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WITHDRAWAL SHEET

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File Folder JGR/CIVIL AVIATION BOARD DECISIONS (1 OF 16)

RBW 8/30/2005

FOIA

Box Number

F05-139/01

COOK

14RW

DOC NO	Doc Type	Document Description	No of Pages	Doc Date	Restrictions	
1	SUMMARY	SUMMARY OF APPLICATION FOR EMPRESA GUATEMALTECA DE AVIACION (OPEN IN WHOLE)	1	10/7/1982	B4	487
2	SUMMARY	SUMMARY OF APPLICATION FOR CHINA AIRLINES (OPEN IN WHOLE)	1	10/21/1982	B4	488
3	SUMMARY	SUMMARY OF APPLICATION FOR PHILIPPINES AIRLINES (OPEN IN WHOLE)	2	10/25/1982	B4	489

Freedom of Information Act - [5 U.S.C. 552(b)]

B-1 National security classified information [(b)(1) of the FOIA]

B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]

B-3 Release would violate a Federal statute [(b)(3) of the FOIA]

B-4 Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]

B-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]

B-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]

B-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]

B-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

E.O. 13233

C. Closed in accordance with restrictions contained in donor's deed of gift.

THE WHITE HOUSE

WASHINGTON

November 30, 1982

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Civil Aeronautics Board Decision in
Continental Air Lines, Inc., and
Texas International Airlines, Inc.

Richard Darman's office requested comments by close of business Friday, December 3, 1982 on the above-referenced CAB order involving international aviation, which was submitted for Presidential review under section 801(a) of the Federal Aviation Act of 1958, as amended, 49 U.S.C. § 1461(a). Under this section, the President may disapprove, solely on the basis of foreign relations or national defense considerations, CAB actions involving either foreign air carriers or domestic carriers involved in foreign air transportation. If the President wishes to disapprove such CAB actions, he must do so within sixty days of submission (in this case, by December 24, 1982).

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

My review of the order and related materials confirms the OMB description of this as a "routine, noncontroversial" matter (particularly from the foreign relations and national defense standpoint). While the Texas International-Continental merger itself was doubtless controversial, this order simply reissues the certificates of the two carriers to reflect their new status resulting from the reorganization, and enables them to provide service on each other's U.S.-Mexico routes. The airlines asserted before the CAB that the modifications of their certificates were so "technical" as not to require Presidential review, but the CAB, correctly in my view, disagreed.

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

Attachment

THE WHITE HOUSE

WASHINGTON

November 30, 1982

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decision in
Continental Air Lines, Inc., and
Texas International Airlines, Inc.

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

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

FFF:JGR:aw 11/30/82

cc: FFFielding
JGRoberts
Subject
Chron.

Refused

ID #

678447

CU

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING

☐ H - INTERNAL

☐ I - INCOMING

Date Correspondence
Received (YY/MM/DD) 1

Name of Correspondent:

Richard G. Darman

☐ MI Mail Report

User Codes: (A) _____

(B) _____

(C) _____

Subject:

*CAB Decision re: Continental Airlines
and Texas International Airlines*

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<i>W Holland</i>	ORIGINATOR	<i>82/1/29</i>			<i>1 1</i>
	Referral Note:				
<i>CUAT18</i>	<i>D</i>	<i>82/1/29</i>		<i>S</i>	<i>82/2/02</i>
	Referral Note:				
		<i>1 1</i>			<i>1 1</i>
	Referral Note:				
		<i>1 1</i>			<i>1 1</i>
	Referral Note:				
		<i>1 1</i>			<i>1 1</i>
	Referral Note:				

ACTION CODES:

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

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

DISPOSITION CODES:

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

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

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WHITE HOUSE STAFFING MEMORANDUM

DATE: 11/29/82 ACTION/CONCURRENCE/COMMENT DUE BY: 12/3/82

SUBJECT: CAB DECISION RE CONTINENTAL AIRLINES AND TEXAS INTERNATIONAL AIRLINES

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☐	FULLER	☐	☐
MEESE	☐	☐	GERGEN	☐	☐
BAKER	☐	☐	HARPER	☒	☐
DEAVER	☐	☐	JENKINS	☐	☐
STOCKMAN	☐	☐	MURPHY	☐	☐
CLARK	☐	☐	ROLLINS	☐	☐
DARMAN	☐ P	☐ SS	WILLIAMSON	☐	☐
DOLE	☐	☐	VON DAMM	☐	☐
DUBERSTEIN	☐	☐	BRADY/SPEAKES	☐	☐
FELDSTEIN	☐	☐	ROGERS	☐	☐
FIELDING →	☒	☐	_____	☐	☐

Remarks:

May we have your comments by close of business Friday, December 3.
Thank you.

Richard G. Darman
Assistant to the President
(x2702)

Response:



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

NOV 29 1982

ACTION

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

SUBJECT: Civil Aeronautics Board Decision:

Continental Air Lines, Inc., and
Texas International Airlines, Inc.
Dockets 40979, 40981
Date due: December 24, 1981

You will find attached a memorandum for the President about the above international aviation case. The interested executive agencies have reviewed the Board's decision and have no objection to the proposed order.

This is a routine, noncontroversial matter. No foreign policy or national defense reasons for disapproving the Board's order have been identified. I recommend that the President sign the attached letter to the Chairman which indicates that he does not intend to disapprove the Board's order within the 60 days allowed by statute. Otherwise, the Board's order becomes final on the 61st day.

/s/ A. G. Anderson

Annelise Anderson
Associate Director for
Economics and Government

Attachments:

Memorandum to the President
CAB letter of transmittal
CAB order
Letter to the Chairman



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

NOV 29 1982

ACTION

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decision:

Continental Air Lines, Inc., and
Texas International Airlines, Inc.
Dockets 40979, 40981
Date due: December 24, 1982

The Civil Aeronautics Board proposes to reissue the certificates of Continental Air Lines, Inc., and Texas International Airlines, Inc., to reflect the airlines' new status resulting from a corporate reorganization. This action will enable the two airlines to provide service on each other's U.S.-Mexico routes.

The Departments of State, Defense, Justice, and Transportation and the National Security Council have not identified any foreign policy or national defense reasons for disapproving the Board's order in whole or in part.

The Office of Management and Budget recommends that you approve the Board's decision by signing the attached letter to the Chairman which indicates that you do not intend to disapprove the Board's order. Also, OMB recommends that you state in your letter that no national defense or foreign policy reason underlies your action. This will preserve whatever opportunity is available under the statute for judicial review.

/s/ A. G. Anderson

Annelise Anderson
Associate Director for
Economics and Government

Attachments:

CAB letter of transmittal
CAB order
Letter to the Chairman

Options and Implementation Actions:

- ☐ 1) Approve the Board's order and preserve whatever opportunity is available for judicial review (DOS, DOD, DOJ, DOT, NSC, OMB).
-- Sign the attached letter to the Chairman.
- ☐ 2) Approve the Board's order and do nothing to preserve whatever opportunity is available for judicial review.
-- Implementation materials to be prepared.
- ☐ 3) Disapprove the Board's order.
-- Implementation materials to be prepared.
- ☐ 4) See me.

THE WHITE HOUSE
WASHINGTON

Dear Chairman McKinnon:

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

Continental Air Lines, Inc., and
Texas International Airlines, Inc.
Dockets 40979, 40981

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

Sincerely,

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

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

Adopted by the Civil Aeronautics Board
at its office in Washington, D.C.
on the 22nd day of October, 1982

Joint Application of :
CONTINENTAL AIR LINES, INC., AND : Docket 40979
TEXAS INTERNATIONAL AIRLINES, INC. :
for coextensive certificates between the :
United States and Mexico under section 401 :
of Federal Aviation Act of 1958, as amended :

Application of :
TEXAS INTERNATIONAL AIRLINES, INC. : Docket 40981
for permission to use a different trade name :
pursuant to Part 215 of the Board's Economic :
Regulations :

FINAL ORDER

By Order 82-10-91 , adopted October 22, 1982, we decided to grant the application of Continental Air Lines, Inc. and Texas International Airlines, Inc. (TI) in Docket 40979 for coextensive authority between the United States and Mexico. We incorporate our findings and conclusions in Order 82-10- 91 by reference.

By this order, we are reissuing the certificates of Continental and TI to reflect their new authority. As noted below, this order will not become effective until the prerequisites mandated by section 801 of the Act are fulfilled.

ACCORDINGLY:

1. We grant the application of Continental Air Lines, Inc. and Texas International Airlines, Inc. in Docket 40979 for coextensive authority between the United States and Mexico;

2. We amend the certificate of Texas International Airlines, Inc. to reflect the fact that it will now do business as Continental Air Lines, Inc.;

3. We reissue the certificates of public convenience and necessity for Continental Air Lines, Inc. for Route 29-F and Texas International Airlines for Route 82-F in the form attached;

4. These certificates shall be signed on behalf of the Board by its Secretary and shall have the seal of the Board affixed; and

5. This order shall be effective on the 61st day after its submission to the President of the United States unless disapproved by the President under section 801(a) of the Federal Aviation Act or upon the date we receive notice from the President that he does not intend to disapprove the order of the Board, whichever is earlier. 1/

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR
Secretary

(SEAL)

All Members concurred.

