of general aviation aircraft has gone from nearly 18,000 in 1978 to less than 900 in 1992. Employment in the general aviation manufacturing sector has fallen 50 percent, and foreign manufacturers are now targeting the U.S. market, intent on replacing the vacuum left by withdrawal of several U.S. manufacturers, some of whom have been forced into bankruptcy because of unjust product liability laws. The number of student pilots has fallen 45 percent since 1979. The average single engine, piston-powered aircraft in the U.S. is now 27 years old.

The Kassebaum/Dole and Glickman/Hansen legislation provide fair and equitable reform that has been supported by manufacturers and aviation consumers alike, and has wide Congressional cosponsorship. The Senate bill sets a national standard for general aviation product liability, while the proposed Glickman/Hansen legislation focuses solely on a 15 year statute of repose.

## FAA/AVIATION INDUSTRY PARTNERSHIP

FAA has made good use of the Advisory Committee process when it has worked closely with the advisory bodies, actively created their agendas and implemented their results. These bodies and other outreach methods help both the industry and the government.

There have been important lapses in this consultation process, most notably in the difficulties in achieving a timely Advanced Automation System which would bring the promised benefits to the user community.

It is recommended that the Advisory Committee structure be utilized and enhanced. As part of this structure, a high-level umbrella advisory committee from industry should be created to ensure that the views of those who use the system, and whose clients are the source of FAA funding, are heard.

Of all the specific and detailed recommendations the Coalition could provide the Commission, none is more important than to ensure that the Federal Government adopt a more cooperative role with the aviation industry. This is essential for confronting the various challenges the industry has experienced and continues to experience (i.e., serious revenue and job losses, airline and manufacturer bankruptcies, deteriorating competitive position in the world economy). In fact, President Clinton and Secretary of Transportation Peña have both stressed the importance of a government/industry partnership to enhance the nation's transportation system and help grow the economy.

## CONCLUSION

Although industry often has found reason to criticize the Department of Transportation and the Federal Aviation Administration, we also find many reasons for optimism. Perhaps most importantly, senior management of these agencies has expressed a great willingness to listen and act on industry advice. We look forward to exploring that relationship in the days to come.

**DOMESTIC AVIATION ISSUES**
**Team Leader: DOT**

## Key Issues

Airline Taxes & Fees
Regulatory Relief
Capital Needs/Stage 3 Aircraft Conversion

## Likely Recommendations

The Commission has been pursing three basic avenues for strengthening the airline industry: revenue stabilization, operating cost reduction, and capital subsidies. Of these three, a consensus appears to be forming that reducing operating costs would provide the most effective near-term relief. In this regard, we believe it is highly likely that the Commission will recommend:

- o Reducing the airline industry's tax burden by (a) rolling back the passenger ticket tax and the freight waybill tax from their current rates of 10 and 6.25 percent, respectively, to their previous rates of 8.0 and 5.0 percent; and (b) changing the tax code provisions on the Alternative Minimum Tax. Obviously, neither of these recommendations would be revenue neutral to the government. — looking at all taxes

- o Some form of regulatory cost relief via postponement of pending regulations, revisions to existing regulations, regulatory moratoriums, or other means. - Drugs Alcohol Testing
  - Security Access Rules

- o Some provisions to expand federal preemption powers to reduce state taxation of airlines and air express services.

## Recommendations Unlikely

It is unlikely that the Commission will recommend any federal guarantee program or government subsidy for financing conversion to Stage 3 aircraft. Similarly, there appears to be little if any sentiment for any form of government intervention to stabilize fares or to re-regulate pricing behavior. Further, the Commission appears to have concluded that competition on the domestic front is and will remain adequate without the need for new action (i.e., existing tools for ensuring competition should be sufficient).

## Recommendations Uncertain

There are numerous other issues on the domestic aviation agenda for which the Commission has identified potential options for examination, but for which specific recommendations remain uncertain. Those issues include bankruptcy; anti-trust enforcement; computer reservation systems; frequent flyer programs; access to airport gates and slots; and essential air service to small communities.

# National Commission To Ensure a Strong Competitive Airline Industry

## Domestic Aviation Issues Team

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## CONTEXT FOR CONSIDERATION OF ISSUES AND OPTIONS

- During the years 1990-1992, many airlines reported record losses because they were unable to generate average revenues per trip in excess of their average fully allocated costs per trip.

- **Excess Seats**. Some airlines take the position that their 1990-1992 losses were caused by the fact that there were "too many seats" in the air. In essence, they contend that supply exceeded compensatory demand.

    - Some carriers contend that the continued operation of bankrupt carriers in Chapter 11 has caused an excess of seats.

    - Bankrupt carriers contend that mega-carriers' excessive aircraft orders and deliveries have caused the oversupply of seats.

    - In any event, this imbalance between supply and compensatory demand is currently being ameliorated by two factors:

        - An increase in the amount of compensatory demand, and

        - The grounding of older commercial jet aircraft and the cancellation and deferment of future commercial jet aircraft orders.

    - As a result of these efforts, the aggregate amount of commercial jet aircraft capacity is predicted to expand very little, if at all, in 1994 and 1995.

    - In its consideration of any proposals, the Commission should carefully weigh the potential impact on available capacity.

- **Insufficient passengers**. Some airlines take the position that there would be ample passengers to fill available seats if fares could be lowered. However, high operating and finance costs make it difficult for many carriers to make money at lower fare levels.

    - One factor which exacerbates the inability of many carriers to lower fares and make money is the excessive level of taxes and regulatory costs imposed on air carriers.

- o Regardless of the level at which fares will settle, it is clear that the opportunities for carriers to make money is increased to the extent that they can lower their costs--whether this enables them to stimulate greater demand by lower prices, or to retain greater revenues from existing fares, or a combination of the two.

- o As a result, areas where airline costs can be significantly reduced, such as through the alleviation of the industry's tax burden or the reduction in unproductive regulatory costs, are among the most significant issues the Commission should consider for restoring profitability to the industry.

**Ailing Industry or Ailing Companies**

o A factor we have tried to keep in mind is whether the problems we are studying are systemic in nature--that is, are they symptomatic of an ailing industry, or are individual companies ailing, because of their particular circumstances?

o The possible failure of individual companies must be considered in the context of whether airline companies in general have an opportunity to succeed.

o The protections afforded to ailing companies must be considered in the context of the impact such companies have on other companies in the industry and the level of service available to the traveling public.

- o For instance, are large permanent layoffs by many airlines across the board any less devastating than the loss of jobs by one company's shutdown?

o The potential loss of air service and jobs must be considered in the context of whether there is a realistic potential for new companies to emerge and succeed.

**Structure of the System**

o The Commission has been urged to consider what structure the airline industry should take. We may not be able to define it, but as the Commission considers the issues and options our work team presents, we should keep in mind the impact that the different options may have on the nature of the airline business.

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- We should consider whether our role should be to make recommendations that will help provide all companies with an opportunity to succeed on their merits-- but not a guarantee that they will do so -- or to target specific groups that somehow deserve special assistance.

- We should also consider that the industry is not monolithic. Different carriers have different roles.

  - Mega-carriers have huge hub networks that extend throughout the country and around the world.

  - Others try to provide national coverage, although not necessarily as extensively.

  - Still others find a niche in which they can provide service different from that provided by the larger carriers.

- We have heard testimony that the hub and spoke system is very effective in providing broad coverage across the country, leading to competition on many thousands of city-pair routes. It has advantages in providing feeder traffic for international service.

- We have also heard testimony that the hub and spoke system does not facilitate efficient utilization of equipment and the workforce. The same carriers which have relatively low costs compared to their international competition, have relatively high costs compared to their domestic competition.

- Carriers, even long established carriers, are still evolving in the roles they play, and the roles they believe they must play in the future in order to compete successfully in a changing industry. We must consider these different roles, and the changing nature of the industry, as we ponder the issues on which to focus our attention and the options available to address those issues.

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**Issue: Regulatory Relief**

It has been widely asserted that regulation imposes great costs upon the U.S. airline industry. In terms of cost, regulation is unbudgeted; erratically evaluated; never aggregated; and sometimes intended to serve good purposes which it fails to achieve or even subverts. The basic problem asserted is that regulatory bodies have no accountability and no responsibility for the effects of their regulatory undertakings. Moreover, the basic problem is exacerbated by external pressures (the media, Capital Hill, other federal agencies) to craft regulatory measures which are driven purely by the perceived "crisis de jour."

**Option 1.** Recommend the revision or deletion of existing rules which exact costs entirely disproportionate to their purported benefits. The Commission should obtain more information to identify such rules specifically. A permanent structure should be created within FAA for ongoing review.

**Option 2.** Recommend a one year moratorium on the imposition of any additional rules by DOT and FAA -- including "informal" regulation such as "Airworthiness Directives" and "Advisory Circulars" -- except in case of a national emergency.

**Option 3.** Recommend adoption of an annual regulatory budget; e.g., the aggregate cost effect of all regulatory actions by the federal government may not exceed .25 percent of the combined operating costs of all domestic air carriers during the preceding year.

**Option 4.** Establish an impartial tribunal to adjudicate the cost of any proposed regulatory initiative and to determine the cost-benefit ratio of the proposal.

**Option 5.** Commission an independent study of the extent to which state/local tax and regulatory burdens have burdened the interstate air transportation system.

**Option 6.** Revise the structure of DOT and FAA with respect to functions currently being performed by DOT/FAA which relate to aircraft design and certification, airline fitness and certification, and all airline flying, maintenance and safety-related operations.

