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**Folder Title:** JGR/DOT (Department of Transportation)  
International Aviation Decisions (7 of 10)  
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THE WHITE HOUSE

WASHINGTON

January 22, 1986

MEMORANDUM FOR DAVID L. CHEW  
STAFF SECRETARY

FROM: JOHN G. ROBERTS   
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: DOT International Aviation Decision:  
People Express Airlines

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

# WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

O - OUTGOING

H - INTERNAL

I - INCOMING

Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: Blue Chew

MI Mail Report

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

Subject: DOT International Aviation Division;  
People Express 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
<u>CUHOLL</u>	<u>ORIGINATOR</u>	<u>86.01.22</u>		<u>1 1</u>
	Referral Note:			
<u>CUAT 18</u>	<u>R</u>	<u>86.01.22</u>	<u>5</u>	<u>86.01.27</u>
	Referral Note:			
		<u>1 1</u>		<u>1 1</u>
	Referral Note:			
		<u>1 1</u>		<u>1 1</u>
	Referral Note:			
		<u>1 1</u>		<u>1 1</u>
	Referral Note:			

#### ACTION CODES:

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

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

#### DISPOSITION CODES:

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

#### FOR OUTGOING CORRESPONDENCE:

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

### Comments:

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

# WHITE HOUSE STAFFING MEMORANDUM

DATE: 1/22/86 ACTION/CONCURRENCE/COMMENT DUE BY: 1/27/86

SUBJECT: DOT INTERNATIONAL AVIATION DECISION: PEOPLE EXPRESS AIRLINES

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

REMARKS: Please provide any comments or recommendations by Monday, January 27. Thank you.

RESPONSE:

*file w/  
aviation  
division*

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

February 7, 1986

EXECUTIVE ORDER

- - - - -

ESTABLISHING PROCEDURES FOR FACILITATING  
PRESIDENTIAL REVIEW OF INTERNATIONAL AVIATION DECISIONS  
SUBMITTED BY THE DEPARTMENT OF TRANSPORTATION

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

Section 1. (a) Except as otherwise provided in this section, decisions of the Department of Transportation (hereinafter referred to as the "DOT") transmitted to the President pursuant to Section 801 of the Federal Aviation Act, as amended, may be made available by the DOT for public inspection and copying following submission to the President.

(b) In the interests of national security, and in order to allow for consideration of appropriate action under Executive Order No. 12356, decisions of the DOT transmitted to the President under Section 801 shall be withheld from public disclosure for a period not to exceed five days after submission to the President.

(c) At the same time that decisions of the DOT are submitted to the President pursuant to Section 801, the DOT shall transmit copies thereof to the Secretary of State, the Secretary of Defense, the Secretary of the Treasury, the Attorney General, the Assistant to the President for National Security Affairs, the Director of the Office of Management and Budget and any other Executive department or agency that the DOT deems appropriate.

(d) The Secretary of State and the Secretary of Defense, or their designees, shall review the decisions of the DOT transmitted pursuant to subsection (c) above, and shall promptly advise the Assistant to the President for National Security Affairs or his designee, whether action pursuant to Executive Order No. 12356 is deemed appropriate. If, after considering these recommendations, the Assistant to the President for National Security Affairs determines that classification under Executive Order No. 12356 is appropriate, he shall take such action and immediately so inform the DOT. Action pursuant to this subsection shall be completed by the persons designated herein within five days of receipt of the decision by the President.

(e) On and after the sixth day following receipt by the President of a DOT decision submitted pursuant to Section 801, or upon earlier notification by the Assistant to the President

more

(OVER)

for National Security Affairs or his designee, the DOT is authorized to disclose all unclassified portions of the text of such decision. Nothing in this section is intended to affect the ability to withhold material under any Executive Order or statute other than Section 801.

Sec. 2. (a) Departments and agencies outside of the Executive Office of the President shall raise only matters of national defense or foreign relations in the course of the Presidential review established by this Order. All other matters, including those related to regulatory policy, shall be presented to the DOT in accordance with the procedures of the DOT.

(b) Departments and agencies outside of the Executive Office of the President that identify matters of national defense or foreign relations while a decision is pending before the DOT shall, except as confidentiality is required for reasons of defense or foreign policy, make those matters known to the DOT in the course of its proceedings.

Sec. 3. (a) After transmitting a decision under Section 801 to the President for review, the DOT shall obtain the recommendations, addressed to the President, of the departments and agencies referred to in section 1(c) of this Order.

(b) Departments or agencies outside of the Executive Office of the President making recommendations on matters of national defense or foreign relations with respect to any decision submitted by the DOT to the President under Section 801 shall submit their recommendations in writing to the DOT: (1) within four days of the DOT's issuance of a decision subject to a 10-day statutory review period under Section 801(b); and (2) within twenty-one days of the DOT's issuance of a decision subject to a 60-day statutory review period under Section 801(a), or in exceptional cases, within the period specified by the DOT in its letter of transmittal.

(c) The DOT shall, as soon as practical after the deadlines specified in section 3(b) of this Order: (1) if no recommendations are received from the departments and agencies specified in section 1(c) of this Order, transmit to the President, through the Assistant to the President for National Security Affairs, a memorandum stating that no department or agency advises disapproval of the decision; or (2) if recommendations are received, transmit them to the Assistant to the President for National Security Affairs, who upon review, shall transmit a memorandum to the President with a recommendation as to whether or not the President should disapprove the proposed decision.

Sec. 4. (a) In advising the President with respect to his review of a decision submitted to him pursuant to Section 801, departments and agencies outside of the Executive Office of the President shall identify with particularity the defense or foreign policy implications of the DOT decision which are deemed appropriate for the President's consideration.

(b) If any department or agency which made recommendations to the President pursuant to Section 801 believes that, if the President decides not to disapprove a decision, the letter so advising the DOT should include a statement that the decision not to disapprove was based on national defense or foreign relations reasons, it should so indicate separately and explain why.

Sec. 5. Individuals within the Executive Office of the President shall follow a policy of: (a) refusing to discuss matters relating to the disposition of a case subject to the review of the President under Section 801 with any interested private party, or an attorney or agent for any such party, prior to the President's decision; and (b) referring any written communication from an interested private party, or an attorney or agent for any such party, to the appropriate department or agency outside of the Executive Office of the President. Exceptions to this policy may be made only when the head of an appropriate department or agency outside of the Executive Office of the President personally finds, on a nondelegable basis, that direct written or oral communication between a private party and a person within the Executive Office of the President is needed for reasons of defense or foreign policy.