1/ This order was submitted to the President on OCT 25 1982
The 61st day is DEC 25 1982

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

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
(as amended and reissued)

for Route 29-F

CONTINENTAL AIR LINES, INC.

is authorized, subject to the following provisions, the provisions of Title IV of the Federal Aviation Act of 1958, as amended, and the orders, rules and regulations issued under it, to engage in foreign air transportation of persons, property and mail:

1. Between the coterminal points Albuquerque, New Mexico, and El Paso, Texas, and the coterminal points Bahia Kino, Guadalajara, Guaymas, Hermosillo, Mazatlan and Zihuatanejo, Mexico;
2. Between the coterminal points Los Angeles, Cal., and Houston, Tex., and coterminal points in Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama;
3. Between a point or points in the United States and a point or points in the Federal Republic of Germany;
4. Between a point or points in the United States and a point or points in Chile;
5. Between a point or points in the United States and a point or points in Switzerland;
6. Between a point or points in the United States and a point or points in Belgium, the Netherlands, and Luxembourg;
7. Between a point or points in the United States and Kingston and Montego Bay, Jamaica; Providenciales, Grand Turk, South Caicos, Turks and Caicos; Port-au-Prince and Cape Haitien, Haiti; Santo Domingo, Dominican Republic; St. Johns, Antigua and Barbuda; Pointe-a-Pitre, Guadeloupe; Fort de France, Martinique; Port-of-Spain, Trinidad and Tobago; Aruba, Bonaire, Curacao, and St. Maarten, Netherlands Antilles; Barranquilla and San Andres, Colombia; and a point or points in St. Kitts, St. Lucia, Barbados, and Grenada.
8. Between the coterminal points Miami, FL, and New York, NY/Newark, NJ, and a terminal point or points in Bermuda;

9. Between a point or points in the United States and Shannon, Ireland;
10. Between a point or points in the United States and a point or points in Jordan;
11. Between a point or points in the United States and a point or points in Indonesia, Malaysia, Thailand, Sri Lanka, and India;
12. Between a point or points in the United States and Tel Aviv, Israel;
13. Between the terminal point Houston, Tex., and the coterminal points Loreta, La Paz, San Jose del Cabo, Mazatlan, Puerto Vallarta, Manzanillo, Zihuatanejo, and Acapulco, Mexico.
14. Between the coterminal points Houston and Mission-McAllen-Edinburg, Texas and the coterminal points Monterrey, Guadalajara, and Mexico City, Mexico;
15. Between the terminal point Harlingen-San Benito, Texas, the intermediate point Tampico, Mexico, and the terminal point Veracruz, Mexico.

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

(1) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate shall be subject to compliance with such treaties and agreements, and with any orders of the Board issued pursuant to, or for the purpose of requiring compliance with, such treaties and agreements.

(2) The holder may render service between the points named here; however, subject to compliance with the provisions of sections 401(j) and 419 of the Act, as amended by the Airline Deregulation Act of 1978, and all orders and regulations issued by the Board under those sections, the holder may reduce or terminate service at any point or between any two points.

(3) The holder's authority to operate between Albuquerque or El Paso and any point in Mexico on segment 1 shall not become effective until such time as the Board has issued an order suspending or deleting the authority of Frontier Airlines to operate nonstop between Albuquerque or El Paso and Bahia Kino, Guadalajara, Guaymas, Hermosillo, Mazatlan or Zihuatanejo.

(4) Upon compliance with such procedures as may be prescribed by the Board, the holder may serve any named point through any convenient airport.

(5) The holder may carry local traffic between U.S. coterminal points on flights serving countries named on segments 2 and 5 through 12.

(6) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign government such operating rights as may be necessary.

(7) The holder may serve a point or points in Chile via other existing route segments in this certificate; provided, that such service is conducted in accordance with all treaties and agreements between the United States and other countries. The holder may operate between the United States and Chile via Belize, Honduras, Nicaragua, Guatemala, El Salvador, Costa Rica, and Panama only on flights serving Los Angeles or Houston as the U.S. gateway.

(8) The holder shall not operate single-plane service between Miami/Ft. Lauderdale, FL, on the one hand, and Aruba, Bonaire, Curacao, or St. Maarten, Netherlands Antilles, on the other hand. This condition shall expire on January 22, 1983.

(9) The authority granted in segment 1 shall expire May 8, 1984.

(10) The holder shall make an intermediate stop in Mexico on all flights between Houston and Acapulco over segment 13.

(11) The authority over segments 13, 14 and 15 is limited to operations conducted by Continental on behalf of Texas International Airlines, and it may not be transferred to any other person. The authority over segments 13, 14 and 15 is intended to be coextensive with the U.S.-Mexico authority of Texas International and shall cease to be effective if Texas International's U.S.-Mexico authority expires, or is revoked, suspended or transferred.

The exercise of the privileges granted by this certificate shall be subject to such other terms, conditions and limitations as may be prescribed by the Board in the public interest.

This certificate shall be effective on _____ ;
Provided, that the continuing effectiveness of the authority shall be conditioned upon the timely payment, by the holder, of such license fees as may be prescribed by the Board.

The Civil Aeronautics Board has directed its Secretary to execute this certificate and to affix the Board's seal on October 22, 1982.

PHYLLIS T. KAYLOR
Secretary

(SEAL)

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

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
(as amended and reissued)

for Route 82-F

TEXAS INTERNATIONAL AIRLINES, INC.
d/b/a Continental Air Lines, Inc.

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

1. Between the coterminal points Houston and Mission-McAllen-Edinburg, Texas, and the coterminal points Monterrey, Guadalajara, and Mexico City, Mexico;
2. Between the terminal point Harlingen-San Benito, Texas, the intermediate point Tampico, Mexico, and the terminal point Veracruz, Mexico;
3. Between the coterminal points Albuquerque, N.M., Denver, Colo., Los Angeles, Cal., Dallas-Ft. Worth and Houston, Tex., and New Orleans, La., and the coterminal points Freeport, George Town, Great Harbor Cay, Marsh Harbor, Nassau, Rock Sound, Treasure Cay and West End, Bahama Islands;
4. Between the coterminal points Houston and Dallas/Ft. Worth, Tex., and a terminal point or points in Costa Rica;
5. Between the coterminal points Houston and Dallas/Ft. Worth, Tex., and New Orleans, La., and coterminal points in Belize, El Salvador, Honduras, Nicaragua and Panama; and
6. Between the terminal point Houston, Texas and the coterminal points Merida, Cancun and Cozumel, Mexico.

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

(1) Notwithstanding any other provisions of this certificate, the holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate shall be subject to compliance with such treaties and agreements, and to any other orders of the Board issued pursuant to, or for the purpose of requiring compliance with, them.

(2) The holder may render service to the points named here, and may begin or terminate, or begin and terminate, trips at points short of terminal points on all segments.

(3) The holder may continue to serve regularly any point named here through the airport it last used regularly to serve that point before the effective date of this certificate. Upon compliance with such procedures as the Board may prescribe, the holder may in addition regularly serve the points named here through any convenient airport.

(4) The exercise of the authority granted here shall be subject to the carriers' first obtaining the required operating rights from the appropriate foreign government.

(5) The holder may carry local traffic between and among U.S. coterminal points on flight serving countries named in segments 4 and 5.

(6) The authority over segment 6 is limited to operations conducted by Texas International Airlines on behalf of Continental Air Lines, and it may not be transferred to any other person. The authority over segment 6 is intended to be coextensive with that of Continental for Route 256 and shall cease to be effective if Continental's Route 256 authority expires, or is revoked, suspended or transferred.

The exercise of the privileges granted by this certificate shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

In accepting this certificate the holder acknowledges and agrees that it is only entitled to receive service mail pay, as specified here, for the mail service rendered or to be rendered and that it is not authorized to request or receive any compensation for mail service rendered or to be rendered in excess of the amount payable by the Postmaster General.

This certificate shall become effective on _____ ;
Provided, however, that the continuing effectiveness of the authority
to serve Guadalajara and to serve segments 3 through 6 shall be
conditioned upon the timely payment, by the holder, of such license
fees as may be prescribed by the Board.

The Civil Aeronautics Board has directed its Secretary to
execute this certificate, and affix the Board's seal, on
October 22, 1982.

PHYLLIS T. KAYLOR
Secretary

(SEAL)

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

Adopted by the Civil Aeronautics Board
at its office in Washington, D.C.
on the 22nd day of October, 1982

Joint Application of

CONTINENTAL AIR LINES, INC., AND
TEXAS INTERNATIONAL AIRLINES, INC.

for coextensive certificates between the United States and Mexico under section 401 of the Federal Aviation Act of 1958, as amended

Docket 40979

Alternate Joint Application of

CONTINENTAL AIR LINES, INC. AND
TEXAS INTERNATIONAL AIRLINES, INC.

for exemption from section 401 of the Federal Aviation Act of 1958, as amended

Docket 40980

Application of

TEXAS INTERNATIONAL AIRLINES, INC.

for permission to use a different trade name pursuant to Part 215 of the Board's Economic Regulations

Docket 40981

ORDER

On September 10, 1982, Continental Air Lines, Inc. and Texas International Airlines, Inc. (TI) filed various applications that would enable them to further integrate certain aspects of their operations.

First, in Docket 40979, Continental and TI have asked that we amend their respective certificates of public convenience and necessity for air transportation between the United States and Mexico to grant them coextensive authority over these routes. TI now holds authority to serve Mexico on routes 82F and 285, while Continental has authority on route 256. In the alternative, in Docket 40980, the two carriers seek an interim exemption that would allow them to wet lease and otherwise exchange aircraft over their respective U.S.-Mexico routes.

Contemporaneously, in Docket 40981, TI asked under Part 215 of our Economic Regulations, 14 CFR 215, that it be permitted to use the name "Continental Air Lines", "Continental" or any variant thereof.

No answers were filed to any of the above applications.

By this order, we are granting Continental and TI an interim exemption to allow them to wet lease and otherwise exchange aircraft over their Mexican routes while the President reviews under section 801 of the Act amendments to their certificates that would make their Mexican authority coextensive. In addition, we are affirming the action of the Director, Bureau of Domestic Aviation, in Order 82-10-55, issued under delegation, allowing TI to use the Continental name.

In a separate, companion order we are amending Continental's and TI's certificates. This order will become effective upon the completion of section 801 review.

The above requests of Continental and TI are a part of the on-going efforts of the management of these commonly-controlled carriers to improve operating efficiency and maximize revenues by substantially integrating their operations. Currently, TI is a wholly-owned subsidiary of TAC. Continental in turn, is 51 percent owned by TI and TAC. Recently, the shareholders of TAC and Continental approved a corporate reorganization plan under which a new entity, Continental Airlines Corp. (CAC), would be formed. CAC would be a wholly-owned subsidiary of TAC; and TI and Continental, in turn, would become wholly-owned subsidiaries of CAC.

Since we approved the acquisition of Continental by TI and TAC in Order 81-10-66, Docket 39285, the management of TI and Continental have taken a number of steps to create operational and marketing synergies by linking their two systems. As a result, management wishes to hold the two

carriers out to the public as a single entity. However, management has ruled out a formal consolidation for the immediate future because of the complex financial structures of the two carriers and because of commitments that have been made to lenders.

Earlier this year, TI and Continental started to coordinate some of their domestic schedules. A further integration of these schedules is expected at the end of October. This has been done to permit TI's smaller DC-9 aircraft to be utilized over lower-density, short-haul, feeder-type routes and Continental's larger B-727 and DC-10 aircraft over longer-haul, denser routes.

The applicants state that they now want to bring the benefits and efficiencies they have achieved domestically as a result of these consolidations to their Mexican routes.