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**Issues: User Fees and Taxes**

Commercial airlines are generally on a "pay as you go" basis on the ground and in the air. The principal commercial airports are sustained by user fees, not taxpayer dollars, and both the DOT and the CBO have found that commercial aviation, through allocations to the FAA from the Airport and Airway Trust Fund, pays more than 100 percent of the fully allocated costs of its utilization of the Air Traffic Control (ATC) system.

1. **Excise taxes**. In 1990, Congress imposed a 25 percent increase in passenger (8 percent to 10 percent) and cargo (5 percent to 6.25 percent) excise taxes to be paid into the General Fund to alleviate the deficit. These tax revenue increases reverted to the Airport and Airway Trust Fund on January 1, 1993. They will amount to almost $1,000,000,000 per year as demand for air transportation recovers.

   **Option 1.** Recommend that the passenger and cargo excise taxes be reduced to their former levels of eight percent and five percent, respectively.

   **Option 2.** Reduce the allocation from the Trust Fund for FAA operations from 75 percent to 65 percent.

2. **State and local taxes**. A number of states and localities have imposed airline specific state and local taxes on carriers.

   **Option 1.** Because of the perilous financial condition of the airline industry as a whole, recommend that no additional airline specific taxes be imposed at the state and local levels.

3. **Local diversion of airport funds**. Some municipalities, most notably Los Angeles, have proposed diversion of funds from their self-supporting commercial airports to pay for general municipal functions unrelated to airport operations. Federal law presently prohibits such diversion at airports which have received AIP grants. If Los Angeles were directly or indirectly successful, however, the precedent would destroy commercial aviation in the U.S.

   **Option 1.** Recommend amendment of the 1994 DOT Appropriations Bill to prohibit the distribution of AIP funds to any airport which violates existing sponsor assurances.

3. **Local diversion of airport funds** (cont)

**Option 2.** Pass legislation providing that: (a) any profit from the sale of an airport must be deposited into the Airport and Airway Trust Fund; (b) no governmental entity may profit from leasing its airport; and (c) a private right of action is established to enforce the foregoing provisions.

**Option 3.** Retain and enforce AIP grant assurances which prohibit revenue diversion from airports.

**Option 4.** Recommend that DOT state that repayment of an AIP grant does not release the project sponsor from grant assurances.

**Option 5.** Have FAA monitor airport practices to ensure that reimbursement of local governments for services provided to airports, such as police, fire, and rescue, is based on a legitimate assessment of the cost of providing such services to the airport.

4. **Passenger Facility Charges (PFCs).** These are charges of $3.00 per airport and up to $12.00 per round trip that are imposed by airports for various airport projects. The projects must be approved by the FAA after consultation with the carriers.

**Option 1.** Recommend that the FAA continue to scrutinize PFC applications to ensure that only projects that are within the scope of the authorizing statute are approved.

5. **Transportation Tax**. Current proposals to increase the jet fuel tax will impose a substantial additional financial burden on airlines.

**Option 1.** Recommend against assessment of added fuel taxes on the airline industry.

**Option 2.** Exempt airlines from any taxes or surcharges which are designed to induce the use of alternate fuels, because there are no alternate energy sources available for airlines.

6. **Per diem**. Flight crews are paid an allowance for the cost of meals while remaining away from home overnight pursuant to FAA rest requirements. Generally, these per diem payments are approximately \$1.50 per hour. These payments are treated as "meals and entertainment expenses," presently 80 percent deductible and proposed to drop to 50 percent deductibility.

   **Option 1.** Recommend that per diem payments be fully deductible as they offset otherwise reimbursable expenses that employees incur in the course of their duties and are not "personal expenses."

7. **Alternative minimum tax (AMT)**. The AMT requires a taxpayer to compute regular taxable income and AMT taxable income and then pay tax on the higher of the two. AMT income is generally higher because of differences in computing tax preferences such as depreciation, which must be increased by Adjustments to Current Earnings (ACE). While the AMT is supposed to ensure that no taxpayer with substantial economic income avoids significant tax liability, the provision has forced airlines to pay hundreds of millions of dollars of taxes despite suffering billions of dollars of losses.

   **Option 1.** Recommend reform in AMT and ACE so that airlines can take full advantage of their depreciation deductions against potential income tax liabilities.

8. **Advance Tax Refunds to Carriers with Accumulated Net Operating Loss Carryforwards (NOLs)**. Some carriers support a one time credit of the tax effect of their NOLs against the 1992 excise tax. Northwest Airlines estimated that the total tax credit for those carriers with NOLs would be \$1.6 - \$1.7 billion. That would offset approximately \$2.0 billion of excise taxes collected since 1990. The credit would be taken from the Treasury rather than the Airport and Airway Trust Fund surplus.

   **Option 1.** Leave current tax provisions intact.

   **Option 2.** Recommend legislation to enact the advance tax refund provision.

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**Issue: Stage 3 Conversion**

Under federal law, all Stage 2 heavy, commercial jets must be replaced by Stage 3 jets by the end of 1999, except that the FAA is permitted, but not required, to grant a waiver until the end of the year 2003 for Stage 2 jets constituting 15 percent or less of a given operator's fleet in the year 1999. No new Stage 2 jets are now being manufactured, and the achievement of Stage 3 status can, at least theoretically, be attained through reengining of Stage 2 aircraft; hush-kitting of Stage 2 aircraft; or replacement of Stage 2 aircraft by successor Stage 3 aircraft. For a variety of economic and performance reasons, reengining and hush-kitting are impractical for certain airplanes and certain operators, at least at this stage of the development of hush-kit and reengining programs. In order to maintain current fleet aircraft levels, 1831 aircraft will have to be reeingined, hush-kitted, or replaced by 1999, in the absence of a "15 percent waiver" by the FAA. The net cost of fleet conversion attributable to the Noise Rule is estimated by the FAA to be $4.5 billion. Additional fleet conversion not driven by the rule has been estimated at upwards of $120 billion.

**Option 1.** Amend the Internal Revenue Code so that airlines are not subject to the Alternative Minimum Tax and ACE provisions of the Code and can take full advantage of their depreciation deductions against potential income tax liabilities.

**Option 2.** Create a permanent investment tax credit provision for reengining, hush-kitting, or replacement of aircraft.

**Option 3.** Create an asset based government guaranteed loan program for replacing aircraft, with actual destruction or export of owned Stage 2 aircraft required as a condition of the government guarantee. Allocate access to the program based upon proportionate capacity deployed during the year 1993 and charge fees and/or interest graduated according to credit worthiness.

**Option 4.** Reduce current excise taxes and regulatory burdens on airlines.

**Option 5.** A combination of the above.

**Option 6.** Maintain the existing provisions of the 1990 Noise Act which protects the carriers' investment in Stage 3 aircraft by prohibiting enactment of local noise restrictions on Stage 3 aircraft without FAA approval.

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**Issue: Stage 3 Conversion** (cont)

**Option 7.** The federal government should not enact any provision to mandate the replacement, retirement, or modification of Stage 3 aircraft for noise purposes.

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**Issue: Domestic jobs-related issues**

One of the Commission's major responsibilities is to develop recommendations which will preserve U.S. aircraft and airline industry jobs and create a more stable employment environment for workers in these industries. The options listed below address this important aspect of the Commission's work.

**Option 1.** In order to maintain high skill jobs in the U.S., the FAA should revoke its FAR 145 regulation and return to the previous requirements that U.S. certificated carriers perform all planned maintenance domestically and only be permitted to utilize non-U.S. repair stations in cases of emergencies.

**Option 2.** Require manufacturers (of airframes, engines and components) to provide complete pricing data to the U.S. Department of Commerce and the U.S. Trade Representative on any aircraft sold to a U.S. carrier or which will be operated into U.S. airports. The Department of Commerce should use this data to determine whether any foreign government subsidies have been used to reduce the sales price of such aircraft, and if so, Commerce should be required to levy an appropriate surcharge on the importation or entry of such aircraft into the U.S. This will help create a level playing field for U.S. manufacturers.

**Option 3.** Support PBGC's recommendations for strengthened bankruptcy priority and its right to sit as an official member of secured and unsecured creditor committees.

**Option 4.** If a carrier sells all or a substantial part of its gates, slots, route authorities, or other operating assets, as well as if it enters into any merger or acquisition that the acquiring carrier cannot handle with its existing workforce, the employees associated with such operations will follow the work to the acquiring carrier.

**Option 5.** Instruct the U.S. Trade Representative to aggressively negotiate agreements prohibiting offset and local content requirements. Prohibit U.S. carriers from entering into agreements which violate basic GATT principles, even with non-GATT signatories (parallel to prohibitions on U.S. companies paying bribes for business even if it is the "local custom," or to prohibitions on U.S. companies acquiescing to the Arab boycott of Israel).

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**Option 6.** Develop policies which encourage jet carriers to maintain service to small cities and not abandon them to regional commuter "partners."

**Option 7.** Permit U.S. airframe, engine and component manufacturers to enter into joint ventures and other types of joint marketing, technology development and risk-sharing agreements.

**Option 8.** Enforce prohibitions against anti-competitive mergers and acquisitions.

**Option 9.** Approve direct or indirect cabotage only to the extent that U.S. workers perform the work on the U.S. legs of such flying (including a pro-rata share of maintenance and other support services) or the equivalent thereof.