Sec. 6. Departments and agencies outside of the Executive Office of the President which regularly make recommendations to the President in connection with the Presidential review pursuant to Section 801 shall, consistent with application law, including the provisions of Chapter 5 of Title 5 of the United States Code:

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

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

Sec. 7. This Order is intended solely for the internal guidance of the departments and agencies in order to facilitate the Presidential review process. This Order does not confer rights on any private parties.

Sec. 8. (a) None of the time deadlines specified in this Order shall be construed as a limitation on expedited Presidential review of any decision submitted under Section 801.

(b) Executive Order No. 11920 of June 10, 1976, is revoked.

(c) The provisions of this Order shall become effective 30 days after its publication in the Federal Register.

RONALD REAGAN

THE WHITE HOUSE,  
February 6, 1986.

# # # # #

THE WHITE HOUSE

WASHINGTON

February 10, 1986

MEMORANDUM FOR DAVID L. CHEW  
STAFF SECRETARY

FROM: JOHN G. ROBERTS *JGR*  
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: DOT International Aviation Decision:  
Suspension of Operations Between  
the U.S. and Libya

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



## WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

- O - OUTGOING
- H - INTERNAL
- I - INCOMING  
Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: David Chew

MI Mail Report      User Codes: (A) \_\_\_\_\_ (B) \_\_\_\_\_ (C) \_\_\_\_\_

Subject: DOT International Aviation Decision - suspension of operations between the U.S. & Libya

ROUTE TO:	ACTION	DISPOSITION		
Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response Code	Completion Date YY/MM/DD
<u>CUTROLL</u>	ORIGINATOR	<u>8/10/07</u>		<u>1 1</u>
<u>Mat 18</u>	R	<u>8/10/07</u>		<u>5 8/10/10</u>
	Referral Note:			<u>11/30</u>
		<u>1 1</u>		<u>1 1</u>
	Referral Note:			
		<u>1 1</u>		<u>1 1</u>
	Referral Note:			
		<u>1 1</u>		<u>1 1</u>
	Referral Note:			

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  - S - For Signature
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- A - Answered
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**FOR OUTGOING CORRESPONDENCE:**  
 Type of Response = Initials of Signer  
 Code = "A"  
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Comments: \_\_\_\_\_

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 Send all routing updates to Central Reference (Room 75, OEOP).  
 Always return completed correspondence record to Central Files.  
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## WHITE HOUSE STAFFING MEMORANDUM

DATE: 2/7/86 ACTION/CONCURRENCE/COMMENT DUE BY: 11:30 a.m. 2/10

SUBJECT: DOT INTERNATIONAL AVIATION DECISION: SUSPENSION OF OPERATIONS  
BETWEEN THE UNITED STATES AND LIBYA

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

**REMARKS:**

Please provide any comments/recommendations on the attached directly to my office by 11:00 a.m. Monday, February 10th.  
 Thank you.

**RESPONSE:**



THE SECRETARY OF TRANSPORTATION  
WASHINGTON, D.C. 20590

JAN 30 1986

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

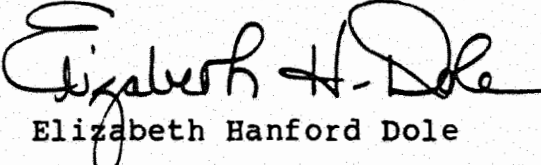
Dear Mr. President:

I transmit the Department's proposed order regarding the suspension of operations between the United States and Libya, Docket 43711, for your consideration under section 801(a) of the Federal Aviation Act of 1958, as amended by the Airline Deregulation Act of 1978. The order is in furtherance of your Executive Order 12543 and will, unless you disapprove it within 60 days of this transmittal, amend all certificates of public convenience and necessity and all foreign air carrier permits to prohibit certain aviation-related transactions.

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

I am submitting the proposed decision to you before publication under the provisions of section 801(a) of the Federal Aviation Act of 1958. In accordance with Executive Order 11920, however, we plan to release all unclassified portions of the decision on or after the sixth day following this transmittal unless notified to the contrary by your Assistant for National Security Affairs.

Respectfully yours,

  
Elizabeth Hanford Dole

Enclosures



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

ACTION

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Department of Transportation International  
Aviation Decision:

Suspension of Operations Between  
the United States and Libya  
Docket 43711  
Date due: March 30, 1986

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

- Amend all United States air carrier certificates and foreign air carrier permits to prohibit transactions relating to transportation between the United States and Libya. This is consistent with Executive Order 12543 which determined that a national emergency exists and that the policies and actions of the Government of Libya constitute an unusual and extraordinary threat to the national security and foreign policy of the United States.

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

Joseph R. Wright, Jr.

Joseph R. Wright, Jr.  
Deputy Director

Attachments:

DOT letter of transmittal  
DOT order  
Letter to the Secretary

Options and Implementation Actions:

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

THE WHITE HOUSE

WASHINGTON

Dear Madam Secretary:

I have reviewed the order proposed by the Department of Transportation in the following case:

Suspension of Operations Between  
the United States and Libya  
Docket 43711

I have decided not to disapprove the proposed order.

Sincerely,

The Honorable Elizabeth Dole  
Secretary of Transportation  
Washington, D.C. 20590

**FOR OFFICIAL USE ONLY**

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

Issued by the Department of Transportation  
on the 30th day of January, 1986

In re:

SUSPENSION OF OPERATIONS BETWEEN  
THE UNITED STATES AND LIBYA

Docket 43711

**FINAL ORDER**

By Order 86-1-15, the Department invited interested persons to show cause why the certificates, exemptions and permits held by U.S. and foreign air carriers should not be amended to add conditions designed to prohibit transactions relating to transportation between the U.S. and Libya. The Department's order was issued to carry out Executive Order 12543 which determined that a national emergency exists and that the policies and actions of the Government of Libya constitute an unusual and extraordinary threat to the national security and foreign policy of the United States.

Specifically, we proposed to add the following conditions to all U.S. air carrier certificates, all section 402 permits held by foreign air carriers, and all exemptions held by U.S. and foreign air carriers:

Effective February 1, 1986, and until further order of the Department, the holder and its agents:

- (a) shall not sell in the United States any transportation by air which includes a stop in Libya; and
- (b) may not engage in foreign air transportation to or from the United States with any aircraft of Libyan registry.

**FOR OFFICIAL USE ONLY**

We also proposed to add the following condition to the certificate and exemption authority of all U.S. carriers:

Effective immediately, and until further order of the Department, the holder and its agents may not engage in any transaction relating to transportation to or from Libya which will take place on or after February 1, 1986.