In particular, they seek authority to wet lease or otherwise utilize one another's aircraft over their respective Mexican routes. This would allow TI, for example, to wet lease one of Continental's B-727 aircraft to use on its route between Houston and Mexico City. Conversely, Continental could lease a DC-9 from TI for its Houston-Yucatan route. To achieve these objectives, the carriers have applied for coextensive certificates in Docket 40979 and pendente lite exemption authority in Docket 40980.

The applicants state that in asking for this authority there is no intention to expand their route authority between the U.S. and Mexico. Indeed, they note that the routes in their certificates would still be described as they are now in the bilateral agreement that is in effect between the United States and Mexico. Moreover, they contend that these routes would continue to be served by the carrier "designated" by the U.S. government under the bilateral. The applicants also indicate that they have every reason to believe that the government of Mexico will accept their proposed arrangement.

We have no objection to the applicants' request and accordingly in a companion order we will amend their respective certificates so that they will have coextensive authority.

In Docket 39285, we conducted a lengthy investigation into the competitive and public interest implications of a control relationship among TAC, Continental and TI and we concluded that such a relationship satisfied the standards for approval. The type of schedule coordination and equipment exchange activities which the applicants have already undertaken in the United States, and which they are proposing to implement on their Mexican routes, pose no new competitive or public policy concerns that were not considered in our order of approval under section 408. We

therefore have no reason to believe that amendment of TI's certificates would be inconsistent with the public interest. TAC is simply attempting to achieve the efficiencies it foresaw in an acquisition of Continental.

Our aviation agreement with Mexico provides for specific air routes between the countries and the number of carriers that may serve them. In granting the applications involved, it is not our intention to alter the operating rights that are currently assigned to U.S. carriers under the agreement or otherwise affect the number of U.S. carriers designated to serve Continental's and TI's Mexican routes. To eliminate any possible confusion over the scope of our action, we are conditioning the amended certificates of TI and Continental so that it will be clear that the carrier that now possesses authority will continue to have the primary operating authority and certificate obligation and that the other carrier's authority will only be derivative and can only be exercised on behalf of the primary carrier.

The applicants assert that a modification of their respective certificates may not necessitate Presidential review under section 801 of the Act. They say this is because such a modification would only entail a "technical" amendment of their certificates. However, our action does involve an amendment of TI's and Continental's certificates. Consequently, we conclude that 801 review is required.

But we will grant the applicants' exemption request in Docket 40980 so that they can exchange aircraft over their Mexican routes pending the completion of Presidential review. In view of our findings above, we find that a grant of this interim authority to be in the public interest. ^{1/}

Finally, we affirm the action of the Director, Bureau of Domestic Aviation, in Order 82-10-55 granting the application of TI in Docket 40981 for permission to use the name "Continental", "Continental Air Lines" or some variant of those trade names. The Director handled this request under delegation because it was necessary for TI and Continental to file schedules with the Mexican authorities and we concur with his determination. As a result, we are revising TI's certificate to reflect the fact that it will be doing business as Continental.

^{1/} The President previously reviewed our approval of TI's and TAC's acquisition of Continental and chose not to disapprove that action. Since our exemption will be pendente lite, we retain the flexibility to restore the status quo if need be.

ACCORDINGLY:

1. We grant the application of Continental Air Lines, Inc. and Texas International, Inc. in Docket 40980 for an interim exemption from the requirements of section 401 of the Act so that these carriers may operate over each other's Mexican routes and wet lease aircraft among themselves for use on these routes; and

2. We affirm the action of the Director, Bureau of Domestic Aviation, in Order 82-10-55 granting the application of Texas International Airlines, Inc. in Docket 40981 for permission to use the trade name "Continental", "Continental Air Lines" or some variant thereof.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR
Secretary

(SEAL)

All Members concurred.

THE WHITE HOUSE

WASHINGTON

November 30, 1982

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

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

SUBJECT: Civil Aeronautics Board Decision in
Continental Air Lines, Inc., and
Texas International Airlines, Inc.

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

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

FFF:JGR:aw 11/30/82

cc: FFFielding
✓JGRoberts
Subject
Chron.

THE WHITE HOUSE

WASHINGTON

December 20, 1982

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Civil Aeronautics Board Decisions in
Philippine Airlines, Inc., Empresa
Guatemalteca de Aviacion, China Airlines,
Ltd., and British Caledonian Airways, Limited

Richard Darman's office requested comments by close of business today on the above-referenced CAB orders involving international aviation, which were submitted for Presidential review under section 801(a) of the Federal Aviation Act of 1958, as amended, 49 U.S.C. § 1461(a). Under this section, the President may disapprove, solely on the basis of foreign relations or national defense considerations, CAB actions involving either foreign air carriers or domestic carriers involved in foreign air transportation. If the President wishes to disapprove such CAB actions, he must do so within sixty days of submission (in the case of Philippine Airlines, Inc., by December 27, 1982; in the case of Empresa Guatemalteca de Aviacion, by January 7, 1983; in the case of China Airlines, Ltd., by January 17, 1983; in the case of British Caledonian Airways, Limited, by January 22, 1983).

The orders have been reviewed by the appropriate departments and agencies, following the procedures established by Executive Order No. 11920 (1976). OMB recommends that the President not disapprove, and reports that the NSC and the Departments of State, Defense, Justice and Transportation have not identified any foreign relations or national defense reasons for disapproval. Since this order involves foreign carriers, the proposed letter from the President to the CAB Chairman prepared by OMB omits the standard sentence designed to preserve availability of judicial review.

My review of the orders and related materials confirms the OMB description of these as "routine, noncontroversial" matters (particularly from the foreign relations and national defense standpoint). The orders would amend the Philippine Airlines permit, to include additional U.S. destinations; grant a three-year permit to the Guatemalan

airline to fly to four U.S. cities; amend the permit of China Airlines to add New York and Seattle as terminal points; and add Los Angeles to the routes of British Caledonian.

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

Attachment

THE WHITE HOUSE

WASHINGTON

December 20, 1982

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decisions in
Philippine Airlines, Inc., Empresa
Guatemalteca de Aviacion, China Airlines,
Ltd., and British Caledonian Airways, Limited

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

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

FFF:JGR:aw 12/20/82

cc: FFFielding
JGRoberts
Subj.
Chron

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

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

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

Subject: CAB Decisions re: Philippine Airlines,
China Airlines; Empresa Guatemalteca
Aeracion and British Caledonian Air

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Comp De YY/M
<u>W Holland</u>	ORIGINATOR	<u>821217</u>		<u>1</u>
<u>WAT18</u>	Referral Note: <u>D</u>	<u>821220</u>	<u>S</u>	<u>8211</u>
	Referral Note:	<u>1/1</u>		<u>1</u>
	Referral Note:	<u>1/1</u>		<u>1</u>
	Referral Note:	<u>1/1</u>		<u>1</u>
	Referral Note:	<u>1/1</u>		<u>1</u>

ACTION CODES:

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

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

DISPOSITION CODES:

A - Answered C - Comp
B - Non-Special Referral S - Suspe

FOR OUTGOING CORRESPONDENCE:

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

Comments: _____

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

WHITE HOUSE STAFFING MEMORANDUMDATE: 12/17/82 ACTION/CONCURRENCE/COMMENT DUE BY: 12/20/82SUBJECT: CAB DECISIONS RE PHILIPPINE AIRLINES; CHINA AIRLINES;
EMPRESA GUATEMALTECA DE AVIACION AND BRITISH CALEDONIAN AIR

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☐	FULLER	☐	☐
MEESE	☐	☐	GERGEN	☐	☐
BAKER	☐	☐	HARPER	☒	☐
DEAVER	☐	☐	JENKINS	☐	☐
STOCKMAN	☐	☐	MURPHY	☐	☐
CLARK	☐	☐	ROLLINS	☐	☐
DARMAN	☐ P	☐ SS	WILLIAMSON	☐	☐
DOLE	☐	☐	VON DAMM	☐	☐
DUBERSTEIN	☐	☐	BRADY/SPEAKES	☐	☐
FELDSTEIN	☐	☐	ROGERS	☐	☐
FIELDING →	☒	☐	_____	☐	☐

Remarks:

May we have your comments by close of business Monday, December 20.
Thank you.

Richard G.
Assistant to the President
(x270)

Response:



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

DEC 17 1982

ACTION

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

SUBJECT: Civil Aeronautics Board Decisions:

Philippine Airlines, Inc.
Dockets 29608, 39991
Date due: December 27, 1982

Empresa Guatemalteca de
Aviacion
Docket 40141
Date due: January 7, 1983

China Airlines, Ltd.
Docket 38028
Date due: January 17, 1983

British Caledonian Airways,
Limited
Docket 41100
Date due: January 22, 1983

You will find attached a memorandum for the President about the above international aviation cases. The interested executive agencies have reviewed the Board's decisions and have no objection to the proposed orders.

These are routine, noncontroversial matters. No foreign policy or national defense reasons for disapproving the Board's orders have been identified. I recommend that the President sign the attached letter to the Chairman which indicates that he does not intend to disapprove the Board's orders within the 60 days allowed by statute. Otherwise, the Board's orders become final on the 61st day.

/s/ A. G. Anderson

Annelise Anderson
Associate Director for
Economics and Government

Attachments:

Memorandum to the President
CAB letters of transmittal
CAB orders
Letter to the Chairman



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

DEC 17 1982

ACTION

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decisions:

Philippine Airlines, Inc.
Dockets 29608, 39991
Date due: December 27, 1982

Empresa Guatemalteca de
Aviacion
Docket 40141
Date due: January 7, 1983

China Airlines, Ltd.
Docket 38028
Date due: January 17, 1983

British Caledonian Airways,
Limited
Docket 41100
Date due: January 22, 1983

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

- Amend the foreign air carrier permit of Philippine Airlines, Inc., authorizing the airline to provide service between the Philippines, on the one hand, and Palau, Saipan, Guam, Honolulu, San Francisco, Los Angeles, five other U.S. cities and three other foreign countries, on the other.
- Issue a three year air carrier permit to Empresa Guatemalteca de Aviacion authorizing the airline to transport persons, property, and mail between Guatemala, on the one hand, and Miami, Florida; New Orleans, Louisiana; Dallas/Fort Worth, Texas; and San Juan, Puerto Rico, on the other, with intermediate stops in Merida, Mexico, and Santo Domingo, Dominican Republic.
- Issue a foreign air carrier permit to China Airlines, Ltd., (the airline of Taiwan) authorizing the airline to transport persons, property, and mail between Taipei and Kaohsiung, Taiwan, on the one hand, and Guam; Honolulu, Hawaii; Los Angeles and San Francisco, California; Seattle, Washington; and New York, New York, on the other, with intermediate stops in the Pacific.
- Amend the foreign air carrier permit of British Caledonian Airways, Limited, authorizing the airline to provide service between London and Manchester, England, and Prestwick/Glasgow, Scotland, on the one hand, and Los Angeles, California, on the other.