**Option 10.** Restrict manufacturers' investment-related tax benefits to domestic investments and production.

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**Issue: Foreign Investment**

Currently, U.S. law, as interpreted by DOT, limits foreign carrier investment in domestic carriers to 25 percent of voting rights and 49 percent of equity. Since many carriers will require large amounts of equity capital in the next few years in order to reduce excessive debt burdens or to finance Stage 3 equipment deliveries, their financial health and profitability may be significantly affected by restrictions on foreign ownership of U.S. carriers.

**Option 1.** No changes in foreign investment rules.

**Option 2.** Increase the limit on voting stock to 49 percent.

**Option 3.** Increase the limit on voting stock to 49 percent, subject to requirements such as:

- a. A liberal aviation agreement in effect with the investor's government.
- b. The investor not be a government-owned enterprise.
- c. No restrictions on U.S. investors making similar investments in airlines of the investor's country.
- d. The investment not be contrary to the public interest or national defense.
- e. Some combination of the above.

**Option 4.** Allow unlimited foreign investment, subject to requirements such as those identified in Option 3.

**Option 5.** Recommend permitting unlimited foreign investment in U.S. carriers provided that practically equivalent opportunities are available for U.S investors in the foreign investor's home country.

**Option 6.** Allow unlimited foreign investment.

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**Issue: Airline Bankruptcy**

Some carriers contend that the continued operation of bankrupt carriers in Chapter 11 has caused an excess of air carrier seat capacity in the system. Moreover, they assert that such carriers have an unfair advantage, because they are not required to pay their full costs (e.g. debt service) while in bankruptcy. Coupled with their incentive to raise cash to remain in operation, this theory concludes that bankrupt carriers tend to lead suicidal fare wars which set ticket prices below their actual costs, and also below the costs of their competitors. They claim that bankrupt carriers linger far too long under the protection of Chapter 11, to the detriment of the rest of the industry.

The bankrupt carriers contend that it is the mega-carriers' excessive aircraft orders and deliveries that caused the over supply of seats. Moreover, they assert that the impact of the fare decreases they have initiated has been dwarfed by major fare wars, such as last summer's 50% off sale, which were initiated by non-bankrupt carriers. They have also questioned the motives of those leading such major fare wars, alleging that they were intended to drive the bankrupt carriers out of business. They contend that they need the same protections afforded to companies in other industries under Chapter 11 in order to be able to reorganize themselves into viable entities, and that any new deadlines imposed on the Chapter 11 process would diminish their chances of emerging successfully.

**Need for More Information:**

Before the Commission can focus on whether any action needs to be taken with respect to airline bankruptcy, the Domestic Aviation Issues Team believes that we need to understand more about the bankruptcy process as it applies to airlines, as well as the pricing behavior and influence of bankrupt and non-bankrupt carriers. We recommend that the Commission hear from experts who can give us factual data to help us sort out the allegations made by affected parties.

The team also believes that, in addition to its consideration of the temporary effect, if any, of the practices of carriers operating under Chapter 11, the Commission should consider the potential long term effect on the industry of carriers which, having shed portions of their debt, emerge from bankruptcy.

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**Issue: Anti-trust matters**

No comprehensive exposition on this subject was received by the Commission, although cooperation among domestic manufacturers to combat foreign state supported enterprises was discussed and the Acting FAA Administrator mentioned that it might be more efficient if he could talk to carriers jointly about "smoothing" their schedules at congested hubs.

**Need for More Information**:

Suggest a panel presentation to the Commission by the Department of Justice (DOJ), airline, manufacturer and international trade representatives on a range of anti-trust and enforcement issues and policies both domestically and in Europe, Asia and other parts of the world. This would include predatory actions; anti-competitive mergers and acquisitions; anti-trust immunity to permit U.S. airframe, engine and component manufacturers to enter into joint ventures and other types of joint marketing, technology development and risk-sharing agreements; and anti-trust immunity to permit U.S. carriers to enter into scheduling discussions and agreements under the auspices of a third party such as the FAA or a local airport authority. The panel presentation would include a discussion of what powers DOJ and DOT have and what powers they might need to enforce anti-trust laws effectively.

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**Issue: Airline industry pricing behavior**

Structural Concerns: The airline industry's pricing behavior reflects a myriad of factors. These include things the airlines cannot control -- such as the Persian Gulf War and the national and worldwide economies -- and capacity and demand imbalances resulting from the inability to match longer-term equipment needs with shorter-term business cycles, and perhaps failed airline management strategies. Additionally, some argue that the pricing practices of bankrupt airlines push industry prices below costs, while others argue that fare levels are more affected by dominant carrier actions such as last summer's fare war. Some maintain, however, that below-cost pricing results from the industry being too competitive; that the industry has characteristics that compel it to compete for market share so aggressively that more rational capacity and pricing decisions are not possible on a continuing basis.

**Option 1.** Continue to leave it to the airline industry to discipline price, based on indications that the industry has refocused upon the need for profitability.

**Option 2.** Government mandated fare floors and/or ceilings.

**Option 3.** Government mandated simplified fare structure.

**Option 4.** Prohibit carriers from charging fares that are below their fully allocated costs.

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**Issue: Capital Formation**

The capital of the airline industry is severely depleted at present, and the industry needs to replace about 1,800 aircraft by the end of the decade, in addition to any aircraft purchases to accommodate traffic growth.

**Option 1.** Take steps to improve the industry's profit position -- eliminate burdensome taxes and government regulations, eliminate or reduce cost-inducing airport and airspace capacity shortages, etc.

**Option 2.** Relax existing statutory foreign investment limitations.

**Option 3.** Support legislation implementing a loan guarantee program.

**Option 4.** Adopt regulatory and tax policies which embrace the explicit goal of assisting airlines to achieve a net profit margin (5 percent to 8 percent) sufficient to enable them to re-build their capital base and to afford the massive capital investments they will require to re-equip, modernize and, eventually, expand their fleets.

**Option 5.** Adopt as an explicit goal -- and devise policies to encourage -- airframe, component and engine manufacturers' ability to attract sufficient investment capital to support taking on new product development, without being forced (through lack of support in the capital markets) to turn to foreign manufacturing partners to bear part of the cost and risk.

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**Issue: Cabotage**

Cabotage concerns the right of a foreign carrier to carry a domestic passenger between two points in the U.S. The issue is whether, to what extent, and under what conditions foreign airlines should be granted cabotage rights in the U.S. Proponents favor cabotage rights to invigorate competition and improve air service to aviation-dependent areas such as Hawaii, Alaska, and the island commonwealths and territories, and as a bargaining chip in international negotiations. Opponents counter that since the U.S. is the largest transportation market in the world, no equal benefit could be obtained in exchange; exposing U.S. carriers to foreign competition in the domestic market would weaken them; it could not be assured that foreign carriers would adhere to U.S. safety standards; and U.S. airline jobs would be lost to foreign airlines. In addition, those carriers opposed to the Northwest-KLM and USAir-BA transactions regard the code sharing and marketing alignments involved to constitute indirect cabotage.

**Option 1.** Maintain current legislation that now precludes cabotage.

**Option 2.** Recommend against indirect cabotage, either retroactively or prospectively.

**Option 3.** Recommend legislative provisions allowing cabotage on a fill-up basis, limited to carrying domestic passengers between domestic points that a foreign carrier is otherwise authorized to serve.

**Option 4.** Recommend legislative provisions allowing unlimited cabotage.

**Option 5.** Recommend legislative provisions allowing cabotage either on a fill-up basis or an unlimited basis only if the U.S. obtains in return equivalent specified market opportunities.

**Option 6.** Recommend legislative provisions allowing cabotage either on a fill-up basis or an unlimited basis only if the U.S. obtains in return equivalent cabotage rights of equal value.

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**Issue: Barriers to Entry**

**A. Travel Agent Commission Overrides.** It has been alleged by some airlines and commentators that travel agent commission overrides provide a competitive advantage to larger airlines in general and hub dominant airlines at their connecting hubs in particular.

**Option 1.** No change to current allowable practices.

**Option 2.** Seek a disclosure provision to discourage the use of commission overrides.

**Option 3.** Seek legislation to ban the practice altogether.

**Option 4.** Require override agreements to be based on volume, not market share.

**Option 5.** Establish standard commission levels for all travel agents.

**Option 6.** Prohibit the use of "soft" commissions and overrides such as free or discounted tickets.

**Option 7.** Recommend that the FTC or DOJ investigate airline commission and override practices.

**B. Computer Reservations Systems**: DOT recently revised its rules governing the conduct of CRS vendors (the rules took effect last December). Some observers, including the Justice Department and GAO, thought the rules should have been more stringent in protecting the "have-not" carriers from the power of the large airline owners of the systems.

**Option 1.** No change. Many of the industry participants who had most actively complained about CRS issues have been at least partially satisfied by the DOT rules. It may be worthwhile to gain some experience under the rules to see whether they adequately address fundamental CRS problems.

**Option 2.** Urge the DOT to aggressively enforce its new rules, as several commentators have requested.

**Option 3.** Recommend a DOT review of the adequacy of current CRS regulations.

**C. Frequent Flyer Programs**: It has been alleged by some airlines and commentators that frequent flyer programs competitively advantage larger airlines because their geographically larger systems allow frequent flyer benefits to be applied to a wider selection of destinations, and travellers with widespread travel needs can accumulate benefits more rapidly. The larger airlines maintain that the frequent flyer program is a legitimate competitive method for them to use in response to low-cost airlines. The argument is that since their hub systems may put them at a competitive disadvantage with respect to price, any benefit the hub systems may confer with respect to frequent flyer programs should not be taken away from them.

**Option 1.** No change. Frequent flyer programs are competitive marketing tools, and airlines can become partners in each other's frequent flyer programs. Their purpose is to promote "brand loyalty," and the complaint resides in the fact that they do so.