The order directed that comments in response to the order be filed with the Department no later than 5:00 p.m., January 13, 1986. In addition, the order provided that, in the event no comments were filed, all further procedural steps would be deemed waived, and the Department would enter an order which would make final the Department's tentative decision, subject to the disapproval of the President pursuant to section 801(a) of the Act.

Since no comments were filed in response to Order 86-1-15, we will make final the tentative findings and conclusions of that order. In addition, we have decided to add a condition which, in our view, is required by the public interest and is necessary to carry out the President's intent.<sup>1</sup> We will add the following condition to the permits and exemptions held by foreign air carriers:

Effective immediately, and until further order of the Department, the holder and its agents may not engage in any transaction in the United States relating to transportation to or from Libya which will take place on or after February 1, 1986.

We will also modify that portion of Order 86-1-15 which precluded the filing of petitions for reconsideration, since interested persons had been afforded an opportunity for comment in response to the show-cause order. Instead, we will entertain properly-filed petitions for reconsideration of this order.<sup>2</sup>

The following illustrative list of prohibited activities is provided for the guidance of carriers:

- ° Effective immediately upon the issuance of this order, U.S. air carriers are prohibited from selling any transportation to or from Libya anywhere in the world, unless such transportation is to be performed before February 1, 1986.

1/ Section 1(c) of Executive Order 12543 prohibits any "U.S. person" from engaging in any transaction relating to transportation to or from Libya. Cf. section 1(g). A U.S. person is defined elsewhere as "any person in the United States". Accordingly, the Executive Order by its terms prohibits a foreign air carrier from engaging in a transaction in the United States relating to transportation to or from Libya. See also, 31 C.F.R. sections 550.203, 550.207, 550.306 and 550.308 (1986).

2/ Because of the need for immediate action, we will deny Alitalia's request filed January 14, 1986 for an extension of time for the filing of responses to our show-cause order. However, Alitalia may file any comments it may wish to make in the form of a petition for reconsideration of this order.



- ° Similarly, foreign air carriers are prohibited from engaging in any transaction in the United States which relates to transportation to or from Libya, unless such transportation is to be performed before February 1, 1986.
- ° The prohibition against selling transportation precludes carriers from taking reservations, or issuing or reissuing tickets or airwaybills for U.S.-Libya transportation in the United States even though the transportation is to be performed outside the United States.
- ° The prohibition against engaging in transactions relating to transportation to or from Libya means that a carrier may not alter or honor a ticket having Libya in the itinerary. For U.S. carriers, this prohibition is worldwide. For foreign carriers, this prohibition applies only to transactions in the United States.

Carriers are permitted to cancel reservations and to refund tickets for U.S.-Libya transportation. Finally, as we stated in the show-cause order, prior to February 1, it will be the exclusive responsibility of passengers to ensure that their travel between the United States and Libya complies with the restrictions imposed by the Executive Order.

ACCORDINGLY:

1. We amend all certificates issued under section 401 of the Federal Aviation Act, all permits issued under section 402, and all exemptions from sections 401 or 402 to add the following conditions:

Effective February 1, 1986, and until further order of the Department, the holder and its agents:

- (a) shall not sell in the United States any transportation by air which includes a stop in Libya; and
- (b) may not engage in foreign air transportation to or from the United States with any aircraft of Libyan registry.

2. We amend all certificates issued under section 401 of the Federal Aviation Act, and all exemptions from section 401 to add the following condition:

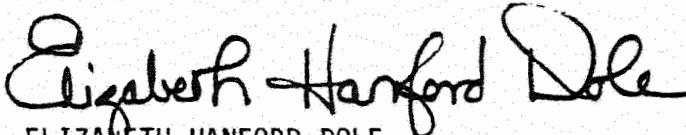
Effective immediately, and until further order of the Department, the holder and its agents may not engage in any transaction relating to transportation to or from Libya which will take place on or after February 1, 1986.

3. We amend all permits issued under section 402, and all exemptions from section 402 to add the following condition:

Effective immediately, and until further order of the Department, the holder and its agents may not engage in any transaction in the United States relating to transportation to or from Libya which will take place on or after February 1, 1986.

4. We deny Alitalia's request filed January 14, 1986 for an extension of time;
5. Unless disapproved by the President of the United States under section 801(a) of the Act, this order shall be come effective on the 61st day after its submission to the President,<sup>3</sup> or upon the date of receipt of advice from the President that he does not intend to disapprove the Department's order under that section, whichever is earlier; and
6. We shall serve a copy of this order upon all U.S. and foreign air carriers holding certificates of public convenience and necessity, foreign air carrier permits, or exemption authority, the Ambassador of the United Arab Emirates in Washington, D.C. and the United States Department of State.

By:

  
ELIZABETH HANFORD DOLE  
Secretary of Transportation

(SEAL)

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3/ This order was submitted to the President on January 30, 1986.

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

**SERVED JAN 9 1986**

Issued by the Department of Transportation  
on the 8th day of January, 1986

In re:

SUSPENSION OF OPERATIONS BETWEEN  
THE UNITED STATES AND LIBYA

Docket 43711

ORDER TO SHOW CAUSE

By Executive Order 12543, the President has determined, that a national emergency exists and that the policies and actions of the Government of Libya constitute an unusual and extraordinary threat to the national security and foreign policy of the United States. Accordingly, he has ordered that certain economic sanctions be imposed against Libya, including a suspension of aviation relations. Effective February 1, 1986, the President has prohibited, among other things, the following:

- (a) any transactions by a U.S. person relating to transportation to or from Libya;
- (b) the provision of transportation to or from the United States by any Libyan person, or any vessel or aircraft of Libyan registration; and
- (c) sale in the United States by any person holding authority under the Federal Aviation Act of any transportation by air which includes a stop in Libya.

In addition, effective immediately, the President has prohibited any transaction by a U.S. person relating to travel by any U.S. citizen or permanent resident alien to Libya, except for purposes permitted by the Executive Order, which include travel for the purpose of effecting the departure of a U.S. citizen from Libya.

The Executive Order will be published in the Federal Register.

In light of the President's actions, and of his finding that Libya's policies constitute a threat to the security and safety of international civil aviation, we find that the public interest requires the prohibition of all air service and all aviation-related transactions between the United States and Libya.

We therefore propose to add the following conditions to all U.S. air carrier certificates, all section 402 permits held by foreign air carriers, and all exemptions held by U.S. and foreign air carriers:

Effective February 1, 1986, and until further order of the Department, the holder and its agents:

- (a) shall not sell in the United States any transportation by air which includes a stop in Libya; and
- (b) may not engage in foreign air transportation to or from the United States with any aircraft of Libyan registry.