The Departments of State, Defense, Justice, and Transportation and the National Security Council have not identified any foreign policy or national defense reasons for disapproving the orders in whole or in part.

The Office of Management and Budget recommends that you approve the Board's decisions by signing the attached letter to the Chairman which indicates that you do not intend to disapprove the Board's orders within the 60 days allowed by statute for your review.

/s/ A. G. Anderson

Annelise Anderson
Associate Director for
Economics and Government

Attachments:

CAB letters of transmittal
CAB orders
Letter to the Chairman

Options and Implementation Actions:

- ☐ 1) Approve the Board's orders. (DOS, DOD, DOJ, DOT, NSC, OMB.)
-- Sign the attached letter to the Chairman.
- ☐ 2) Disapprove the Board's orders.
-- Implementation materials to be prepared.
- ☐ 3) See me.

THE WHITE HOUSE

WASHINGTON

Dear Chairman McKinnon:

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

Philippine Airlines, Inc.
Dockets 29608, 39991

Empresa Guatemalteca de
Aviacion
Docket 40141

China Airlines, Ltd.
(the airline of
Taiwan)
Docket 38028

British Caledonian Airways,
Limited
Docket 41100

I have decided not to disapprove the Board's orders.

Sincerely,

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

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

Adopted by the Civil Aeronautics Board
at its office in Washington, D.C.
on the 18th day of November, 1982

Application of :
BRITISH CALEDONIAN AIRWAYS LIMITED : Docket 41100
for amendment of its foreign air carrier :
permit pursuant to section 402 of the :
Federal Aviation Act of 1958, as amended :

ORDER ISSUING FOREIGN AIR CARRIER PERMIT

By application filed June 4, 1982, as supplemented September 28, 1982, and noticed in the Federal Register, 1/ British Caledonian Airways Limited (the applicant) requests an amendment to its foreign air carrier permit to add Los Angeles, California, as an additional U.S. coterminal point on its existing route authorization. 2/

No answers to the application have been filed.

1/ Noticed in 47 FR 25390, June 11, 1982, under Docket 39711; on November 18, 1982, the docket number was changed to Docket 41100, to avoid any possible confusion because BCAL's unrelated application in Docket 39711 to add San Juan as a U.S. coterminal point was completely disposed of in Order 81-10-170. We will close Docket 39711.

2/ British Caledonian Airways holds a foreign air carrier permit (recently amended and reissued by Order 81-10-170) which authorizes it to engage in scheduled foreign air transportation of persons, property and mail between the coterminal points London and Manchester, England, and Prestwick/Glasgow, Scotland; the optional intermediate point Bangor, Maine (for property only); and the coterminal points Dallas/Fort Worth, Texas, Houston, Texas, St. Louis, Missouri, Atlanta, Georgia, and San Juan, Puerto Rico. Also, the permit authorizes charter air transportation of persons and property. By British Diplomatic Note No. 58, dated March 18, 1982, BCAL was designated to provide London-Los Angeles service in place of Laker Airways Limited. BCAL received long-term exemption authority by Order 82-4-61 (Docket 40546) to conduct London-Los Angeles service and states that it initiated this service on May 21, 1982. By Note No. 162, dated September 24, 1982, BCAL was designated to provide, among other services, combination services between Manchester and Prestwick/Glasgow and the terminal point Los Angeles, and all-cargo services between London, Manchester and Prestwick/Glasgow and Los Angeles. BCAL filed a copy of the Note in Docket 39711. The amended permit will add Los Angeles as an additional U.S. coterminal point on BCAL's existing route authorization (see paragraph A.1 of the specimen permit) and also will specify BCAL's all-cargo scheduled authority (see paragraph A.2) in conformity with its designations under Bermuda 2.

We have thoroughly reviewed the record including the application and have decided to grant the application using the simplified Subpart Q procedures. 3/ The public was informed of the carrier's application by notices in the Federal Register and the Board's weekly list of applications filed, describing the authority sought and giving interested persons an opportunity to submit evidence and objections to the award of the authority. These notices provided the required notice and filing opportunities. Simplified procedures are appropriate in this case because the granted authority is not of a controversial nature. The applicant's fitness is established and unchallenged. 4/ No answers have been filed to the application or to the Federal Register notice.

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

1. The applicant is qualified and has been designated by its government to perform the air services described in the attached foreign air carrier permit;
2. The applicant is fit, willing, and able properly to perform the foreign air transportation described in the attached permit and to conform to the provisions of the Act, and our rules, regulations and requirements;
3. The public interest requires that the exercise of the privileges granted by the permit shall be subject to the terms, conditions and limitations contained in the attached permit, and to such other reasonable terms, conditions, and limitations required by the public interest as we may prescribe;

3/ 14 CFR 302.1701 et seq. Under Rule 29(b) we may, in our discretion, omit a tentative decision in proceedings under Subpart Q and proceed directly to a final decision, after provision of an opportunity for interested parties to submit evidence and to object to a grant of authority under section 402 of the Act.

4/ We have recently found the applicant to be fit in three permit-amendment orders, Order 80-8-54, adopted July 8, 1980, Order 80-8-98, adopted July 18, 1980, and Order 81-10-170, adopted September 3, 1981. We are unaware of any adverse change in the applicant's fitness since those findings were made. As BCAL requests, we take notice of its financial submissions for its two most recent available fiscal years, that it previously filed in Dockets 39711 and 40546.

4. The applicant is substantially owned and effectively controlled by nationals of its homeland country;

5. Issuance of this foreign air carrier permit will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975, as defined in subsection 313.4(a)(1) of our Regulations; 5/ and

6. The public interest does not require an oral evidentiary hearing on the application.

ACCORDINGLY,

1. We amend, in the form attached, the foreign air carrier permit issued to the applicant by Order 81-10-170, adding Los Angeles, California, as a U.S. coterminal point;

2. We deny, except to the extent granted, the application and other requests for relief in this Docket and close Docket 39711;

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

4. Unless disapproved by the President of the United States under section 801(a) of the Act, this order and the attached permit shall become effective on the 61st day after its submission to the President, 6/ or upon the date of receipt of advice from the President that he does not intend to disapprove the Board's order under that section, whichever is earlier; and

5. We shall serve this order on the applicant, the Ambassador of the applicant's home country in Washington, D.C., and the Departments of State and Transportation.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR

Secretary

(SEAL)

All Members concurred.

5/ Our finding is based upon the fact that amendment of the applicant's permit will not result in a near-term annual increase in fuel consumption in excess of 10 million gallons.

6/ This order was submitted to the President on
The 61st day is

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

PERMIT TO FOREIGN AIR CARRIER
(as amended and reissued)

BRITISH CALEDONIAN AIRWAYS LIMITED

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

A. 1. Between the coterminal points London and Manchester, England and Prestwick/Glasgow, Scotland; the optional intermediate point Bangor, Maine (for property only); and the coterminal points St. Louis, Missouri, Dallas/Fort Worth, Texas, Houston, Texas, Atlanta, Georgia, San Juan, Puerto Rico, and Los Angeles, California.

2. Between the coterminal points London and Manchester, England and Prestwick/Glasgow, Scotland; the optional intermediate point Bangor, Maine (for property only); and the coterminal points Houston, Texas, Atlanta, Georgia, and Los Angeles, California.

B. Between any point or points in the United Kingdom ^{1/} and any point in the United States, either directly or via intermediate or beyond points in other countries with or without stopovers.

C. Between any point or points in the United States and any point or points not in the United Kingdom or the United States.

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

1. The exercise of authority granted by paragraph A.1 shall be limited to scheduled foreign air transportation of persons and their accompanying baggage, property and mail; however, scheduled all-cargo service may not be operated under the authority granted by paragraph A.1.

2. The exercise of authority granted by paragraph A.2 shall be limited to scheduled all-cargo service.

3. The exercise of authority granted by paragraphs B and C shall be limited to charter transportation of persons and their accompanying baggage and property.

1/ For the purpose of this permit, "United Kingdom" shall mean the United Kingdom of Great Britain and Northern Ireland but not any territory outside the British Isles which may be under the sovereignty, protection, jurisdiction, or trusteeship of the Government of the United Kingdom.

4. The holder is authorized to operate services and carry traffic (including "blind sector traffic", as defined in Part 216 of the Board's Economic Regulations) as provided for in section 5, Annex 1 to the Air Services Agreement between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland, effective July 23, 1977.

5. The authority to serve Bangor, Maine as an optional intermediate point for property only shall expire January 21, 1983.

6. Flights authorized by paragraph C shall be subject to Part 212 of the Board's charter regulations.

7. The authority of the holder to perform charters originating in the United Kingdom shall be subject to the terms, conditions, and limitations contained in the rules, regulations, or licenses issued by the Civil Aviation Authority of the United Kingdom authorizing the performance of such charters, including waivers or variations. The authority of the holder to perform charter (a) originating in the United States, or (b) between any point or points in the United States and any point or points not in the United Kingdom or the United States, is subject to applicable Board regulations, except where waivers of these regulations have been granted by the Board.

8. The holder shall not allow charter traffic to stop over at one point in the United States before transporting it to, or after transporting it from, any other point in the United States.

9. Charter transportation, provided pursuant to paragraph B of this permit, which originates in the United States and stops over at any point or points outside the United Kingdom, shall also stop over in the United Kingdom for at least two consecutive nights. Unless the Board specifically authorizes, in advance, shortening or eliminating the United Kingdom stopover, all traffic originating in the United States and stopping over in the United Kingdom for less than two consecutive nights shall be carried pursuant to paragraph C of this permit.