**Option 2.** Ban frequent flyer programs entirely.

**Option 3.** Make frequent flyer benefits marketable in order to dilute any potential anti-competitive effects.

**Option 4.** Tax frequent flyer benefits to dilute any potential anti-competitive effects and to generate an offset to any recommended tax reductions.

**D. Gates and Slots**: To be addressed by the Capacity Issues Team.

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**Issue: Service to essential air service (EAS) communities and small cities**

**EAS:** Service to the nation's smaller communities is now guaranteed by section 419 of the Federal Aviation Act. Of the approximately 500 communities that are guaranteed service, 129 now require subsidy support. The continuing losses of the airline industry, the prospects for additional industry consolidation, and the possibility of a significant industry restructuring may call into question the ability of carriers to continue to meet the service needs of small communities. The overlapping networks of hub-and-spoke systems, however, have provided greater access for EAS communities to the nation's air transportation system.

**Option 1.** No change to the EAS program. DOT (and the CAB before it) have administered the EAS program for 14 years.

**Small Cities:** Many of the nation's small cities that have been served with jet aircraft of larger airlines are seeing that service replaced with smaller turboprop aircraft. While this is seen by some as a more efficient allocation of airline resources and improved service in terms of increased frequencies, some cities vigorously oppose the loss of jet service.

**Option 1.** Develop policies which encourage jet carriers to maintain service to small cities and not abandon them to regional commuter "partners."

**Option 2.** Encourage carriers to continue ongoing trends to provide more rational utilization of equipment to meet demand in smaller markets.

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**Issue: New Carriers**

After a great influx of new entry in the early years following deregulation, virtually all of those airlines either failed, merged, or were acquired by other airlines by the mid-1980's. For several years the industry experienced very little successful new entry. Recently there has been a renewed flow of applications to DOT for certificate authority and an influx into the industry of new carriers such as Kiwi, Morris Air, and Reno Air. Arguments have been made that new entry and threat of new entry are important to ensure competition.

**Option 1.** Recommend that DOT continue to be receptive to certificating new applicants that can demonstrate their fitness to serve.

**Option 2.** Recommend that the DOT and DOJ closely monitor actions of established airlines directed against new carriers in specific markets, and intervene to prevent or stop any such actions which are illegal.

**Option 3.** Recommend that DOT increase its scrutiny of new carriers under its fitness standards.

**Option 4.** Require new carriers to meet the same requirements for fitness, operations, and maintenance, including Stage 3 fleet requirements, as existing carriers.

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**Issue: Airport Access for Domestic vs. International Service**

Testimony to the Commission with respect to O'Hare Airport in Chicago seemed to establish that slots are removed from domestic service at O'Hare in order to accommodate international service by either U.S. or foreign carriers. Presumably, each U.S. carrier is entitled to determine whether it wished to employ a slot for domestic or international air transportation. The issue appears to be whether foreign air carriers should be accorded this preference.

**Option 1.** Leave current procedures in place.

**Option 2.** Foreign carriers should be accorded this preference only if a reciprocal preference is accorded to U.S. carriers in the country of origin of the foreign carrier.

**Option 3.** Open more gateways for international service.

**Option 4.** Allocate slots at any future capacity-controlled gateway to international service.

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International Aviation Issues Team

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## International Aviation Issues

Issue: Objectives of U.S. international aviation policy.

Many U.S. interests maintain that U.S. international aviation objectives should be more clearly established and stated.

Options:

1. Free market system - international deregulation.

2. Managed market (prices, capacity, etc.).

3. Maintain the existing approach as stated in the 1978 U.S. Government statement entitled "United States Policy For the Conduct of International Air Transportation Negotiations".

ISSUE 2

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International Aviation Issues

Issue: How to achieve agreed U.S. international aviation policy goals.

In today's international aviation market it may be better to adopt a multilateral approach to aviation negotiations rather than continue with the bilateral method.

Options:

1. Adopt a multilateral approach.

2. Stay with the bilateral approach.

3. Initiate multilateral effort while continuing bilateral negotiations.

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International Aviation Issues

Issue: How to achieve a multilateral aviation regime.

A multilateral approach to international aviation negotiations could take many forms.

Options:

1. Seek a broad multilateral regime to govern international aviation - renegotiate the Chicago Convention.

2. Seek multilateral regime(s) with limited groups of like-minded trading nations.

3. Seek multilateral regime(s) with regional partners (Europe, Asia, Central America, North America).

4. Seek multilaterally through existing organizations such as GATT or OECD rather than bilaterally.

5. Seek multilateral rights for one or more subsets of aviation issues - all-cargo service, passenger or all-cargo charters, pricing, routes, etc.

6. Move toward multilateralism by negotiating similar agreements with many bilateral partners.

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## International Aviation Issues

Issue: Exercise of cabotage rights.

The possibility of granting cabotage rights in exchange for rights for U.S. carriers has been suggested.

Options:

1. Offer cabotage rights to foreign carriers for "fill-up" traffic on existing international sectors between U.S. cities.

2. Exchange unlimited cabotage rights.

3. Exchange unlimited cabotage rights only within the context of otherwise procompetitive aviation agreements.

4. Exchange unlimited cabotage rights for all-cargo services only.

5. Continue current policy of prohibiting cabotage.

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## International Aviation Issues

Issue: Standards for measuring exchanges of rights in international aviation negotiations.

Some parties criticize U.S. aviation negotiations as being too imprecise in measuring benefits traded. Others maintain that the U.S. should not seek to measure exchanges of rights in a precise fashion.

Options:

1. Perform precise evaluations of economic benefits being obtained by U.S. carriers against benefits being received by foreign carriers.

2. Measure and compare the respective competitive opportunities of the carriers of each country.

3. Measure economic impact of aviation trades in terms that include consideration of effects on shippers, cities, travellers, etc.

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International Aviation Issues

Issue: Route awards and transfers.

International routes are presently awarded through DOT proceedings and DOT also approves sales of routes by airlines to other airlines.

Options:

1. Continue present procedures regarding route awards and transfers.

2. Institute an auction system for route awards.

3. Institute a lottery system for route awards.

4. Prohibit sales of routes with reversion to DOT if not operated.

5. Combine an initial auction system with authority to transfer to certificated carriers without need for DOT approval.

6. Combine an auction system for newly awarded routes with a requirement that presently held routes revert to DOT if not operated.

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## International Aviation Issues

Issue: Foreign "doing business" barriers.

U.S. airlines face "doing business" barriers and discrimination in commercial air service, including operation of airports and the availability of gates, slots, and other facilities.

Options:

1. Direct U.S. aviation negotiators to accord high priority to resolution of these problems.

2. Condition availability of new rights for foreign airlines upon resolution of doing business problems.

3. Limit exercise by foreign airlines of bilateral rights if significant problems are not resolved.

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International Aviation Issues

Issue: Fifth freedom competition from foreign airlines

Some U.S. airlines complain that the Department of Transportation is too permissive in allowing the carriage of fifth freedom cargo.

Options:

1. Require DOT comparison of actual opportunities for U.S. cargo carriers offered by the country of airlines applying for fifth freedom operations to or from the U.S.

2. Tighten DOT/FAA oversight of certifications of foreign carriers.

3. Maintain current DOT policy of considering interests of shippers and overall balance of opportunities with country of applying airline.

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## International Aviation Issues

Issue: Ways to improve the U.S. Government's conduct of international aviation negotiations.

Some claim that Government consultation with interested parties is insufficient. Also, some claim that the effectiveness of U.S. Government negotiations is harmed because of frequent reassignment of State Department personnel.

Options:

1. Provide more advance notice of the Government's position before conducting aviation negotiations.

2. Permit representation on the U.S. delegation by additional key U.S. interest groups.

3. Consider shifting U.S. delegation leadership from State to DOT or USTR.

4. Seek Department of State cooperation in extending tours of aviation negotiators and staff by establishing a stronger career track for aviation personnel.

5. Strengthen interagency coordination on negotiating instructions.

6. Maintain existing procedures.

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## International Aviation Issues

Issue: Enhancement of U.S. airline efficiency in international operations.

Several possible means exist to improve efficiency and potential profitability in international air service.

Options:

1. Assure the provision of efficient processing of travellers and goods by U.S. customs and immigration, including service where necessary around-the-clock.

2. Modify or eliminate existing requirements for international aviation safety, security and operations that are unnecessary and excessively costly.

3. Seek uniform international standards for aviation.

4. Modify existing liability rules for airlines and manufacturers.

5. Develop improved passenger traffic statistical data and compilation to enable better forecasting and marketing.

6. Accelerate air traffic control modernization through use of satellite-based systems.

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## International Aviation Issues

Issue: Foreign investment in U.S. airlines

U.S. airlines seeking additional capital may want to sell ownership interests to foreign airlines or other foreign nationals. U.S. airlines and others are concerned that such investment would improve foreign airline access to the U.S. market without correspondingly improving U.S. airline access to the foreign market. (National security concerns would have to be dealt with under all options.)

Options:

1. Continue present policy of requiring U.S. control and limiting foreign ownership to 25 percent of voting stock.

2. Raise the voting stock ownership limit to 49 percent and maintain control requirement.

3. Raise the voting stock ownership limit to 49 percent, insist on reciprocal economic opportunities, including opening of investing country's airlines to U.S. purchasers and opening of investing country's aviation market.

4. Place no limit on stock ownership or control but insist on full opening of investing country's international and domestic markets to U.S. airlines for investment and competition.