In addition, we propose to add the following condition to the certificate and exemption authority of all U.S. carriers:

Effective immediately, and until further order of the Department, the holder and its agents may not engage in any transaction relating to transportation to or from Libya which will take place on or after February 1, 1986.

Our proposed action is designed to prohibit transactions relating to transportation between the United States and Libya to the greatest extent possible. It would prohibit any carrier from engaging in air transportation between the United States and Libya using aircraft of Libyan registry. It would prohibit the sale in the United States of any ticket, or the issuance in the United States of any airwaybill, which includes a stop in Libya, regardless of whether the flight in question serves the United States. These prohibitions take effect February 1, 1986.

Effective immediately upon the finalization of this order, U.S. air carriers would be prohibited from selling any transportation to or from Libya anywhere in the world, unless such transportation is to be performed before February 1, 1986. For travel occurring before that date, it will be the exclusive responsibility of passengers to ensure that such travel complies with the restrictions imposed by the Executive Order.

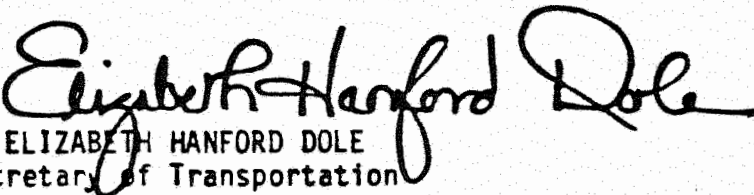
We appreciate that this action could create hardships for travellers and shippers and could deprive carriers and their agents of revenues. Nevertheless, the safety of international civil aviation and our national security overrides these considerations.

Under section 401(g)(1) of the Act, the Department may alter, amend, modify or suspend any certificate if required by the public convenience and necessity. Section 401(e)(1) provides that the Department shall attach to the privileges granted by the certificates "such reasonable terms, conditions, and limitations as the public interest may require." Section 402 of the Act provides that the permits of foreign air carriers may be conditioned, amended or suspended if the Department determines that such an action would be in the public interest. In view of the national security and safety problems described above, we find that our action is required by both the public interest and the public convenience and necessity.

ACCORDINGLY:

1. We direct all interested persons to show cause why the tentative decision set forth above should not be made final;
2. Comments in response to this order shall be filed with the Department no later than 5:00 p.m., Monday, January 13, 1986, and served on the persons named in paragraph 4;
3. In the event no comments are filed, all further procedural steps shall be deemed waived, and the Department shall enter an order, subject to the disapproval of the President pursuant to section 801(a) of the Act, which shall make final our tentative findings and conclusions set forth in this order;<sup>1</sup> and
4. We shall serve a copy of this order upon all U.S. and foreign air carriers holding certificates of public convenience and necessity, foreign air carrier permits, or exemption authority, the Ambassador of the United Arab Emirates in Washington, D.C. and the United States Department of State.

By:

  
ELIZABETH HANFORD DOLE  
Secretary of Transportation

(SEAL)

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<sup>1/</sup> Since provision is made for the filing of comments to this order, petitions for reconsideration will not be entertained.

THE WHITE HOUSE

WASHINGTON

February 18, 1986

MEMORANDUM FOR DAVID L. CHEW  
STAFF SECRETARY

FROM: JOHN G. ROBERTS   
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: DOT International Aviation Decision:  
Certain Domestic Air Carriers

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

## WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

O - OUTGOING

H - INTERNAL

I - INCOMING

Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: Walt Chew

MI Mail Report

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

Subject: DOT International Aviation Decision  
Certain Domestic Air Carriers

**ROUTE TO:**

**ACTION**

**DISPOSITION**

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>CUHOLL</u>	<u>ORIGINATOR</u>	<u>86102114</u>			<u>1 1</u>
	Referral Note:				
<u>CUAT 18</u>	<u>B</u>	<u>86102114</u>		<u>S</u>	<u>86102119</u>
	Referral Note:				
		<u>1 1</u>			<u>1 1</u>
	Referral Note:				
		<u>1 1</u>			<u>1 1</u>
	Referral Note:				
		<u>1 1</u>			<u>1 1</u>
	Referral Note:				

**ACTION CODES:**

- A - Appropriate Action
- C - Comment/Recommendation
- D - Draft Response
- F - Furnish Fact Sheet to be used as Enclosure
- I - Info Copy Only/No Action Necessary
- R - Direct Reply w/Copy
- S - For Signature
- X - Interim Reply

**DISPOSITION CODES:**

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

**FOR OUTGOING CORRESPONDENCE:**

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

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

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

## WHITE HOUSE STAFFING MEMORANDUM

DATE: 2/14/86 ACTION/CONCURRENCE/COMMENT DUE BY: February 19th

SUBJECT: DOT INTERNATIONAL AVIATION DECISION: CERTAIN DOMESTIC AIR CARRIERS

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

REMARKS: Please give your recommendations to my office by Wednesday, February 19th. Thanks.

RESPONSE:





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

ACTION

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Department of Transportation International  
Aviation Decision:

Certain Domestic Air Carriers  
Docket 43600  
Date due: March 8, 1986

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

- Revoke the certificates issued to certain domestic carriers for failure to meet DOT insurance, reporting, and fitness requirements. None of the affected carriers objected to the proposed order.

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

The Office of Management and Budget (OMB) recommends that you approve DOT's decision by signing the attached letter to the Secretary which indicates that you do not intend to disapprove DOT's order within the 60 days allowed by statute for your review. Also, OMB recommends that you state in your letter that no national defense or foreign policy reason underlies your action. This will preserve whatever opportunity is available under the statute for judicial review.

Joseph R. Wright, Jr.

Joseph R. Wright, Jr.  
Deputy Director

Attachments:

DOT letter of transmittal  
DOT order  
Letter to the Secretary

Options and Implementation Actions:

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

THE WHITE HOUSE

WASHINGTON

Dear Madam Secretary:

I have reviewed the order proposed by the Department of Transportation in the following case:

Certain Domestic Air Carriers  
Docket 43600

I have decided not to disapprove the proposed order. No foreign relations or national defense reason underlies my action.