10. The Board, by order or regulation and with or without hearing, may require advance approval of individual charter trips conducted under the authority granted by paragraph B of the permit, if it finds (i) either (a) that the requirement of such prior approval is authorized under the terms of a treaty, agreement, or understanding, or amendments or protocols to such instrument, in effect between the United States and the United Kingdom; or (b) that the Government of the United Kingdom has denied or failed to prevent the denial of, in whole or in part, the fair and equal opportunity to exercise the operating rights provided for in an air transport agreement between the United Kingdom and the United States of any U.S. air carrier designated thereunder with respect to flight operations to, from, through, or over the United Kingdom; and (ii) that such action is required in the public interest.

11. The holder shall conform to the airworthiness and airman competency requirements of the Government of the United Kingdom of Great Britain and Northern Ireland for British international air service.

12. The holder shall not provide foreign air transportation under this permit unless it holds a currently effective authorization from the Government of the United Kingdom for such operations.

13. The holder shall not operate any aircraft under the authority granted by this permit unless the holder complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention.

14. By accepting this permit the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against it in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of its operations under this permit.

15. The holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment to such agreement which may be approved by the Board and to which the holder becomes a party.

16. The holder shall not provide foreign air transportation under this permit unless it complies with the requirements for minimum insurance coverage contained in 14 CFR 205.

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

18. The exercise of the privileges granted by this permit will be subject to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

This permit shall be effective on _____ . Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement or amendment, which shall have the effect of eliminating the bilaterally authorized service authorized by this permit from the service which may be operated by airlines designated by the Government of the United Kingdom of Great Britain and Northern Ireland (or in the event of the elimination of any part of the authorized service, the authority granted shall terminate

to the extent of such elimination); or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of the United Kingdom in lieu of the holder; or (3) upon the termination or expiration of the Air Services Agreement between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland, as amended (or in the event of the termination or expiration of any part of the Air Services Agreement the authority granted by this permit shall cease to the extent of such termination or expiration). However, clause (3) of this paragraph shall not apply if the operation of the authorized foreign air transportation becomes the subject of any treaty, convention, or agreement to which the United States of America and the United Kingdom of Great Britain and Northern Ireland are or shall become parties.

The Civil Aeronautics Board, through its Secretary, has executed this permit and affixed its seal on November 18, 1982.

PHYLLIS T. KAYLOR

Secretary

(SEAL)

FOR OFFICIAL USE ONLY

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

Adopted by the Civil Aeronautics Board
at its office in Washington, D.C.
on the 5th day of November, 1982

Application of :
EMPRESA GUATEMALTECA DE AVIACION : Docket 40141
(AVIATECA) :
for renewal of its foreign air :
carrier permit pursuant to section :
402 of the Federal Aviation Act of :
1958, as amended :

ORDER

By Order 82-10-31, adopted October 7, 1982, the Board directed interested persons to show cause why the Board should not, subject to the disapproval of the President, reissue a foreign air carrier permit to Empresa Guatemalteca de Aviacion (AVIATECA) for a period of three years, authorizing it to engage in scheduled foreign air transportation of persons, property and mail, as follows:

Between a point or points in Guatemala and the terminal point Miami, Florida;

Between a point or points in Guatemala; the intermediate point Merida, Mexico; the coterminal points New Orleans, Louisiana and Dallas/Ft. Worth, Texas; and

Between a point or points in Guatemala; the intermediate point Santo Domingo, Dominican Republic; and the terminal point San Juan, Puerto Rico.

The order directed persons objecting to the Board's tentative findings and conclusions set forth in that order, or to the issuance of the proposed foreign air carrier permit, to file their objections within 21 days. In addition, the order provided that in the event no objections were filed, all further procedural steps would be deemed waived, and the Secretary would enter an order which (1) would make final the Board's tentative findings and conclusions, and (2) subject to the disapproval of the President pursuant to section 801(a) of the Act, would issue a foreign air carrier permit to Empresa Guatemalteca de Aviacion (AVIATECA) in the form attached.

No objections to Order 82-10-31 have been filed.

ACCORDINGLY,

1. We make final our tentative findings and conclusions set forth in Order 82-10-31;

2. We are issuing a foreign air carrier permit in the form attached to Empresa Guatemalteca de Aviacion (AVIATECA);

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

4. Unless disapproved by the President of the United States under section 801(a) of the Act, this order and the permit attached shall become effective on the 61st day after its submission to the President, 1/ or upon the date of receipt of advice from the President that he does not intend to disapprove the Board's order under that section, whichever is earlier.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR

Secretary

(SEAL)

All Members concurred.

1/ This order was submitted to the President on NOV 8 1982
The 61st day is JAN 8 1983 .

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

PERMIT TO FOREIGN AIR CARRIER
(as renewed and amended)

EMPRESA GUATEMALTECA DE AVIACION

is authorized, subject to the provisions set forth, the provisions of the Federal Aviation Act of 1958, as amended, and the orders, rules and regulations of the Board to engage in foreign air transportation of persons, property and mail, as follows:

1. Between a point or points in Guatemala and the terminal point Miami, Florida .
2. Between a point or points in Guatemala; the intermediate point Merida, Mexico; and the coterminal points New Orleans, Louisiana and Dallas/Ft. Worth, Texas.
3. Between a point or points in Guatemala; the intermediate point Santo Domingo, Dominican Republic; and the terminal point San Juan, Puerto Rico.

The holder shall be authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations prescribed by the Board's Regulations governing charters.

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

1. The holder shall file audited financial statements annually with the Director, Bureau of International Aviation no later than 180 days after the holder's fiscal year.
2. In the event any practice develops which the Board regards as inimical to fair competition, the holder and the Board will consult and will use their best efforts to agree upon modifications satisfactory to the Board and the holder.
3. This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period the permit remains in effect, to which the United States and Guatemala shall be parties.

This permit shall be effective on _____, and shall terminate three years thereafter, except that it shall be subject to termination at any time if the authority to conduct flight operations to and from Guatemala granted by the Government of the Republic of Guatemala to any air carrier designated by the United States is cancelled or restricted.

The Civil Aeronautics Board, through its Secretary, has executed this permit and affixed its seal on November 5, 1982.

PHYLLIS T. KAYLOR
Secretary

(SEAL)

ATTACHMENT

PERMIT TO FOREIGN AIR CARRIER

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

(1) The holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

(2) The privileges granted by this permit are subject to the condition that the foreign air carrier complies with the requirements for minimum insurance coverage contained in 14 CFR 205.

(3) By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

(4) The holder shall not operate any aircraft under the authority granted by this permit, unless the holder complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention.

(5) The holder shall conform to the airworthiness and airman competency requirements prescribed by its home Government for international air service.

(6) Except as specifically authorized by the Board, all flights to/from the United States must originate or terminate in the holder's homeland.

(7) The holder shall not provide the foreign air transportation authorized by this permit unless it holds a currently effective authorization from its Government for such operations and such document is on file with the Board.

(8) The exercise of the privileges granted by this permit shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

* * * *



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

Adopted by the Civil Aeronautics Board
at its office in Washington, D.C.
on the 7th day of October, 1982

Application of :

EMPRESA GUATEMALTECA DE AVIACION :
(AVIATECA) :

Docket 40141

for renewal of its foreign air carrier :
permit pursuant to section 402 of the :
Federal Aviation Act of 1958, :
as amended :

STATEMENT OF TENTATIVE FINDINGS AND CONCLUSIONS
AND ORDER TO SHOW CAUSE

By application filed October 16, 1981, and noticed in the Federal Register, 1/ Empresa Guatemalteca de Aviacion (AVIATECA) requests that its foreign air carrier permit to engage in foreign air transportation of persons, property and mail be renewed in its present form, as follows: 2/

- (1) Between a point or points in Guatemala and the terminal point Miami, Florida;
- (2) Between a point or points in Guatemala; the intermediate point Merida, Mexico; the coterminal points New Orleans, Louisiana and Dallas/Ft. Worth, Texas;
- (3) Between a point or points in Guatemala; the intermediate point Santo Domingo, Dominican Republic; and the terminal point San Juan, Puerto Rico.

AVIATECA further requests that its application be processed using the expedited, nonoral hearing procedures set forth in Subpart Q of the Board's Procedural Regulations (14 CFR 302.1701 et seq.).

No answers to AVIATECA's permit renewal application have been filed.

We have tentatively decided to grant AVIATECA's application with some modification, and we request that interested persons show cause why we should not renew AVIATECA's foreign air carrier permit in the specimen form attached.

1/ 46 FR 52156, October 26, 1981.

2/ Order 78-10-149 effective October 31, 1978. AVIATECA's authority expired October 31, 1981, but by virtue of its timely-filed application continues to be operative under the automatic extension provisions of the Administrative Procedure Act (5 U.S.C. 558(c)) pending final action in Docket 40141.

Pan American and Air Florida presently provide scheduled Miami-Guatemala City service. 6/ We recently awarded U.S.-Guatemala authority to several other U.S. carriers. 7/ We are unaware of any allegations that reciprocity is defective or incomplete. Therefore, we believe that the restrictive practices we addressed in Order 78-10-149 have been discontinued. Accordingly, we tentatively conclude that the principles of comity and reciprocity warrant the renewal of the permit authority held by AVIATECA. However, AVIATECA's financial position gives us a new reason for limiting the term of its permit.

TENTATIVE FINDINGS AND CONCLUSIONS

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

1. The applicant is fit, willing and able properly to perform the foreign air transportation described in the attached permit and to conform to the provisions of the Act, and rules, regulations and requirements of the Board, and such transportation is in the public interest;

2. The applicant is substantially owned by the Government of Guatemala and effectively controlled by nationals of its homeland country

3. The public interest requires that the exercise of the privileges granted by the permit should be subject to the terms, conditions and limitations contained in the permit attached to this order, and to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board;

4. Issuance of this foreign air carrier permit will not constitute a "major regulatory action" under the Energy Policy Conservation Act of 1975 as defined in section 313.4(a)(1) of the Board's Regulations; 8/

6/ Official Airline Guide - Worldwide Edition, July 1982.

7/ United States-Central America Show Cause Proceeding, Orders 79-11-87 and 80-5-35.

8/ Our finding is based upon the fact that the proposed operations will not result in a near-term annual increase in fuel consumption in excess of 10 million gallons.

5. We shall serve a copy of this order upon Empresa Guatemalteca de Aviacion, the Ambassador of Guatemala in Washington, D.C., and the Departments of State and Transportation.

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

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR
Secretary

(SEAL)

All Members concurred.

SUMMARY OF APPLICATION

Homeland Country: Guatemala

Current Permit Issued by: Order 78-10-149, dated September 21, 1978

Evidence Incorporated By Reference From: Dockets 22896 and 23157

Reciprocity and Comity As Basis for Authority Sought: Yes - Adequate comity and reciprocity.