5. Limit enhanced investment opportunities to non-government owned airlines or to government owned airlines that agree not to be provided with government capital or bailouts.

6. Impose with all options a limit on an acquiring foreign airline's ability to code share which corresponds in economic value to the access afforded by the foreign country to its markets by U.S. airlines.

7. Allow no foreign investment in U.S. airlines whatsoever.

8. Limit the number of U.S. airlines in which any foreign airline might invest.

9. Allow unrestricted foreign investment in U.S. airlines.

National Commission to Ensure
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## International Aviation Issues

Issue: Export credit.

U.S. aircraft manufacturers have expressed interest in receiving additional support from the U.S. Export-Import Bank for the export of aircraft manufactures.

Options:

1. Maintain current policies and resource levels.

2. Liberalize support and obtain additional resources.

3. Obtain special government funding or grant aid for export of stage 2 aircraft.

4. Provide financing for medium size aircraft equal to that provided for large aircraft.

National Commission to Ensure
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International Aviation Issues

Issue: Export sanctions.

U.S. sanctions on the export of aircraft, aircraft components, air transport services, and travel of U.S. citizens and residents harm the competitiveness of aircraft manufacturing and air transport services, particularly when similar sanctions are not imposed by other governments.

Options:

1. Require that no sanctions be imposed except pursuant to U.N. action.

2. Require that no sanctions be imposed except by collective action of major aircraft exporting countries.

3. Stop air transport services only when broad sanctions are imposed.

4. Continue current practice.

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International Aviation Issues

Issue: Support for export of Stage 2 aircraft.

U.S. airlines have excess stage 2 aircraft, but potential users lack adequate credit, management expertise, and aviation support infrastructure to acquire them.

Options:

1. Provide U.S. government support for foreign sales including loans, guarantees, grants and technical support.

2. Finance conversion of passenger aircraft to freighter for these nations.

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International Aviation Issues

Issue: Possible government loan guarantees to airlines to purchase U.S.-origin aircraft.

Some airlines have spoken in favor of government loan guarantees for aircraft purchase and some legislation has been introduced in the Congress to effectuate those guarantees and to restrict their use to the acquisition of U.S.-origin aircraft.

Options:

1. Restrict any such assistance to acquisition of U.S.-origin aircraft.

2. Place no origin restrictions on equipment acquired with government assistance.

3. Make a contribution to National Defense requirements a condition of loan guarantees.

National Commission to Ensure
A Strong Competitive Airline Industry

International Aviation Issues

Issue: Foreign government support for aircraft manufacture.

Large and small airframe manufacturers have testified before the Commission that they seek stronger disciplines on foreign government support to their domestic manufacturers of civil aircraft.

Options:

1. Strengthen the existing international rules on subsidies and supports through the ongoing negotiations to revise the GATT Agreement on Trade in Civil Aircraft and other GATT instruments.

2. Increase U.S. support for basic and pre-competitive aeronautic research.

3. Provide direct support for the development of specific commercial aircraft programs.

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International Aviation Issues

Issue: DOD purchases of airline services.

The DOD currently uses U.S. commercial carriers for a predominate amount of their passenger traffic and a significant amount of cargo traffic. U.S. international carriers, especially the cargo carriers, are seeking a greater share of the DOD peacetime revenue.

Options:

1. Where possible, limit DOD airlift operations to tactical missions.
2. Redirect air compatible DOD cargo shipped on foreign shipping to U.S. carriers.
3. Consolidate DOD, UN activity, and State air-eligible traffic.
4. Establish favorable rates that guarantee a reasonable return.
5. Encourage increased operation by commercial airlines of military compatible aircraft, allowing further downsizing of high cost military capability.
6. Limit DOD procurement of off-the-shelf commercial aircraft.

National Commission to Ensure
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Additional International Aviation Information Requirements

We have identified some areas in which additional information would be useful, either in the form of submissions or witnesses, including the following:

- information on Export-Import Bank procedures and standards;

- details on government subsidies of aircraft manufacture and disputes with foreign governments;

- information on multilateral alternatives to bilateral negotiations, including the appropriateness of applying the principles in general trade agreements (GATT, U.S.-Canada, NAFTA) to international air services.

# National Commission To Ensure a Strong Competitive Airline Industry

## Financial Issues Team

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National Commission to Ensure
A Strong Competitive Airline Industry

# FINANCIAL ISSUES TEAM
# OPTIONS FOR REVIEW
# June 16, 1993

I. Summary of Views

II. Financial Support

A. Taxes

B. Regulatory Relief

C. Loan Guarantees & Loan Subsidies

D. Foreign Capital

III. Financial Fitness

IV. Bankruptcy

V. Employee Ownership/Participation

## II. FINANCIAL SUPPORT

### A. TAXES & USER FEES

### B. REGULATORY ISSUES

### C. LOAN GUARANTEES & SUBSIDIES

### D. ACCESS TO INTERNATIONAL CAPITAL

# I. CONTEXT

Financial issues tend to be the common denominator of all the separate issues covered by the Commission, hence there is a notable degree of overlap between this report and the ones presented earlier this week, especially in the areas of taxes and regulation. Therefore, in this report, some of these specific areas have been included primarily as a measure of completeness and as a statement of the issues discussed by this group. The primary focus of this work team has been on the financial fitness of U.S. air carriers and what the government can do to enhance it.

This work group recognizes both the considerable importance of this industry to our national economy and the complexities of the issues that need to be addressed - complexities which were described to us by the many experts who came before us. We believe that three issues capture the essence of the airline industry - national interest, globalization, and constituent interest.

## National Interest

While it is probably true to say that there is no such thing as an industry that does not contribute in some way to the military or economic strength of the country in which it resides, we are struck by the symbiotic relationship between a strong and competitive United States and a strong and competitive U.S. aviation industry - of which our airline industry forms a major, integral part.

## Globalization

We became increasingly aware that the issue is how American companies should behave as members of industries that are increasingly global? How do they act in an environment where countries take different positions on the matter of national interest, and where key constituents straddle national borders? Any review of the health of the American aviation industry must take a pragmatic look at these factors, recognizing that the health of our domestic industry is being affected by actions taken by others in other lands.

## Constituent Interest

To succeed in the long run every corporation must seek to establish a balance between participants with disparate interests. Key participants typically include: customers; stockholders; employees; suppliers; and long term creditors. What is readily apparent about the U.S. airline industry is that: (a) deregulation has been noticeably successful in stimulating market growth, but in the process the balance between the five usual constituencies changed significantly, and (b) these five are joined by a unusually long list of other influential players.

While all industries have some other players in addition to the key five discussed above, the U.S. airline industry must be unique in the number - and influence - of additional players. They include; the U.S. government; state and local governments; foreign governments; people living in the proximity of airports; and other interested groups and individuals.

While the primary concern of the U.S. government in aviation matters is the safety of the traveling public, the work team noted that, to a greater or lesser the degree, the hand of the government is to be found or felt all over the aviation industry. It is a hand that, at time, may be more restrictive than supportive of industry needs.

The role of state and local governments centers around the ownership and operation of airports, the encouragement of local economies, and the protection of local populations. Without their help neither the airlines nor general aviation could operate. And foreign governments are involved as the essential other half of the bi-lateral process that enables U.S. air carriers to operate in the international market.

This is an industry which feels the influence of many different parties.

Financial Issues

These basic issues provide the background for our review of the financial issues that currently relate to a strong and competitive U.S. airline industry. While these issues will be dealt with as factually as we can, we need to re-iterate that the question of a healthy airline industry is not a simple one.

The move from regulation to de-regulation did not remove the enormous influence of the government it persists, yet paradoxically many suggest it has made the government less responsive to the industry. The move from regulation to de-regulation did not remove the enormous influence of the government.

Let us clearly state, these are not recommendations, they are merely suggestions of where we might want to look further in our task of promoting a strong competitive U.S. airline industry. Some of these thoughts will quickly disappear under the harsh discipline of further review; other ideas will no doubt be refined or added as we give further thought to what we have heard, and to what we will possibly hear in future testimony.

For convenience, the issues have been broken into four sub headings: financial support (including taxes, regulation loan guarantees and access to foreign capital); financial fitness; bankruptcy and employee ownership issues.

Financial Support

The work team discussed numerous issues and options relating to tax and regulatory matters. Having heard the reports presented earlier this week, this team has noted that all teams have identified a considerable degree of common ground in these two areas. To avoid repetition we have decided not to cover, in these remarks, these two areas again, beyond noting that this team believes that airline taxation and operational regulation may be excessive, and that team members would wish to participate in future discussions of these issues. Specific issues and options discussed by the team are included below.

On Loan Guarantees and Loan Subsidies a number of detailed issues and options are discussed below. In the area of Foreign Capital we wish to note this team's interest in this matter, but recognize this as an issue falling more properly within the International Issues work team.

Bankruptcy

Some parties have suggested that the application of the Federal bankruptcy code to the airline industry has encouraged fare wars and the setting of fares below cost. Others argue that the bankruptcy process provides an important means of giving carriers in difficulty a breathing space in which to get their act together. While the bankruptcy process is one with which the work team is well acquainted, we believe that further testimony should be sought so that a better judgment can be made.

While the above properly address issues that primarily impact airline operating costs, a vast amount of testimony was heard on other matters relating to airline balance sheets, a topic that the work team has chosen to pull together under the headings of Financial Support & Financial Fitness.

The issue here is, can, or should, the Executive and the Congress do more to improve the financial fitness of the U.S. airline industry ? If the answers to both are yes, there are many options available with which to tackle this problem.