Sincerely,

The Honorable Elizabeth Dole  
Secretary of Transportation  
Washington, D.C. 20590



U.S. Department of  
Transportation

Office of the Secretary  
of Transportation

**FOR OFFICIAL USE ONLY**

Office of Assistant Secretary

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

**JAN 7 1986**

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

Dear Mr. President:

I transmit the Department's proposed order in the matter of the revocation of the foreign certificates of Atlantic International Airlines, Inc.; Classic Air, Inc.; Constitution Airlines, Inc.; Rainbow Air, Inc.; Southeast Airlines, Inc.; and Yukon Air Service, Inc. d/b/a Air North, for your consideration under section 801(a) of the Federal Aviation Act of 1958, as amended by the Airline Deregulation Act of 1978. The order will revoke the certificates of public convenience and necessity issued to the above-mentioned carriers authorizing the operation of foreign charter or scheduled air transportation, and adopt the Department's tentative decision in its Order to Show Cause (copy enclosed) unless you disapprove it within 60 days of this transmittal. For your information, I am also enclosing the Department's Order which finalized the tentative findings and conclusions set forth in its Show-Cause Order and revoked the domestic certificates of these and eleven other carriers.

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

We are submitting the proposed decision to you before publication under the provisions of section 801(a) of the Federal Aviation Act of 1958. In accordance with Executive Order 11920, however, we plan to release all unclassified portions of the decision on or after the sixth day following this transmittal unless notified by your Assistant for National Security Affairs.

Respectfully yours,

Matthew W. Scocozza  
Assistant Secretary  
for Policy and International Affairs

Enclosures

FOR OFFICIAL USE ONLY

# FOR OFFICIAL USE ONLY

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

Issued by the Department of Transportation  
on the 7th day of January, 1986

In the matter of the revocation  
of the air carrier certificates  
issued to

AIR POLYNESIA, INC. T/A  
DHL CARGO  
AIR WASHINGTON, INC.  
ALTAIR AIRLINES, INC.  
ATLANTIC INTERNATIONAL  
AIRLINES, INC.  
CARIBBEAN AIR SERVICES, INC.  
CLASSIC AIR, INC.  
CONSTITUTION AIRLINES, INC.  
EAGLE AVIATION, INC.  
FALWELL AVIATION, INC.  
FREEDOM AIRLINES, INC.  
GENAIR INTERNATIONAL, INC.  
NATIONAL EXPRESS, INC.  
NEW YORK AIRWAYS, INC.  
PACIFIC AMERICAN AIR LINES, INC.  
PACIFIC EAST AIR LINES, INC.  
RAINBOW AIR, INC.  
SOUTHEAST AIR CARGO, INC.  
SOUTHEAST AIRLINES, INC.  
TAINO INTERNATIONAL AIRWAYS, INC.  
YUKON AIR SERVICE, INC.  
d/b/a AIR NORTH

Docket 43600

under sections 401 and/or 418 of the  
Federal Aviation Act

## ORDER REVOKING CERTIFICATES

By Order 86-1-11 issued January 7, 1986, the Department finalized the tentative findings and conclusions set forth in Order 85-11-46, and, with the exception of Genair International, Inc., National Express, Inc., and Pacific American Air Lines, Inc., <sup>1/</sup> revoked the domestic section 401 and 418 certificates of the carriers listed above for non-compliance with the insurance, reporting, and continuing fitness requirements for certificated air carriers.

<sup>1/</sup> These carriers responded to Order 85-11-46 and indicated that they intended to begin operations in the future and, in the cases of Genair and Pacific American, would be filing two-year fitness review applications. As a result, we decided not to revoke their certificates.

FOR OFFICIAL USE ONLY

By this order, we are revoking the foreign charter or scheduled service certificates of Atlantic International Airlines, Inc., Classic Air, Inc., Constitution Airlines, Inc., Rainbow Air, Inc., Southeast Airlines, Inc., and Yukon Air Service, Inc. d/b/a Air North. Instead of repeating our findings and conclusions in Order 86-1-11, we incorporate them here by reference.

ACCORDINGLY,

1. We revoke the certificates of public convenience and necessity issued by Order 81-11-144 to Atlantic International Airlines, Inc.; Order 83-11-29 to Classic Air, Inc.; Order 81-1-14 to Constitution Airlines, Inc.; Order 84-4-55 to Rainbow Air, Inc.; Order 79-11-116 to Southeast Airlines, Inc.; and Order 82-10-57 to Yukon Air Service, Inc. d/b/a Air North authorizing the operation of foreign scheduled or charter air transportation;
2. This order shall become effective on the 61st day after its submission to the President of the United States, or upon the date of receipt of advice from the President that he does not intend to disapprove the Department's order under section 801(a) of the Act, whichever occurs earlier, unless he disapproves it under that section; 2/ and
3. We will serve a copy of this order on the persons listed in Attachment A.

By:

MATTHEW V. SCOCOZZA  
Assistant Secretary  
for Policy and International Affairs

(SEAL)

2/ This order was transmitted to the President on January 7, 1986 .  
The 61st day is March 9, 1986.

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Corporate Secretary  
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Mr. David R. Coyle  
Vice President, Operations  
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Mr. Thomas F. Shannon  
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San Juan International Airport  
Isla Verda, Puerto Rico 00913

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Bishop Airport  
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Falwell Aviation, Inc.  
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Marketing Director  
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Chairman  
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Ft. Lauderdale, Florida 33335-0573

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Attorney for New York  
Airways, Inc.  
Martin, Bischoff, Templeton,  
Biggs & Ericson  
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Portland, Oregon 97201

Mr. John R. Friscsen  
President  
Pacific American Air Lines  
21921 Yellowstone Lane  
El Toro, CA 92663

Mr. Ken Elsey  
President  
Pacific East Air, Inc.  
333 Bayside Drive  
Newport Beach, California 92660

Mr. Hugh D. Harris  
President  
Rainbow Air, Inc.  
900 First Avenue South  
Escanaba, Michigan 49829

Mr. M.C. Acosta  
President  
Southeast Air Cargo, Inc.  
and Southeast Airlines, Inc.  
c/o MCA Aircraft Corp.  
8000 NW 56th Street  
Miami, Florida 33166

SERVICE LIST

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Cooter and Bell  
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Washington, D.C. 20005

Yukon Air Service, Inc.  
d/b/a Air North  
P.O. Box 60054  
New York, New York 10035

Mr. William T. Brennan  
Manager  
Air Transportation Division, AFO-200  
Office of Flight Operations  
Federal Aviation Administration  
800 Independence Avenue, S.W.  
Washington, D.C. 20591

Mr. Morris R. Garfinkle  
Ms. Susan B. Jollie  
Galland, Kharasch, Morse  
and Garfinckle, P.C.  
1054 31st St. N.W.  
Washington, D.C. 20007

Mr. Robert E. Cohn  
Mr. Kevin Flynn  
Shaw Pittman Potts and Trowbridge  
1800 M St. N.W.  
Washington, D.C. 20036