Operating History: Scheduled passenger operations to the United States since 1955 (Order E-8923)

Aircraft Owned (O) And Leased (L) Boeing 727-100 (2)
(L) Douglas C-47's (4)
(O) Fokker F-27's (3)

Aircraft Maintenance Performed By: Airtech, Inc., Miami, Florida

Financial Indicators -- as of:	<u>December 31, 1979</u> (Millions)	<u>December 31, 1980</u> (Millions)
Total Assets	\$23.2	\$26.1
Total Liabilities	\$17.4	\$29.4
Owners' Equity	\$ 5.8	\$(3.3)
Operating Profit (Loss)--12 Mos.ending	\$ (.9)	\$(8.0)

Majority Ownership By: Government of Guatemala

Effective Control By Nationals Of: Guatemala

Insurance Coverage: Insurance coverage meets requirements for passenger operations, Exhibit AV-14

Insurance Refused Or Involuntarily Canceled During Last 3 Years: No

Refused Debt Financing Last 3 Years: No

Defaulted On Transportation Commitments Last 3 Years: No

Failed To Meet Current Financial Obligations Last 3 Years: No

Safety Violations During Last 5 Years: No

Traffic Violations During Last 5 Years: No

Subscribes To Standard Permit Conditions Regarding Insurance And Annex 5 Of Chicago Convention And C.A.B. Agreement 18900: Yes

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

SPECIMEN PERMIT

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

PERMIT TO FOREIGN AIR CARRIER
(as renewed and amended)

EMPRESA GUATEMALTECA DE AVIACION

is authorized, subject to the provisions set forth, the provisions of the Federal Aviation Act of 1958, as amended, and the orders, rules and regulations of the Board to engage in foreign air transportation of persons, property and mail, as follows:

1. Between a point or points in Guatemala and the terminal point Miami, Florida .
2. Between a point or points in Guatemala; the intermediate point Merida, Mexico; and the coterminal points New Orleans, Louisiana and Dallas/Ft. Worth, Texas.
3. Between a point or points in Guatemala; the intermediate point Santo Domingo, Dominican Republic; and the terminal point San Juan, Puerto Rico.

The holder shall be authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations prescribed by the Board's Regulations governing charters.

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

1. The holder shall file audited financial statements annually with the Director, Bureau of International Aviation no later than 180 days after the holder's fiscal year.
2. In the event any practice develops which the Board regards as inimical to fair competition, the holder and the Board will consult and will use their best efforts to agree upon modifications satisfactory to the Board and the holder.
3. This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period the permit remains in effect, to which the United States and Guatemala shall be parties.

ATTACHMENT

PERMIT TO FOREIGN AIR CARRIER

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

(1) The holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

(2) The privileges granted by this permit are subject to the condition that the foreign air carrier complies with the requirements for minimum insurance coverage contained in 14 CFR 205.

(3) By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

(4) The holder shall not operate any aircraft under the authority granted by this permit, unless the holder complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention.

(5) The holder shall conform to the airworthiness and airman competency requirements prescribed by its home Government for international air service.

(6) Except as specifically authorized by the Board, all flights to/from the United States must originate or terminate in the holder's homeland.

(7) The holder shall not provide the foreign air transportation authorized by this permit unless it holds a currently effective authorization from its Government for such operations and such document is on file with the Board.

(8) The exercise of the privileges granted by this permit shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

* * * *

FOR OFFICIAL USE ONLY

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

Adopted by the Civil Aeronautics Board
at its office in Washington, D.C.
on the 17th day of November, 1982

Application of :

CHINA AIRLINES, LTD. :

Docket 38028

for amendment of its foreign air :
carrier permit pursuant to section 402: :
of the Federal Aviation Act of 1958, :
as amended :

ORDER

By Order 82-10-87, adopted October 21, 1982, the Board directed all interested persons to show cause why the Board should not, subject to the disapproval of the President, issue a foreign air carrier permit to China Airlines, Ltd. authorizing it to engage in scheduled foreign air transportation of persons, property and mail:

Between the coterminal points Taipei and Kaohsiung, Taiwan;
intermediate points in the Pacific; and the coterminal points
Guam; Honolulu, Hawaii; Los Angeles and San Francisco,
California; Seattle, Washington; and New York, New York.

The order directed interested persons having objections to the Board's tentative findings and conclusions set forth in that order, or to the renewal and amendment of the proposed foreign air carrier permit, to file their objections within 21 days. In addition, the order provided that in the event no objections were filed, all further procedural steps would be deemed waived, and the Secretary would enter an order which (1) would make final the Board's tentative findings and conclusions, and (2) subject to the disapproval of the President pursuant to section 801(a) of the Act, would issue a foreign air carrier permit to China Airlines, Ltd. in the specimen form attached.

No objections to Order 82-10-87 have been filed.

ACCORDINGLY,

1. We make final our tentative findings and conclusions set forth in Order 82-10-87;
2. We amend and reissue in the form attached the foreign air carrier permit held by China Airlines, Inc.;
3. The Secretary of the Board shall sign the permit on our behalf and shall affix the seal of the Board; and
4. Unless disapproved by the President of the United States under section 801(a) of the Act, this order and the permit attached shall become effective on the 61st day after its submission to the President 1/ or upon the date of receipt of advice from the President that he does not intend to disapprove the Board's order under that section, whichever is earlier.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR

Secretary

(SEAL)

All Members concurred.

1/ This order was submitted to the President on

The 61st day is JAN 18 1983

NOV 18 1982

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

PERMIT TO FOREIGN AIR CARRIER
(as amended and reissued)

CHINA AIRLINES, LTD.

is authorized, subject to the provisions set forth, the provisions of the Federal Aviation Act of 1958, as amended, and the orders, rules and regulations of the Board to engage in foreign air transportation of persons, property and mail, as follows:

Between the coterminal points Taipei and Kaohsiung, Taiwan; intermediate points in the Pacific; and the coterminal points Guam; Honolulu, Hawaii; Los Angeles and San Francisco, California; Seattle, Washington; and New York, New York.

The holder shall be authorized to engage in charter trips in foreign air transportation subject to the terms, conditions, and limitations prescribed by the Board's Regulations governing charters.

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

1. In serving this route, the holder may make technical stops at Fairbanks and Anchorage, Alaska, but may not take on or discharge any traffic in Alaska.
2. The holder shall not provide foreign air transportation authorized by this permit unless it holds a currently effective authorization from the Coordination Council for North American Affairs.
3. This permit shall be subject to all applicable provisions of any agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the American Institute in Taiwan and the Coordination Council for North American Affairs shall be parties.

This permit shall be effective on . Unless otherwise terminated at an earlier date pursuant to the terms of any applicable agreement, this permit shall terminate (1) upon the effective date of any agreement or amendment which shall have the effect of eliminating the route authorized by this permit from the routes which may be operated by airlines designated by the Coordination Council for North American Affairs (CCNAA), (or in the event of the elimination of any part of the authorized route), or (2) upon the effective date of any permit granted by the Board to any other

- 2 -

carrier designated by the CCNAA in lieu of the holder, or (3) upon the termination or expiration of the Air Transport Agreement between the American Institute in Taiwan (AIT) and the Coordination Council for North American Affairs (CCNAA) signed March 5, 1980: However, clause (3) of this paragraph shall not apply if, prior to the occurrence of the event specified in clause (3), the operation of the foreign air transportation authorized becomes the subject of any agreement to which the AIT and the CCNAA are or shall become parties.

The Civil Aeronautics Board, through its Secretary, has executed this permit and affixed its seal on November 17, 1982.

PHYLLIS T. KAYLOR
Secretary

(SEAL)

ATTACHMENT

PERMIT TO FOREIGN AIR CARRIER

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

(1) The holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

(2) The privileges granted by this permit are subject to the condition that the foreign air carrier complies with the requirements for minimum insurance coverage contained in 14 CFR 205.

(3) By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

(4) The holder shall not operate any aircraft under the authority granted by this permit, unless the holder complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention.

(5) The holder shall conform to the airworthiness and airman competency requirements prescribed by its home Government for international air service.

(6) Except as specifically authorized by the Board, all flights to/from the United States must originate or terminate in the holder's homeland.

(7) The holder shall not provide the foreign air transportation authorized by this permit unless it holds a currently effective authorization from its Government for such operations and such document is on file with the Board.

(8) The exercise of the privileges granted by this permit shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

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



Adopted by the Civil Aeronautics Board
at its office in Washington, D.C.
on the 21st day of October, 1982

Application of :
CHINA AIRLINES, LTD. : Docket 38028
for amendment of its foreign air carrier :
permit pursuant to section 402 of the :
Federal Aviation Act of 1958, as amended :

STATEMENT OF TENTATIVE FINDINGS AND CONCLUSIONS
AND ORDER TO SHOW CAUSE

APPLICATION

By application filed April 11, 1980, as amended May 12, 1980 and June 17, 1981, and noticed in the Federal Register, 1/ China Airlines, Ltd. (CAL), the airline of Taiwan, requests that its foreign air carrier permit to engage in foreign air transportation of persons, property and mail between Taiwan, via certain intermediate points, and the coterminal points Honolulu, Hawaii, San Francisco and Los Angeles, California, 2/ be amended to add New York, New York, and Seattle, Washington, as coterminal points and to broaden its intermediate points authority in the Pacific. 3/ CAL further requests that its application be processed by

1/ 45 FR 26735, April 21, 1980.

2/ CAL holds a foreign air carrier permit, issued by Order 72-6-113, which authorizes it to engage in scheduled foreign air transportation of persons, property and mail (1) between Taiwan, the intermediate points Osaka and Tokyo, Japan, and the coterminal points Honolulu and San Francisco, and (2) between Taiwan, the intermediate points Osaka and Tokyo, Japan, and Honolulu and Los Angeles. CAL also holds charter authority pursuant to Part 212.