F1. Provide investment tax credits or loan guarantees to assist airlines to cope with the financial impact of reducing the noise of or replacing Stage 2 aircraft, possibly including incentives to reduce fleet capacity.

Independent of any government financial support:

F2. Strengthen DOT's "fitness" authority to require review of airlines falling below a defined level of financial fitness.

F3. Permit the prior review of major restructurings.

F4. Strengthen DOT's "fitness" criteria over the financial fitness of proposed new airlines.

Employee Ownership/Participation

Any service industry is critically dependent upon the enthusiasm and efficiency of its employees. The U.S. airline industry is no exception. Nonetheless, airline employees have often borne the burden of a restructuring industry. The issue is whether they will be treated fairly as the industry slowly restructures itself to what is hoped as a more stable and successful form.

Options in this area identified by this work team include providing incentives for employee ownership and participation. We also note the issues involved in providing for job protection in the sale of international route authorities, which are being handled by the Domestic Issues group.

These are mere summaries of the issues and options identified by this work team. They are not recommendations; much work needs to be done before this committee can conclude which of them has the strength and validity necessary for them to be formally proposed.

Additional Information

This work team is also very clear on the need of an expanded dialog with the airline industry. We are happy to hear that they are being invited to return for further discussion of the issues. However, we also need specific information on how and when the companies that make up the industry expect to get fit, and the extent to which the options presented above (many funded at public expense) would improve their financial fitness. To date we have received no assurances from the carriers or any evidence whatsover that any of these proposals will be sufficient to return the industry to financial stability.

For this reason, the work team is proposing to request from the carriers some definitive information relating to their capital and financial planning.

Additional Testimony

The work group also suggests that additional testimony in three areas would be helpful to the Commission. These areas are:

- Sources of airline capital - banks, leasing companies, manufacturer finance, etc.
- Bankruptcy law
- The European Community's approach to airline regulation.
- Information concerning previous US Government experience with loan guarantee programs for private industry.

## TAXES & USER FEES

### Ticket Excise Tax

The passenger ticket tax was first imposed in 1955. While the revenues from the ticket tax originally went into the Aviation Trust Fund, the latest increase in 1990, from 8 percent to 10 percent for passengers, and from 5 percent to 6.25 percent for cargo, was earmarked for the general Treasury to help reduce the budget deficit.

The Air Transport Association (ATA) has proposed that the ticket and cargo taxes be rolled back to the previous level. ATA estimates that the 2 percent rollback of the passenger ticket tax would provide an additional $1 billion to the industry.

**Options:**

- Present law

- Reduce the excise tax to 8%, or another level.

## TAXES & USER FEES

### Alternative Minimum Tax (AMT)

The AMT system causes airlines to pay federal tax, even in cases where they have losses on both an accounting and cash basis. Calculating AMT involves increasing taxable income by reducing or eliminating certain tax preferences and adjusting deductions, such as depreciation, to eliminate the beneficial effects of accelerated depreciation for tax purposes.

Moreover, beginning in 1990 corporations had to calculate Adjusted Current Earnings (ACE) when figuring their AMT. In computing ACE, depreciation is computed using a less generous method than was originally allowed in the 1986 Act. As a result of this calculation, some companies that were previously not subject to the AMT are now paying substantial federal income tax. The effects of the adjustment adversely affect capital-intensive firms that are growing or showing depressed earnings.

The airlines have proposed eliminating the current AMT adjustment depreciation systems, replacing them with a 200 percent declining balance method of depreciation and a recovery period which is equal to 80 percent of the class life of the property.

ATA estimates that the revenue loss to the government from this change would be about $100 million. The Clinton Administration's proposal for AMT reform passed the House and will be considered by the Senate this month. It would replace the current AMT depreciation system with a single system allowing 120 percent declining balance over the recovery periods applicable for regular tax proposes.

**Options:**

- Do nothing.
- Support Clinton Administration proposal.
- Support additional AMT reform by eliminating the current depreciation preference adjustments.

**Further Information:**

In order properly to assess the effect of these and other proposals on the industry, it would be helpful to have information concerning air carrier tax obligations.

## TAXES & USER FEES

### Investment Tax Credit

Prior to the 1986 Tax Reform Act, companies could reduce the amount of taxes payable by an amount up to 10 percent of the purchase price of a qualified capital asset. In the past, the ITC provided an important tax incentive for capital-intensive industries.

Airline and aerospace industries argue that the ITC should be reinstated. It could be applied both to equipment used in the manufacture of aircraft as well as a credit for the airlines acquiring the equipment.

**Options:**

- Maintain present law
- Reinstate the ITC with provisions similar to those available under previous law
- Provide an ITC for investment in hush kits or engine retrofits

## TAXES & USER FEES

### Energy taxes

Senate leaders and the Clinton Administration are considering a transportation fuels tax that would raise approximately $40 billion. It would tax jet fuel directly. According to the Air Transport Association (ATA), the BTU tax originally proposed would have cost the airlines $940 million when fully implemented in 1996 after being gradually phased in over three years. The transportation tax currently under discussion would not be phased in and would add 7.3 cents per gallon to the cost of fuel immediately. According to ATA, it would cost the airline industry $858 million in the first year and would total about $4 billion over five years.

### Options:

As of this time, it is not practical to specify the particular options that must be evaluated.

## TAXES & USER FEES

### Flight crew per diem expenses

Prior to the Tax Reform Act of 1986, business-related expenses, including per diem expenses, were fully deductible for tax purposes. However, under current law, deductibility of such expenses is limited to 80 percent of the allowed amount. One of the main reasons that the 1986 Act limited the deductibility of such expenses was Congress' desire to eliminate the tax benefits for lavish and excessive business entertainment. The Administration has proposed to reduce deductibility to 50%.

However, per diem expenses for flight crew layovers seem different from the types of business entertainment expenses that Congress sought to limit in 1986. Since government regulations, as well as union contracts, require rest periods and limits on duty time for flight crews, per diem expenses for layovers are an unavoidable and normal cost of doing business.

**Options:**

- Maintain the present IRS policy.
- Reduce deductibility to 50%.
- Congress could amend the current tax laws to permit the full deductibility of flight crew per diem expenses.

### Passenger Facility Charges (PFC's)

[Refer to Domestic Working Group]

## REGULATORY ISSUES

**Random drug testing**

Federal regulations mandate random drug testing of safety sensitive employees. The Air Transport Association estimates that over the next 10 years drug and alcohol testing will cost the industry more than $1.5 billion. Industry studies over the past two years have shown that only one-half of one percent of employees have tested positive.

**Options:**

- No change in policy.
- Reduce the level of random testing from 50% to 10% of employees
- Eliminate random testing entirely.
- Expand coverage to foreign carrier employees operating in the U.S.

# REGULATORY ISSUES

## Pre-employment alcohol testing

U.S. airlines are required to administer pre-employment alcohol tests to prospective employees. Some in the industry report that the requirement is costly and ineffective. Furthermore, non-U.S. airlines are not subject to the same regulations.

**Options:**

- Maintain status quo
- Eliminate pre-employment alcohol tests
- Impose equivalent requirements on foreign airlines operating in the U.S.

## REGULATORY ISSUES

### Regulatory Cost Review

Regulations sometimes appear to be imposed without appropriate consideration of costs or an objective cost/effectiveness analysis. Transportation safety is recognized as paramount, but many in the industry urge closer consideration to the cost of regulatory compliance.

**Options:**

- Maintain present practices.
- Review, revise or eliminated regulations and rules no longer based on legitimate safety concerns or that are no longer cost-effective.
- Establish an independent entity outside of the FAA to conduct the cost/effectiveness analysis.
- Allow regulatory decisions to be subject to meaningful challenge for lack of sufficient foundation

## REGULATORY ISSUES

### Noise abatement

The Aircraft Noise and Capacity Act of 1990 requires the phase-out of all Stage II aircraft that cannot be modified by hushkits or equipped with new engines in order to meet Stage III noise levels by the end of the decade. The estimated cost to comply with the Act ranges from $880 million to $5.7 billion (in undiscounted 1991 dollars). While interested parties support the regulations that require the replacement of Stage II aircraft, the potential for and appropriateness of federal assistance in the execution of the program should be examined.

**Options:**

- No change in policy or programs.
- Provide loan guarantees or other financial support to assist compliance.
- Provide tax relief to airlines to promote phase-out of Stage II aircraft.

## REGULATORY ISSUES

### Airport Security Procedures

Airlines and airports alike have reported that some federal security regulations and penalties are excessive. Security costs are estimated to be $500 million annually.

**Options:**

- Maintain present procedures.
- Revise FAA penalty system.
- Review pre-employment screening procedures.
- Review duplication of security training for flight crew members by both the airline and airports.
- Evaluate security regulations using a rigorous cost/effectiveness analysis.
- Eliminate security checks of flight crews and related requirements.

## LOAN GUARANTEES & LOAN SUBSIDIES

In light of the airline industry's weak financial performance and the substantial capital requirements made necessary by the Stage III requirements, some parties have suggested that the Federal Government provide financial assistance in support of the conversion. The estimated cost to comply with the State III requirements ranges from $880 million to $5.7 billion (in undiscounted 1991 dollars).

Overall airline capital requirements are far larger. Additional fleet conversion/acquisition requirements for U.S. carriers have been estimated on the order of $100 billion. Different carriers are adopting different mixes of capital investment strategies. Some are re-engining and hushkitting for substantial portions of their requirements, although this is not practical for all models. Others are relying more on the purchase of new aircraft.