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

Issued by the Department of Transportation  
 on the 7th day of January, 1986

In the matter of the revocation  
 of the air carrier certificates  
 issued to

- AIR POLYNESIA, INC. T/A
- DHL CAPGO
- AIR WASHINGTON, INC.
- ALTAIR AIRLINES, INC.
- ATLANTIC INTERNATIONAL  
 AIRLINES, INC.
- CARIBBEAN AIR SERVICES, INC.
- CLASSIC AIR, INC.
- CONSTITUTION AIRLINES, INC.
- EAGLE AVIATION, INC.
- FALWELL AVIATION, INC.
- FREEDOM AIRLINES, INC.
- GENAIP INTERNATIONAL, INC.
- NATIONAL EXPRESS, INC.
- NEW YORK AIRWAYS, INC.
- PACIFIC AMERICAN AIR LINES, INC.
- PACIFIC EAST AIR LINES, INC.
- RAINBOW AIR, INC.
- SOUTHEAST AIR CARGO, INC.
- SOUTHEAST AIRLINES, INC.
- TAINO INTERNATIONAL AIRWAYS, INC.
- YUKON AIR SERVICE, INC.
- d/b/a AIR NORTH

Docket 43600

under sections 401 and/or 418 of the  
 Federal Aviation Act

ORDER REVOKING CERTIFICATES

By Order 85-11-46, issued November 19, 1985, the Department directed all interested persons to show cause why we should not revoke the section 401 or 418 certificates of the carriers listed above authorizing them to engage in passenger and/or cargo air transportation operations. The revocations were proposed because we tentatively found that the carriers had not complied with the Department's insurance, reporting, and continuing fitness requirements for certificated air carriers.

The order directed persons having objections to the tentative findings and conclusions set forth in the order to file their objections within 15 days. In addition, the order provided that if no objections were filed, all further procedural steps would be waived, and we would enter an order making final our tentative findings.

Genair International, Inc., Pacific American Airlines, Inc., and National Express, Inc., filed answers to the show-cause order objecting to revocation of their respective certificates.

National Express indicates that it has been making efforts to commence service; that, on December 2, 1985, it filed an application with the FAA for a Part 121 certificate; and that it did not receive the Department's letter notifying it of the proposed revocation. It further states that section 204.8 of the Department's rules allows a carrier two years to begin operations before "requiring submission of statement of intentions to commence service," and, thus, the proposed revocation is premature.

Genair states that it has not yet commenced service because the primary focus of its operations is to provide air service between the U.S. and the Soviet Union. Because of the recent aviation agreement reached after the Geneva Summit, Genair states that it is re-evaluating the market conditions to begin service, and it intends to file a two-year fitness application in January to reestablish its fitness to operate.

Similarly, Pacific American states that it intends to seek a two-year fitness review in January since it anticipates "the imminent fruition of a significant financing development" and expects to institute service "soon thereafter."

Genair and Pacific American also argue that our proposed revocations would undercut the Department's regulations. Referring specifically to section 204.8, they assert that our regulations do not require newly certificated carriers to start service within any prescribed time frame; rather, they simply provide that carriers, if they have not operated for an extended period after certification, must have their fitness reevaluated before they can begin or resume operations.

The two carriers claim that our proposed action in Order 85-11-46 thus represents a substantive change in policy which should only be accomplished--if at all--by rulemaking procedures, not by a show-cause order. They further object that our show-cause order failed to provide adequate notice of so significant a proposed change.

We have decided not to revoke the certificates issued to Genair, Pacific American, and National Express. Since these carriers have indicated that they intend to commence operations and/or to reestablish their fitness to hold certificate authority, we will not revoke their certificates now. We will, however, make final the findings and conclusions set forth in Order 85-11-46 and revoke the certificates of the remaining carriers listed above.

We disagree, however, with the broader objections raised by the carriers. Genair and Pacific American are correct in stating that our regulations do not require newly certificated carriers to start service within any prescribed time frame. However, there is no basis for their implied conclusion that our regulations preclude us from revoking dormant operating authority. In this connection, it is significant that the Civil Aeronautics Board revoked the certificates of literally dozens of non-operating carriers at the same time that it conducted fitness reviews under section 204.8. The CAB's action establishes that neither section 204.8 nor any other section of our regulations grants non-operating carriers the right to retain their certificates indefinitely and that the public interest warrants the revocation of those

certificates in appropriate circumstances. Viewed from this important perspective, our proposed action hardly constitutes a substantial change in policy. On the contrary, it represents merely another in a series of similar administrative actions taken by us and the CAB. 1/

Furthermore, our proposed action is not inconsistent with section 204.8, as the two carriers allege. In fact, the revocation of dormant authority and the fitness reviews provided for in section 204.8 are both integral parts of our overall continuing fitness program. They are intended to deal with different concerns arising under our administration of that program. Specifically, the focus of 204.8 is on fitness as it relates to imminent actual operations, while the focus of our revocation proceedings is on preventing unacceptable risks to consumers which may result from a certificate's extended and continuing dormancy per se. 2/

As Genair and Pacific American each recognizes, section 204.8 "serves the public interest in assuring that carriers entering the marketplace are fit to serve the traveling public...." (Genair Opposition, at 5, emphasis added). To this end, the regulation requires mandatory fitness reviews under certain circumstances and prescribes the procedures for conducting those reviews.

On the other hand, there are important fitness concerns which do not arise from a dormant carrier's imminent operations and which section 204.8 does not address--and was not intended to address. Our principal problem in this area has been that certificates of long-dormant carriers have been, and continue to be, a source for those who seek to avoid our fitness requirements by buying an existing but unused certificate. We had to address this problem in a series of actions earlier this year. See Orders 85-5-45 and 85-2-4. We currently are investigating several other incidents of this nature. The common thread in all these cases has been the central role played by a dormant certificate. While we could, of course, continue to respond in an ad hoc, after-the-fact fashion, experience has demonstrated the need for administrative action that limits the potential for harm to the public and makes such future corrective responses unnecessary.

1/ See, e.g. Orders 84-9-18, 84-12-17, 84-12-101, and 85-3-77.

2/ Genair and Pacific American also argue that section 204.8 serves the public interest by assuring that newly certificated carriers will not be burdened by unnecessary and redundant paperwork requirements. This argument seems to derive from the theory that under section 204.8, carriers having been certificated after full evidentiary fitness proceedings and then remaining dormant for extended periods, can later begin operations with far less procedural burden than if their certificates had been revoked for dormancy and the carriers had to be recertificated as new applicants. The argument may have had some merit during the tenure of the CAB. The CAB subjected virtually all new applicants to oral fitness hearings with heavy evidentiary burdens. The argument certainly has no merit now, however, with DOT following a general policy of certificating new applicants through streamlined, show-cause procedures.