3/ On April 11, 1980, CAL filed a contemporaneous exemption application In Docket 38027, in recognition of the new Air Transport Agreement signed March 5, 1980, requesting that it be authorized to (1) continue the authority granted in Order 72-6-113, and (2) initiate service between Taipei, Taiwan, and New York via intermediate points in the Pacific and Fairbanks, Alaska (technical stop only). By Order 80-12-117 we granted CAL an exemption to continue its foreign air transportation authority granted in Order 72-6-113 and granted its request to serve New York, but limited this authority to three all-cargo flights per week. We granted CAL's exemption authority to perform the service authorized by its outstanding permit to remove any question that CAL retained such authority under the March 5, 1980 Agreement.

sought to exploit in its applications. In Order 80-12-117 we noted, in particular, that U.S. carriers were being required to follow burdensome revenue documentation procedures and were experiencing serious difficulties obtaining the release of revenue earned in the U.S.-Taiwan market from Taiwan's Central Bank. We noted that these restrictions were inconsistent with the terms of the Agreement, including the provisions "for the prompt remittance, on demand, of U.S. carrier revenues earned in Taiwan and for equal competitive opportunities for carriers of the United States and Taiwan." 13/ In these circumstances, we deferred action on CAL's exemption application in Docket 38027 and its permit application in Docket 38028, pending efforts to resolve the remittance problem. Following an interim agreement between the AIT and CCNAA, 14/ the staff, acting under delegated authority, granted CAL a 90-day exemption permitting CAL to continue the authority granted in Order 72-6-113 and permitting it to institute its all-cargo service to New York. 15/

Further consultations between the AIT and CCNAA were held in March, 1981 and October 1981 to resolve the currency remittance problems experienced by U.S. carriers. Although the March 1981 agreement relieved U.S. carriers of certain time-consuming reporting requirements, it did not fully resolve all the problems related to the remittance issue. 16/ By Order 81-10-22 we again extended the term of CAL's exemption authority, on a limited basis, to facilitate further consultations on the remittance issue which were to be held in Taiwan during October 1981. 17/ In

13/ See, Order 80-12-117 at 2.

14/ The Central Bank agreed to remit by December 29, 1980, all U.S. airlines' revenue accumulated in Taiwan through November 1980 and, in exchange, the Board would grant CAL a 90-day exemption to institute its all-cargo service to New York beginning January 5, 1981. Procedures were also established for subsequent remittances.

15/ CAL's exemption authority first granted by Order 80-12-117 was subsequently amended by Order 81-1-25 and extended by Order 81-4-27, as amended by Orders 81-7-56, 81-10-22 and 81-12-109. On September 23, 1982, CAL filed an application requesting that its exemption granted by Order 81-12-109 be extended until May 5, 1983, or 90 days after final action on its permit amendment application at issue here, whichever occurs first. CAL stated that in accordance with its timely-filed application, it would rely on the automatic extension provisions of the Administrative Procedure Act (5 U.S.C. 558(c)) to continue its exemption operations until final action in Docket 38028.

16/ At the request of AIT, for foreign policy considerations, we extended CAL's existing exemption, sua sponte, through October 5, 1981, by Order 81-4-27, as amended by Order 81-7-56.

17/ Order 81-4-27, adopted April 3, 1981, as amended by Order 81-7-56, granted CAL exemption authority to operate up to three scheduled roundtrip all-cargo flights per week between Taiwan and New York through October 5, 1981. Order 81-10-22 extended the authority granted by Order 81-4-27 through November 5, 1981.

(2) The public interest requires that the exercise of the privileges granted by the permit should be subject to the terms, conditions, and limitations contained in the specimen permit attached to this order and to such other reasonable terms, conditions, limitations required by the public interest as may be prescribed by the Board;

(3) The proposed issuance to China Airlines, Ltd. of a foreign air carrier permit will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975 as defined in section 313.4(a)(1); 21/

(4) The public interest does not require an oral evidentiary hearing on the application; and

(5) Except to the extent granted, the application of China Airlines, Ltd. in Docket 38028 should be denied.

ACCORDINGLY,

1. We direct all interested persons to show cause why we should not (1) make final our tentative findings and conclusions, and (2) subject to the disapproval of the President pursuant to section 801(a) of the Act, issue an amended foreign air carrier permit to China Airlines, Ltd. in the specimen form attached;

2. Any interested persons objecting to the issuance of an order making final our tentative findings and conclusions and issuing the attached draft permit shall, no later than November 16, 1982, file with the Board and serve on the persons named in paragraph 6 a statement of objections specifying the part or parts of the tentative findings and conclusions objected to, together with a summary of testimony, statistical data, and concrete evidence to be relied upon in support of the objections. An oral evidentiary hearing or discovery procedures may be requested. The objector should state in detail why such a hearing or discovery is considered necessary and what material issues of decisional fact he/she would expect to establish through such hearing or discovery which cannot be established in written pleadings. The objector should consider whether discovery procedures alone would suffice to resolve material issues of decisional fact; if so, the type of procedures should be specified (see Part 302, Rules 19 and 20); if not, the reasons why not should be explained. If objections are filed, answers may be filed, but no later than November 26, 1982;

3. If timely and properly supported objections are filed, we will give further consideration to the matters and issues raised by the objections before we take further action: Provided, that we may proceed

21/ Our tentative finding is based upon the fact that CAL's expanded operations will not result in increased fuel consumption in excess of 10 million gallons per year.

SUMMARY OF APPLICATION

Homeland Country: Taiwan

Current Permit Issued By: Order 72-6-113, dated June 23, 1972

Authority Covered By Agreement: Air Transport Agreement - signed March 5, 1980 between the American Institute in Taiwan (AIT) and the Coordination Council for North American Affairs (CCNAA)

Designation: CAL's former designation under the 1946 agreement and 1969 exchange of notes remains in effect under the 1980 agreement between AIT and CCNAA. This is consistent with the May 5, 1980 letter from Mr. David Dean of AIT to Mr. Konsin C. Shah of CCNAA indicating that redesignation of the airlines of either party would not be required and such airlines shall be deemed designated by the parties.

Holds Government License For Authority Sought: Exhibit CAL-7 (Attachment VI)

Operating History: International operations since 1966; U.S. operations since 1970

Aircraft: Owned (15) Leased (1)--as of April 11, 1980

- (4) B-747's
- (5) B-707's
- (4) B-727's - (1) leased.
- (3) B-737's

Aircraft Maintenance Performed By: China Airlines, LTD.--"D" checks on B-747 aircraft performed by United Air Lines by Agreement No. 35331

Financial Indicators: as of December 31:	1978	1977
	(millions)	(millions)
Total Assets	\$346.9	\$243.1
Total Liabilities	225.6	166.1
Owners' Equity	121.3	77.0
Operating Profit for year ending 12/31	33.7	22.0

Majority Ownership By Nationals Of: Taiwan

Effective Control By Nationals Of: Taiwan

Insurance Coverage: Filed February 24, 1982; policy meets the requirements of 14 CFR 205

Insurance Refused Or Involuntarily Canceled During Last 3 Years: No

Refused Debt Financing Last 3 Years: No

SPECIMEN PERMIT

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

PERMIT TO FOREIGN AIR CARRIER
(as amended and reissued)

CHINA AIRLINES, LTD.

is authorized, subject to the provisions set forth, the provisions of the Federal Aviation Act of 1958, as amended, and the orders, rules and regulations of the Board to engage in foreign air transportation of persons, property and mail, as follows:

Between the coterminal points Taipei and Kaohsiung, Taiwan; intermediate points in the Pacific; and the coterminal points Guam; Honolulu, Hawaii; Los Angeles and San Francisco, California; Seattle, Washington; and New York, New York.

The holder shall be authorized to engage in charter trips in foreign air transportation subject to the terms, conditions, and limitations prescribed by the Board's Regulations governing charters.

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

1. In serving this route, the holder may make technical stops at Fairbanks and Anchorage, Alaska, but may not take on or discharge any traffic in Alaska.
2. The holder shall not provide foreign air transportation authorized by this permit unless it holds a currently effective authorization from the Coordination Council for North American Affairs.
3. This permit shall be subject to all applicable provisions of any agreement affecting international air transportation now in effect that may become effective during the period this permit remains in effect, to which the American Institute in Taiwan and the Coordination Council for North American Affairs shall be parties.

This permit shall be effective on . Unless otherwise terminated at an earlier date pursuant to the terms of any applicable agreement, this permit shall terminate (1) upon the effective date of any agreement or amendment which shall have the effect of eliminating the route authorized by this permit from the routes which may be operated by airlines designated by the Coordination Council for North American Affairs (CCNAA), in the event of the elimination of any part of the authorized route), or (2) upon the effective date of any permit granted by the Board to any other

ATTACHMENT

PERMIT TO FOREIGN AIR CARRIER

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

(1) The holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

(2) The privileges granted by this permit are subject to the condition that the foreign air carrier complies with the requirements for minimum insurance coverage contained in 14 CFR 205.

(3) By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

(4) The holder shall not operate any aircraft under the authority granted by this permit, unless the holder complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention.

(5) The holder shall conform to the airworthiness and airman competency requirements prescribed by its home Government for international air service.

(6) Except as specifically authorized by the Board, all flights to/from the United States must originate or terminate in the holder's homeland.

(7) The holder shall not provide the foreign air transportation authorized by this permit unless it holds a currently effective authorization from its Government for such operations and such document is on file with the Board.

(8) The exercise of the privileges granted by this permit shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

* * * *

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

Adopted by the Civil Aeronautics Board
at its office in Washington, D.C.
on the 25th day of October, 1982

-----	:	
Applications of	:	
	:	
PHILIPPINE AIRLINES, INC.	:	Dockets 29608
	:	39991
for amendment of its foreign air carrier	:	
permit pursuant to section 402 of the	:	
Federal Aviation Act of 1958, as amended	:	
-----	:	

ORDER ISSUING FOREIGN AIR CARRIER PERMIT

On August 4, 1976, Philippine Airlines, Inc. (PAL) filed an application amended foreign air carrier permit to provide service between the Philippine the intermediate points Guam and Honolulu and the coterminal points San Francisco and Los Angeles. 1/

By application filed September 4, 1981, and noticed in the Federal Register, 2/ PAL requests an amendment to its foreign air carrier permit to provide foreign air transportation over the following routes: 3/

1. Between a point or points in the Philippines and Palau (Belau), Trust Territory of the Pacific Islands; Saipan, Commonwealth of the Northern Marianas; and Guam.
2. Between a point or points in the Philippines; via intermediate points; and Guam; Honolulu, Hawaii; San Francisco, California; Los Angeles, California; Chicago, Illinois; New York, New York; Dallas, Texas; Houston, Texas; Seattle, Washington; and beyond to Canada; Mexico; and Brazil.
3. Between a point or points in the Philippines; via intermediate points; and Guam; Honolulu, Hawaii; San Francisco, California; Los Angeles, California; Chicago, Illinois; New York, New York; Dallas, Texas; Houston, Texas; Seattle, Washington; and beyond (property and mail only).