**Options:**

- No financial incentive or support programs.
- Provide loan guarantees on the purchase of new aircraft.
- Provide loan guarantees for hushkitting and/or re-engining of existing aircraft.
- Provide that interest income received on loans for acquisition/conversion to Stage III not be subject to corporate income tax.

These programs could be subject to a variety of conditions:

a) A requirement that the carrier retire a percentage of Stage II seats. (S. 1053 and H.R. 1433 would require 2 seats of "aging" Stage II aircraft for each seat acquired.)

b) A requirement that the carrier meet certain financial tests, initially and on a continuing basis.

c) Employee stock ownership & participation.

**Further Information:**

We suggest the Commission gather information and receive testimony from individuals acquainted with previous government programs offering loan guarantees to industry (e.g., Chrysler, Lockheed).

## FOREIGN CAPITAL

[Analysis to be performed by International Issues Work Group]

# III. FINANCIAL FITNESS STANDARDS REVIEW

## III. FINANCIAL FITNESS STANDARDS REVIEW

DOT has a statutory obligation to ensure the initial and continuing fitness of certificated air carriers, and has the authority to modify, suspend or revoke the certificate of operating carriers that fail to comply with the continuing fitness requirement.

Questions have been raised as to whether DOT is fulfilling this statutory obligation in view of the recent number of airline bankruptcies, the growing list of airlines considered to be financially "at risk". While it is unknown if any of these carriers have been the subject of a non-public fitness investigation, none of these airlines ever declared to be unfit.

At present, the Federal Aviation Act does not require that major financial restructurings be approved in advance by the DOT. Nor does the Act require that carriers involved in major financial restructurings or asset sales submit business plans to DOT demonstrating how the transactions will enhance their economic performance.

**Options:**

- Maintain current practice and procedures.

- Modify initial fitness standards to:

  - Require applicant to demonstrate that it can meet its actual and potential obligations estimated in its business plan using reasonable assumptions for the first two years from start up of operations, and submit a detailed business plan for at least the first two years of operation.

  - Require applicant to demonstrate that it can meet both its fixed and direct operating costs estimated in its business plan using reasonable assumptions for the first three months of operations.

- Continuing Fitness - Amend DOT regulations to require (every six months) reporting of a series of financial indicators (to be determined) which would be used to assess the financial viability of U.S. certificated carriers. If a carrier were found to be in non-compliance with more than a fixed number of these financial indicators, such carrier would be determined to be "at risk". If a carrier is determined to be "at risk", it would have to submit a business plan satisfactory to DOT which demonstrates how the carrier intends to improve its financial condition and to regain compliance with the financial indicators.

- Prior review of major transactions: The Federal Aviation Act should be amended to require prior review by DOT of major financial transactions, perhaps including an opportunity for public comment, so that the Department has the ability to deny transactions that, under realistic assumptions, would put the viability of the carrier at risk.

- Review whether responsibility for airline fitness should be within the DOT or whether it should be embodied in a new, independent authority.

# IV. BANKRUPTCY

## IV. BANKRUPTCY

Chapter 11 of the Bankruptcy Code is designed to permit continued operation of a corporation while reorganizing its financial obligations. Corporations operating in Chapter 11 are protected - pending consummation of a successful Plan of Reorganization - from having to pay selected financial obligations, including payments due on credit extended by suppliers prior to the bankruptcy filing and the payment of principal and interest on unsecured debt.

Currently, airlines are treated in the same manner as other Chapter 11 debtors, with the exceptions of Section 1110 of the Bankruptcy Code dealing with the rights of secured parties with respect to airline equipment and Section 365 (d) (7) and (8) dealing with airport leases.

Statements have been made to the Commission that bankrupt airlines negatively affect their competitors by using cost advantages gained under bankruptcy protection to reduce fares to levels below the costs of the competition in order to generate cash flow. However, "fresh start" advocates claim that the ability to use the protections afforded by the bankruptcy laws to enhance an airline's competitive position is necessary to permit reorganization. They point to the actions at Continental and those under discussion at TWA and America West.

**Options:**

- Maintain current treatment of airlines within bankruptcy.

- Impose a restriction that a Chapter 11 carrier may not initiate a price reduction (currently, there are no such restrictions on Chapter 11 debtors).

- Impose an absolute limit of time an airline may remain in Chapter 11 (e.g., 24 months). This could be qualified by an "escape hatch, "permitting the Bankruptcy Court to extend the limit if necessary".

- Impose an absolute limit on the period of exclusivity (e.g., 12 months) that a debtor-in-possession maintains to propose a Plan of Reorganization. Currently, all debtors have the benefit of a 120-day period of exclusivity, which is often routinely extended by bankruptcy courts for a number of years.

- Impose requirements that comfirmation of a Plan of Reorganization is conditioned upon demonstration that the Plan reasonably assures ongoing viability after emeging from bankruptcy.

- Require DOT to conduct, periodically following a Chapter 11 bankruptcy filing by a U.S. certificated air carrier, a special investigation to determine fitness and operational ability to reorganize.

# V. EMPLOYEE OWNERSHIP & PARTICIPATION

## V. EMPLOYEE OWNERSHIP & PARTICIPATION

Employee ownership and participation can be a catalyst for changes to a company's business approach and operating costs. For this reason, it can be helpful to incorporate meaningful employee participation into Commission-proposed financial incentives for operational restructuring. Participation could include employee ownership and employee involvement.

The tax code currently encourages employee ownership by providing tax advantaged treatment both to shareholders of entities that are sold to their employees and to the employees that purchase stock in their employer through a qualifying employee stock ownership plan. The implementation of several specific changes to the tax code would provide economic incentives to the carriers and their employees to increase the level of employee ownership at a carrier.

**Options:**

- Requiring forms of employee participation as a condition of proposed Federal financial assistance.
- Allowing shareholders of publicly held carriers to defer taxable gains resulting from the sale of shares to employees under certain circumstances.
- Waiving limitations on the amount of retirement related income that an employee can receive on a tax defer basis under certain circumstances.

# National Commission To Ensure a Strong Competitive Airline Industry

System Capacity Issues Team

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## SYSTEM CAPACITY ISSUES

System capacity issues include the improvements needed to the management, operation and technology of the air traffic, airport, and regulatory system. The purpose of system capacity improvements is to make the system more responsive, in a cost effective way, to the needs of users, which include airlines, air cargo carriers, passengers, shippers and general aviation. The important contribution that can be made by aircraft manufacturers and their suppliers to system capacity is also recognized, and addressed through modifications to the legal, structural, and funding frameworks under which they must operate.

## I. FAA STRUCTURE ISSUES

What management and organization structure would permit the FAA to deliver the greatest capacity and safety at the lowest cost to users? What is the best structure for the timely implementation of new technology and regulating in a cost beneficial manner?

### OPTIONS

*(not listed in priority)*

**Option (a)** Status Quo

**Option (b)** Fixed term for FAA Administrator

- Tenured, professionally qualified FAA Administrator (and Deputy) appointed for a fixed term that is not identical to the President's term (e.g., six years).

**Option (c)** Exempt FAA from usual federal requirements for personnel and procurement

- Other agencies such as FBI and State Department have personnel rules that are unique and designed for their mission. This example could be followed with FAA.
- Empower FAA Administrator to create a procurement process designed for FAA needs.

**Option (d)** Make FAA an independent government agency

- Legislation has been introduced in the past to make FAA a separate federal agency, apart from DOT.

**Option** (e) Establish an independent cost/benefit review entity for regulations

- Form a new government or non-government group that conducts the cost/benefit analysis for FAA regulations.

**Option** (f) Combination federal government/public corporation structure

- Examine other structures (e.g., the Federal Reserve Board) which combine government regulation and control with a corporate subsidiary element for some operating functions.

**Option** (g) Private corporation

- Other countries have adopted, and some past proposals for FAA have included, the option of a private company, outside government, performing all or part of FAA's current functions.

## II. FAA AND AIR TRAFFIC CONTROL FINANCE ISSUES

What is the best financial structure to ensure that the nation's air navigation system will continue to have the capital necessary to provide increased safety and introduce cost-effective technology?

### OPTIONS

*(not listed in priority order)*

**Option (a)** Status Quo

**Option (b)** Increase appropriations to expend trust fund balance

- Use the trust fund on capital system needs — not to pay for FAA salaries and administrative costs, or to help reduce the deficit in the general fund.

**Option (c)** Adjust appropriations and user fees in a "budget neutral" manner

- One could increase federal spending on system capacity with budget neutrality by including an off-setting user tax increase. Or in reverse, one could remove both expenditures and tax revenues in equal proportion if some of FAA's functions were placed within a corporate structure.

**Option (d)** Increase appropriations from the general fund

- Because transportation is a basic service underlying general economic activity the general fund should support a larger portion of the system costs.

**Option** (e) Take the aviation trust fund "off budget"

- Legislative proposals have been offered in the past to take the aviation trust fund "outside" the unified budget for purposes of the Budget Act and deficit calculations. Spending all the revenues collected would be theoretically made easier.

**Option** (f) Reform the finance system to allow leveraging a portion of user fee revenues for capital purchases

**Option** (g) Reform the finance system to place greater reliance on user-based fees and less reliance on taxes

**Option** (h) Reform the financial structure to permit capital market investment in the ATC system

- f, g and h would be possible within an alternative organizational structure because user fees flowing to a corporation could be used to finance long term bonds, and such a regulated "corporate ATC" could arguably offer reasonable fees to users and reasonable returns to investors over the long term.