Of course, we appreciate that not all dormant certificates are involved in the type of abuse we have cited above. But we also realize that where a certificate has long been dormant, our very ability to monitor the holder's status is seriously compromised. During an extended period of dormancy, carriers tend to undergo substantial changes in management, financial resources, and even compliance disposition. They often fail to comply with our insurance and reporting requirements. They may move their offices, enter into receivership or even cease to exist. Meanwhile, their certificates remain marketable documents implying a fit holder. Yet, it is difficult, if not impossible, for us to say with confidence that such carriers remain fit. In such circumstances, section 401(r) of the Act clearly enables us to initiate revocation proceedings. That is precisely what we did by Order 85-11-46.

Genair and Pacific American contend that our show-cause procedures were inadequate to support our proposed action. We disagree. Section 401(r) requires that before revoking a certificate we provide notice and hearing. We have done so here. We sent each affected carrier a certified letter advising it of our intentions and offering it 30 days to respond. <sup>3/</sup> Our show-cause order provided an additional 15 days for objection. This was over and above the time we allowed after expiration of the 30-day period to prepare and then actually issue the show-cause order. In short, we undertook to ensure that each carrier affected had more than adequate notice to consider and respond to the possibility of revocation. We see this as fully consistent with the concepts of notice and hearing set forth in section 401(r). Accordingly, we see no basis for abandoning the show-cause procedures we and the CAB have consistently followed in situations of this sort. Nor do we see anything in the way these procedures were applied here that gives rise to a valid cause for complaint.

ACCORDINGLY,

1. Except as noted above with respect to Genair International, Inc., National Express, Inc., and Pacific American AirLines, Inc., we make final our tentative findings and conclusions set forth in Order 85-11-46; and

2. We revoke the air carrier certificates issued to Air Polynesia, Inc. T/A DHL Cargo, by Order 82-10-20; Air Washington, Inc., by Order 83-6-122; Altair Airlines, Inc., by Order 81-12-131; Atlantic International Airlines, Inc., by Order 81-11-144; Caribbean Air Services, Inc., by Orders 78-1-26 and 84-3-117; Classic Air, Inc., by Order 83-9-20; Constitution Airlines, Inc., by Order 80-9-78; Eagle Aviation, Inc., by Order 78-1-86; Falwell Aviation, Inc., by Order 78-1-86; Freedom Airlines, Inc., by Order 81-11-168; New York Airways, Inc., by Orders E-23713 and E-23714; Pacific East Airlines, Inc., by Order 82-5-154; Rainbow Air, Inc., by Order 84-3-66; Southeast Air Cargo, Inc., by

3/ All three objecting carriers contend that they never received our letters. We, of course, sent them to the last addresses of record the carriers had given us. If indeed the letters were not received, this may well be because the carriers had all changed their addresses without informing us. This is exactly the type of problem that occurs repeatedly with long-dormant carriers, reducing our ability to monitor their status and increasing the risk that factors casting doubt on their fitness may escape our attention.

Order 82-2-43; Southeast Airlines, Inc., by Order 81-12-131; Taino International Airways, Inc., by Order 83-4-19; and Yukon Air Service, Inc. d/b/a Air North, by Order 82-10-57; 4/ and

3. We will serve a copy of this order on the persons listed in Attachment A.

By:

MATTHEW V. SCOCOZZA  
Assistant Secretary  
for Policy and International Affairs

(SEAL)

4/ This order revokes only the domestic certificates issued to the above-named carriers. Revocation of those carriers' foreign certificates is subject to Presidential approval and will be handled in a separate order.

SERVICE LIST

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t/a/ DHL Cargo  
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Honolulu, Hawaii 96819

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Corporate Secretary  
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Seattle, Washington 98188

Mr. David R. Coyle  
Vice President, Operations  
Altair Airlines, Inc.  
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Philadelphia, Pennsylvania 19113

Mr. Harold S. Low  
President  
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Mr. Thomas F. Shannon  
Business Manager  
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San Juan International Airport  
Isla Verda, Puerto Rico 00913

Mr. George Sellers  
Attorney for Classic Air, Inc.  
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Va Nuys, California 91406

Mr. William Lauren  
Chief Operating Officer  
Constitution Airlines, Inc.  
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New York, New York 10036

Mr. George Bye  
President  
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Bishop Airport  
Flint, Michigan 48507

Falwell Aviation, Inc.  
Box 437  
Lynchburg, Virginia 24505

Mr. Jim Leewald  
Marketing Director  
Freedom Airlines, Inc.  
Gate 55, Cleveland Hopkins  
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Cleveland, Ohio 44135

Mr. Alexander W. Harris  
President  
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Mr. Stephen L. Richards  
Chairman  
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Ft. Lauderdale, Florida 33335-0573

Mr. Jerome S. Bischoff  
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Mr. M.C. Acosta  
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UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.

Issued by the Department of Transportation  
on the 19th day of November, 1985

SERVED NOV 25 1985

In the matter of the revocation :  
of the air carrier certificates :  
issued to :

AIR POLYNESIA, INC. T/A :  
DHL CARGO :  
AIR WASHINGTON, INC. :  
ALTAIR AIRLINES, INC. :  
ATLANTIC INTERNATIONAL :  
AIRLINES, INC. :  
CARIBBEAN AIR SERVICES, INC. :  
CLASSIC AIR, INC. :  
CONSTITUTION AIRLINES, INC. :  
EAGLE AVIATION, INC. :  
FALWELL AVIATION, INC. :  
FREEDOM AIRLINES, INC. :  
GENAIR INTERNATIONAL, INC. :  
NATIONAL EXPRESS, INC. :  
NEW YORK AIRWAYS, INC. :  
PACIFIC AMERICAN AIR LINES, INC. :  
PACIFIC EAST AIR LINES, INC. :  
RAINBOW AIR, INC. :  
SOUTHEAST AIR CARGO, INC. :  
SOUTHEAST AIRLINES, INC. :  
TAINO INTERNATIONAL AIRWAYS, INC. :  
YUKON AIR SERVICE, INC. :  
d/r/a AIR NORTH :

Docket 43600

under sections 401 and/or 418 of the :  
Federal Aviation Act :

ORDER TO SHOW CAUSE

By the order numbers set forth in the Appendix, the above-named carriers were issued certificates of public convenience and necessity or domestic all-cargo air service certificates to engage in passenger and/or cargo air transportation operations. According to our records, all of these carriers have either ceased operations or never commenced certificated service.