1/ No action was taken in Docket 29608 pending a new aviation agreement with the Government of the Philippines. Since the application in Docket 39991 supersedes the application in Docket 29608, we will dismiss the latter as moot.
2/ 46 FR 45658, September 14, 1981. PAL amended this application on September 1981 to correct two errors in its evidentiary material.

3/ PAL holds a foreign air carrier permit (issued by Order E-17953, effective January 22, 1962) which authorizes the carriage of persons, property and mail between the Philippines and San Francisco via Honolulu.

We have thoroughly reviewed the record including the application, which is summarized in Appendix A, and have decided to grant the application using the simplified Subpart Q procedures. 4/ The public was informed of the carrier's application by notices in the Federal Register and the Board's weekly list of applications filed, describing the authority sought and giving interested persons an opportunity to submit evidence and objections to the award of the authority. These notices provided the required notice and filing opportunities. Simplified procedures are appropriate in this case because the authority conferred merely amends and/or renews authority previously granted by the Board and is not of a controversial nature. The applicant's fitness is established and unchallenged, and no answers have been filed to the application or to the Federal Register notice.

On September 16, 1982, the United States and the Philippines ratified a new Air Transport Agreement. 5/ The authority sought is consistent with this bilateral Agreement. The Philippine Government has designated PAL to operate services over the agreed routes. By Order 80-12-61, dated December 11, 1980, PAL was granted an exemption to operate between Manila and Los Angeles, via Honolulu.

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

1. The applicant is qualified and has been designated by its government to perform the air services in the attached foreign air carrier permit;
2. The applicant is fit, willing, and able properly to perform the foreign air transportation described in the attached permit and to conform to the provisions of the Act, and rules, regulations and requirements of the Board;
3. The applicant is substantially owned and effectively controlled by nationals of its homeland country;

4/ 14 CFR 302.1701 et seq. Under Rule 29(b) the Board may, in its discretion, omit a tentative decision in proceedings under Subpart Q and proceed directly to a final decision, after provision of an opportunity for interested parties to submit evidence and to object to grant of authority under section 402 of the Act.

5/ On October 3, 1980, the United States and the Philippines initialed, ad referendum, a Memorandum of Understanding and a new Air Transport Agreement.

4. Issuance of this foreign air carrier permit will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 19 as defined in section 313.4(a)(1) of the Board's Regulations; 6/ and

5. The public interest does not require an oral evidentiary hearing on the application.

ACCORDINGLY,

1. We amend in the form attached the foreign air carrier permit issued Philippine Airlines by Order E-17953;

2. In exercising the authority granted in Routes 2 and 3 of the attach permit, the unspecified additional coterminal points in the United States and unspecified foreign countries that Philippine Airlines may serve shall be limited to the following, unless and until amended by subsequent Board order: 7/

Route 2: United States Points - Chicago, Illinois; New York, New York; Dallas, Texas; Houston, Texas; and Seattle, Washington; Countries - Canada; Mexico; and Brazil.

Route 3: United States Points - Chicago, Illinois; New York, New York; Dallas, Texas; Houston, Texas; and Seattle, Washington.

3. Philippine Airlines shall file an application with the Board to amend the U.S. points and foreign countries authorized in ordering paragraph 2, and such application shall be filed no less than 30 days prior to the inauguration of services to newly selected U.S. points or foreign countries;

4. We grant to the Director, Bureau of International Aviation, delegated authority to issue an order which amends paragraph 2 of this order; Provided that the Government of the Philippines amends its selection of United States points or foreign countries in accordance with the provisions of the United States-Philippines Air Transport Agreement, and Philippine Airlines files an application in accordance with paragraph 3 of this order;

5. The public interest requires that the exercise of the privileges granted by the permit should be subject to the terms, conditions, and limitations contained in the permit attached to this order, and to such other reasonable terms, conditions and limitations required by the public interest as may be prescribed by the Board;

6/ Our finding is based upon the fact that amendment and/or renewal of the applicant's permit will not result in a near term annual increase in fuel consumption in excess of 10 million gallons.

7/ The U.S. points and foreign countries listed have been selected by the Government of the Philippines, and it has designated PAL to serve them. In accordance with the provisions of the United States-Philippines Air Transport Agreement, the Government of the Philippines may make changes to the U.S. points or foreign countries by giving, respectively, 60 days or 180 days prior notice to the United States Government.

6. Except to the extent granted, the application in Docket 39991 is denied;

7. We dismiss as moot the application of Philippine Airlines in Docket 29608;

8. The Secretary of the Board shall sign the permit on our behalf and shall affix the seal of the Board;

9. We shall serve this order on the applicant, the Ambassador of the applicant's home country in Washington, D.C., and the Departments of State and Transportation; and

10. Unless disapproved by the President of the United States under section 801(a) of the Act, this order and the attached permit shall become effective on the 61st day after its submission to the President, 8/ or upon the date of receipt of advice from the President that he does not intend to disapprove the Board's order under that section, whichever is earlier.

PHYLLIS T. KAYLOR
Secretary

(SEAL)

All Members concurred.

~~8/~~ This order was submitted to the President on OCT 28 1982
The 61st day is DEC 28 1982

SUMMARY OF APPLICATION

Homeland Country: Republic Of The Philippines

Authority Covered By Bilateral Agreement: U.S.-Philippines Air
Transport Agreement, dated September 16, 1982.

Designated By Its Government: By Diplomatic Note dated October 28,
1980.

Holds Government License For Authority Sought: Exhibits 6 and 9, Docket
39991.

Operating History: Incorporated February 25, 1941; Operated to the
United States since 1962.

Aircraft: Owned (O) and Leased (L): 4 B-747(L); 2 DC-10(O); 1 DC-10(L);
1 A-300(O); 1 A-300(L); 1 DC-8(O); 6 DC-8(L); 4 BAC 1-11(O);
8 BAC-1-11(L); 2 B-727(L); 9 YS-11(O); 7 HS-748(O); 4 DC-3(O);
1 Argosy (O).

Aircraft Maintenance Performed By: Philippine Airlines at Manila
International Airport and United Airlines at San Francisco.

Engine Maintenance And Overhaul By: Philippine Airlines at Manila
International Airport and United Airlines at San Francisco.

Financial Indicators-- as of: December 31, 1978 December 31, 1979

\$ U.S.=7.415 Pesos	(Millions)	(Millions)
Total Assets	\$235	\$440
Total Liabilities	184	354
Owners' Equity	51	86
Net Income-12 mos. ended	1.4	1.7

Majority Ownership By Nationals Of: Philippine Government holds 98.1
percent of the stock.

Effective Control By Nationals Of: Philippine Government controlled.

Insurance Coverage: Meets requirements, Exhibit 8, Docket 39991.

Insurance Refused Or Involuntarily Canceled During Last 3 Years: No

Refused Debt Financing Last 3 Years: No

Defaulted On Transportation Commitments Last 3 Years: No.

Failed to Meet Current Financial Obligations Last 3 Years: No

Safety Violations During Last 5 Years: On 3 occasions, flights did not
follow ATC path.

Tariff Violations During Last 5 Years: No.

APPENDIX A
Page 2 of 2

Subscribes to Standard Permit Conditions Regarding Insurance and Annex 6 of
Chicago Convention and CAB Agreement 18900: Yes.

Near-Term Annual Fuel Consumption Exceeds 10 Million Gallons: No.

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

PERMIT TO FOREIGN AIR CARRIER
(as amended)

PHILIPPINE AIRLINES, INC.

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

1. Between a point or points in the Philippines and the coterminal points Palau (Belau), Trust Territory of the Pacific Islands; Saipan, Commonwealth of the Northern Marianas; and Guam.
2. Between a point or points in the Philippines; via intermediate and the coterminal points Guam; Honolulu, Hawaii; San Francisco California; Los Angeles, California; and five additional coterminal points in the United States; and beyond to three countries. 1/
3. Between a point or points in the Philippines; via intermediate points; and the coterminal points Guam; Honolulu, Hawaii; San Francisco, California; Los Angeles, California; and five additional coterminal points in the United States; and beyond. 1/

The holder shall be authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations prescribed by the Board's Regulations governing charters.

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

1. The exercise of authority granted in Routes 1 and 2 shall be limited to foreign air transportation of persons, property and mail.
2. The exercise of authority granted in Route 3 shall be limited to foreign air transportation of property and mail.
3. This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and the Republic of the Philippines shall be parties.

1/ The unspecified additional coterminal points in the United States and the three foreign countries must be selected by the Government of the Philippines in accordance with the procedures set forth in the United States-Philippines Air Transport Agreement and in the order issuing this permit.

This permit shall be effective on . Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the effective date of any treaty, convention or agreement or amendment, which shall have the effect of eliminating the route or routes authorized by this permit from the routes which may be operated by airlines designated by the government of the Republic of the Philippines (or in the event of the elimination of any part of the authorized route or routes, the authority granted shall terminate to the extent of such elimination), or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of the Republic of the Philippines in lieu of the holder, or (3) upon the termination or expiration of the Air Transport Agreement between the Government of the United States of America and the Government of the Republic of the Philippines, dated September 16, 1982; However, clause (3) of this paragraph shall not apply if, prior to occurrence of the event specified in clause (3), the operation of the foreign air transportation authorized becomes the subject of any treaty, convention, or agreement to which the United States of America and the Government of the Republic of Philippines are or shall become parties.

The Civil Aeronautics Board, through its Secretary, has executed this permit and affixed its seal on October 25, 1982.

PHYLLIS T. KAYLOR
Secretary

(SEAL)

PERMIT TO FOREIGN AIR CARRIER

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

(1) The holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

(2) The privileges granted by this permit are subject to the condition that the holder comply with the requirements for minimum insurance coverage contained in 14 CFR 205.

(3) By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

(4) The holder shall not operate any aircraft under the authority granted by this permit, unless the holder complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention.

(5) The holder shall conform to the airworthiness and airman competency requirements prescribed by its home Government for international air service.

(6) Except as specifically authorized by the Board, all flights to/from the United States or its territories or possessions must originate or terminate in the holder's homeland.

(7) The holder shall not provide the foreign air transportation authorized by this permit unless it holds a currently effective authorization from its Government for such operations and such document is on file with the Board.

(8) The exercise of the privileges granted by this permit shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

* * * *