## III. AIR TRAFFIC CONTROL IMPROVEMENT ISSUES

What technical, operational and administrative improvements can be made to enhance ATC system capacity?

### OPTIONS

*(not listed in priority order)*

**Option (a)** Revise enroute, arrival and departure procedures to reduce delays and enhance operating efficiencies

- Provide airlines and other users greater control/discretion over inflight operations.
- Revise "inflight hold" and "ground hold" procedures to better utilize system capacity and reduce delays.
- Expand the Direct Routing Program. The program is a success story in savings for the airlines and the altitudes and routes available must be expanded.
- Use Pre-Departure Clearances. Expansion of this program must continue. It not only reduces frequency congestion but improves the accuracy of information transfer.

**Option (b)** Accelerate ground-based ATC system modernization

- Current technology improvement — some examples are included in Appendix A.

**Option** (c) Accelerate satellite-based ATC system transition

- Technology transition could be concomitant with FAA structural change. A future satellite-based system will require FAA to transition much of its manpower from electronics expertise to a digital transmission, software expertise.
- Consider charging users for the cost of the GPS system.
- Change Capital Investment Plan to incorporate GPS and Data Link into Advanced Automation System.
- Set national policy to govern GPS implementation strategy. Concentrate on oceanic procedures which offer improved efficiency and short-range return on investment.

**Option** (d) Redistribute controller workforce

- FAA and users have argued that the current system of compensation and management control impede the most efficient utilization of personnel.
- Evaluate the Air Route Traffic Control Centers for en route efficiency and balanced facility workload. Reduce the number of sectors and ARTCCs to reduce costs and improve service.

  **Example:** New York Center could be absorbed by Boston and Washington centers.

**Option** (e) Increase controller workforce

- Users and others have questioned the adequacy of the current level of full performance controllers.

**Option (f)** Adjust or eliminate MLS procurement

- Transition to a GPS system raises the cost/benefit issue for MLS.

**Option (g)** Better coordination of ATC and navaids with airport capacity improvements

- Airport capital improvements have been completed to expand capacity, only to find that new ATC equipment is not available for several years due to budget or procurement delays.

**Option (h)** Greater cross-utilization of military navigation and communications systems

- Military systems and R&D could be reviewed for compatible uses and shared costs.

**Option (i)** Provide incentives to improve the performance/efficiency of the ATC system with specific goals and rewards

- Adopt system performance standards and a mechanism to reward achievement in order to increase system efficiency.

**Option (j )** Additional technical and operational improvements suggested by users of the system are attached as Appendix A.

## IV. AIRCRAFT MANUFACTURING ISSUES

What changes in existing laws, regulations and practices are necessary to facilitate the introduction of more efficient, environmentally compatible and cost-effective aircraft?

### OPTIONS

*(not listed in priority order)*

**Option (a)** Reduce regulatory costs through harmonization of international aircraft certification requirements.

**Option (b)** Revise anti-trust laws to facilitate U.S. technological cooperation and leadership

- In instances where US industry competes with consortiums allow US firms to cooperate.

**Option (c)** Increase federal R&D funding for aeronautics

- Increase funding and require closer coordination of NASA, DOD, FAA and industry.
- Increase funding for noise and emission reduction technology.

**Option (d)** Review legislation to limit product liability

- Recommend the uniform product liability law proposals to resolve federal/state inconsistencies.
- Recommend changes to time limit the product liability "tail" of aircraft manufacturers.

**Option (e)** Provide tax incentives for the acquisition of new aircraft, engines and hushkits to comply with the current federally-mandated (or accelerated) noise requirements

- Provide loan guarantees.
- Provide investment tax credits or adjust recapture provision.
- Link tax incentives to capacity reduction replacement.

**Option (f)** Negotiate a multilateral environmental code to reduce disparities among nations

**Option (g)** Reduce barriers to export sales

- Provide adequate financial support through the Export-Import Bank for both large transport and commuter aircraft.
- Avoid unilateral trade sanctions

## V. AIRPORT CAPACITY IMPROVEMENT ISSUES

What changes in federal or local government policy are needed to improve system capacity?

### OPTIONS

*(not listed in priority order)*

**Option (a)** Accelerate new technology improvements such as precision runway monitor (PRM) and terminal Doppler radar

- PRM and Doppler can expand capacity and improve safety in all weather conditions at existing airports. PRM also permits more effective use of land already owned by airports for capacity improvements.

**Option (b)** AIP/PFC funding Issues

- Increase multi-year AIP authorizations
- FAA should encourage new airports (including encouraging landbanking) rather than encourage new runways.
- Require Part 150 compliance for PFC funded projects
- Utilize more PFC funding for noise compatibility projects to reduce future industry costs.
- Expand PFC funding to include noise compatibility projects outside the 65 Ldn contour.

**Option (c)** Amend the federal tax code to treat airport tax exempt bonds like other public use bond issues

- Some airport bonds, treated as private activity bonds under the tax code, are currently disadvantaged under the tax code in comparison to other public infrastructure bonds. The "Anthony Committee" recommended tax code reform to classify all airport bonds as public purpose bonds. One method of refinancing these bonds (advance refunding), available to other public issues, is estimated to have the potential to save over one billion dollars. Such savings flow directly back to the airlines at major airports, and create financial capacity for future development needs.

**Option (d)** Modify the High Density Rule and slot allocation methods

- Require a case-by-case review of retention/amendment/repeal of HDR at each site.
- Amend HDR to: provide more slots; amend use or lose; change allocation among classes of users; provide a new entrant pool; change buy/sell to an auction or lottery process.
- Discontinue practice of transferring slots from US carriers to foreign carriers.

**Option (e)** Consider peak hour pricing to generate funds for expanding capacity

- In instances where capacity cannot be added, allocate the scarce resource by price with overall, revenue neutral formulas.

**Option (f)** Noise Issues

- Limitation of locally imposed noise restrictions on aircraft operations.
- Remove FAA jurisdiction over noise and award it to EPA.
- Abandon reliance on Ldn measurement system.
- Encourage FAA to participate in local agreements which permit the addition of airport capacity if ATC restrictions are agreed to in advance.

**Option (g)** Privatize airport ownership

- Review options short of privatizintg ownership such as airport authorities and management contracts which encourage a business-like approach to airport development.

**Option (h)** Reinforce prohibitions on local governments diverting aviation revenues to non-aviation purposes

**Option (i)** Increase funding and staffing for international passenger and cargo facilitation service

**Option (j )** Maximize military joint-use/base closing opportunities

**Option (k)** Gate Issues

- Revise bankruptcy code to require assumption or rejection of gate and airport leases so that community air service does not suffer.
- Restrict long term leases and require a "fairer," more efficient allocation of gates.

## VI. RECOMMENDED TOPICS AND INDIVIDUALS FOR ADDITIONAL INFORMATION

a) Briefing on the structure of the Federal Reserve System and previous reports/ recommendations on FAA structural reform

b) Briefing on accelerated transition to GPS and improved ATC procedures

c) Briefing on government actions to maintain technological leadership in manufacturing, as part of the anti-trust briefing

d) Briefing on product liability legislative proposals, as part of the legislative briefing schedule

## APPENDIX A

**Additional Technical and Operational Improvements suggested by users of the system.**

1. Automatic Dependent Surveillance (ADS): Give priority to implementing this in oceanic airspace followed closely by domestic airspace.

2. Airport Movement Area Safety System (AMASS): A prototype system was tested at Pittsburgh International Airport and it proved to be a viable solution to preventing run way incursions.

3. Standardize Phraseology to Match ICAO Standards. Precise pilot-controller communications is obviously a critical safety issue but would also reduce frequency congestion and expedite traffic flow.

4. Improve weather information available to the cockpit. Currently, pilots do not have the complete weather picture and this hinders their decision process. If graphic weather displays and weather data are available through electronic means for rapid access, traffic flow could be improved.

5. Digital Automatic Terminal Information Service (ATIS) should be available for all air carrier airports. This greatly improves the safety of flight operations because both pilots can continuously monitor the ATC frequency and the ATIS information can be obtained before the top-of-descent when the crew needs it to plan the approach and landing phases of the flight.

6. Accelerate development of TCAS III. This will resolve the limitations inherent in TCAS II and provide a stepping stone to Cockpit Display of Traffic Information (CDTI) and Automatic Dependent Surveillance (ADS), which have significant capacity enhancement potential.

7. Cockpit Display of Traffic Information (CDTI): This concept should be developed to realize the efficiencies of a cooperative air traffic control system.

8. Mode S Data Link. The installation of Mode S ground stations have been delayed, but it must be put on schedule. These stations will provide improved surveillance capability and, of equal importance, will allow digital data link for exchange of ATC and weather information.

9. Airport Marking and Signage Program. Improvements in marking and signage are essential to reducing runway incursions. There are also significant traffic flow improvements available through improvements in marking, lighting and signage.

10. Volcanic Ash Detection and Information Dissemination. There is an urgent need to develop a system to fulfill these functions as verified by recent air carrier encounters with volcanic ash following several eruptions. Such a system would provide the safest and most efficient routing in areas affected by these events.

11. Develop "precision GPS RNAV" routes into secondary airports (e.g., Teterboro) so that those traffic flows can safely operate independently of traffic destined for the major airport.

12. Request that DOD permanently disable the "S/A" code (Selective Availability) from the GPS signal, thus ensuring greater precision.

13. Rapidly implement Automatic Dependent Surveillance (ADS) in oceanic areas.

14. Accelerate study of GPS approaches with minimums less than current non-precision approach minimums. The goal should be approaches with minimums between 200 feet and 500 feet.