Section 401(g) of the Federal Aviation Act states that no air carrier's certificate shall remain in effect unless that carrier complies with the Department's regulations governing insurance coverage for its operations. Section 401(r) of the Act provides that the Department shall revoke any certificate if it determines that the carrier is not fit, willing, and able to provide the transportation authorized by its certificate(s), or for failure to file the reports required by the Department to determine that the carrier remains fit on a continuing basis. None of the subject carriers has filed the reports for certificated operations required by Part 241 of the Department's regulations concerning their financial condition in at least a year and, with only one exception, the last insurance certificates on file for the carriers have either expired or been cancelled. 1/

Because these carriers are not conducting section 401/418 operations and have failed to comply with the Department's insurance and reporting requirements, a certified letter was sent to each carrier asking it to advise us of plans to recommence service and meet the Department's requirements. The letter further stated that in the event that we did not hear from the carrier within 30 days of the date of the letter, we would conclude that the carrier no longer intended to operate under its certificate(s), and would propose to revoke that authority. That period has now passed and none of these carriers has objected to the proposed revocation action.

Therefore, we tentatively find that it is consistent with the public interest to revoke the section 401 or 418 certificates of the carriers named above because of the failure to conduct certificated operations and for non-compliance with the Department's insurance, reporting, and continuing fitness requirements for air carriers.

We will give interested persons 15 days from the date of service of this order to show cause why the tentative findings set forth here should not be made final. Replies to any filed answers shall be due 10 days later.

ACCORDINGLY,

1. We direct all interested persons to show cause why we should not issue orders making final the tentative findings and conclusions stated above revoking the air carrier certificates of Air Polynesia, Inc. T/A DHL Cargo, Air Washington, Inc., Altair Airlines, Inc., Atlantic International Airlines, Inc., Caribbean Air Services, Inc., Classic Air, Inc., Constitution Airlines, Inc., Eagle Aviation, Inc., Falwell Aviation, Inc., Freedom Airlines, Inc., Genair International, Inc., National Express, Inc., New York Airways, Inc., Pacific American Air Lines, Inc., Pacific East Air Lines, Inc., Rainbow Air, Inc., Southeast Air Cargo, Inc., Southeast Airlines, Inc., Taino International Airways, Inc., and Yukon Air Service, Inc. d/b/a Air North;

1/ Falwell Aviation has insurance coverage for non-certificated operations, with small aircraft only.

2. We direct all interested persons having objections to the issuance of an order making final our tentative findings and conclusions to file their objections with the Documentary Services Division, Docket 43600, Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, within 15 days of the date of service of this order; replies to objections shall be filed no later than 10 days thereafter;

3. If timely and properly supported objections are filed, we will give full consideration to all matters and issues raised by them before taking further action;

4. If no objections are filed, we will consider all further procedural steps to be waived and we will enter orders making final our tentative findings and conclusions and revoke the subject certificates; 2/

5. We will serve a copy of this order on the persons listed in Attachment A; and

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

By:

MATTHEW V. SCOCOZZA  
Assistant Secretary  
for Policy and International Affairs

(SEAL)

2/ Since provision is made for filing objections to this order, we will not entertain petitions for reconsideration.

## SERVICE LIST

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Falwell Aviation, Inc.  
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Mr. Jim Leewald  
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Mr. Ken Elsey  
President  
Pacific East Air, Inc.  
333 Bayside Drive  
Newport Beach, California 92660

Mr. Hugh D. Harris  
President  
Rainbow Air, Inc.  
900 First Avenue South  
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Federal Aviation Administration  
800 Independence Avenue, S.W.  
Washington, D.C. 20591

<u>Carrier</u>	<u>Order No.</u>	<u>Type of Authority</u>
Air Polynesia, Inc. t/a DHL Cargo	82-10-20	Domestic scheduled (401(d)(1))
Air Washington, Inc.	83-6-122	Domestic scheduled (401(d)(1))
Altair Airlines, Inc.	81-12-131	Domestic scheduled (401(d)(1))
Atlantic International Airlines, Inc. -	81-11-144	Domestic & foreign charter (401(d)(3))
Caribbean Air Services, Inc.	78-1-26 84-3-117	Domestic all-cargo (418) Domestic scheduled (401(d)(5))
Classic Air, Inc.	83-9-20 83-11-29	Domestic charter (401(d)(3)) Foreign charter (401(d)(3))
Constitution Airlines, Inc.	80-9-78 81-1-14	Domestic charter (401(d)(3)) Foreign charter (401(d)(3))
Eagle Aviation, Inc.	78-1-86	Domestic all-cargo (418)
Falwell Aviation, Inc.	78-1-86	Domestic all-cargo (418)
Freedom Airlines, Inc.	81-11-168	Domestic scheduled (401(d)(1))
Genair International, Inc.	81-1-32 81-3-23	Domestic charter (401(d)(3)) Foreign charter (401(d)(3))
National Express, Inc.	84-6-71	Domestic scheduled (401(d)(1))
New York Airways, Inc.	E-23713 E-23714	Domestic scheduled (401(d)(1)) Domestic scheduled (401(d)(1))
Pacific American Air Lines, Inc.	80-11-66 81-1-16	Domestic charter (401(d)(3)) Foreign charter (401(d)(3))
Pacific East Air, Inc.	82-5-154	Domestic scheduled (401(d)(1))
Rainbow Air Cargo, Inc.	84-3-66 84-4-55	Domestic charter (401(d)(3)) Foreign charter (401(d)(3))
Southeast Air Cargo Inc.	82-2-43	Domestic all-cargo (418)
Southeast Airlines, Inc.	81-12-131 79-11-116	Domestic scheduled (401(d)(1)) Foreign scheduled (401(d)(1))
Taino International Airways, Inc.	83-4-19	Domestic scheduled (401(d)(1))
Yukon Air Service, Inc. d/b/a Air North	82-10-57	Domestic & foreign scheduled (401(d)(1))

THE WHITE HOUSE

WASHINGTON

Dear Madam Secretary:

I have reviewed the orders proposed by the Department of Transportation in the following cases:

Societe Anonyme Belge  
d'Exploitation de la  
Navigation Aerienne (Sabena)  
Docket 42686

El Al Israel Airlines  
Limited  
Docket 42457

I have decided not to disapprove the proposed orders.

Sincerely,

The Honorable Elizabeth Dole  
Secretary of Transportation  
Washington, D.C. 20590