

1964

## Statement on United States International Air Transport Policy

Follow this and additional works at: <https://scholar.smu.edu/jalc>

---

### Recommended Citation

*Statement on United States International Air Transport Policy*, 30 J. Air L. & Com. 76 (1964)  
<https://scholar.smu.edu/jalc/vol30/iss1/5>

This International Review is brought to you for free and open access by the Law Journals at SMU Scholar. It has been accepted for inclusion in Journal of Air Law and Commerce by an authorized administrator of SMU Scholar. For more information, please visit <http://digitalrepository.smu.edu>.

## STATEMENT ON UNITED STATES INTERNATIONAL AIR TRANSPORT POLICY†

The international air transport industry is one of the marvels of our remarkable age. It has helped to shrink our globe, to conquer distance and time. In a quite literal sense it has made all of us around the world neighbors or potential neighbors. The youngest of the transport industries, it has been almost constantly the scene of technological revolutions, and more are in sight. Its future is as limitless as its past is brief.

A United States policy for this industry must carry out the mandate of the Federal Aviation Act and encourage and develop "an air transportation system properly adapted to the present and future needs of the foreign and domestic commerce in the United States, of the Postal Service, and the national defense." In this it must meet many tests. It must promote the welfare of the United States air carriers, an important element in our commercial life and a beneficial influence in the world's air transport system. It must be appropriately mindful of the United States strategic and political interests. Above all, it must develop for the passenger and the shipper of goods a sound, efficient system of air transportation.

The size of the United States aviation market tends to give our aviation policies much weight in the world air transport system. This influence must be placed on the side of expansion not restriction. Within the legal and regulatory framework in which the system operates, it must be as free from restrictions as possible, whether these be imposed by government or through intercarrier arrangements. Any policy of arbitrarily restricting capacity, dividing markets by carrier agreements, encouraging high rates or curtailing service for which a demand exists, would be harmful to our national interests. Such a policy would not be in accord with our basic attitudes toward private enterprise; it would stunt the growth of air commerce and thus our carriers; it would be contrary to our obligation to the public, to the passenger and shipper. Entrepreneurs of daring and vision launched our air transport industry. We believe that the system should continue to benefit from that irreplaceable stimulus to growth brought by competitive enterprise.

Our present policies on international civil aviation were formed in the mid-1940's, when the industry was at the beginning of what we believe will prove to have been only its first great period of expansion. At all times during that period United States carriers have played a significant role in the system. The years, however, have witnessed many changes; a technological revolution climaxed and dramatized by the introduction of jet airliners; the entry of competitive carriers representing countries devastated by war; the emergence of nations determined to participate in international air transport; and an increasing capacity which outran the substantial increase in traffic. All these have profoundly altered the circumstances of international air transport, without a corresponding change in the policy framework within which it operates.

During recent years, United States international carriers, and others associated with United States aviation, have expressed growing concern over a phenomenon clearly related to these and other changes: the decline in the United States share of world air transport activities. This concern has been accentuated by relatively low earnings for a number of United States international carriers.

---

† This statement was approved by the President on April 24, 1963. It was prepared by an Interagency Steering Committee composed of N. E. Halaby, Federal Aviation Agency, Chairman; Kenneth R. Hansen, Bureau of the Budget, Executive Secretary; Alan S. Boyd, Civil Aeronautics Board; Hollis B. Chenery, Agency for International Development; Griffith Johnson, Department of State; C. Daniel Martin, Department of Commerce; and Frank K. Sloan, Department of Defense. Representatives of the Council of Economic Advisers also participated in the work of the Committee. Since the document has received only limited circulation in spite of its significance the editors have decided to make it available in full text in the *Journal* at this time.

The development of a sound air transport policy for the future requires a review of our past policies, the framework in which they operate, and the level of participation of United States carriers in the world air transport market. It also requires examining the history of the world's international air transport industry so that the problems of today and our policy for tomorrow can be put into meaningful perspective.

A look at this history shows that the dominant characteristic is rapid growth. Traffic carried by United States carriers has grown on the average more than fifteen per cent per year over the last fifteen years, a rate greatly in excess not only of the general growth rate of the United States economy, but also greater than the rate of growth of our domestic air carriers. Foreign carriers, as a whole, have grown even more rapidly. Particularly important elements in this latter growth are the entry during the last decade, and subsequent growth, of carriers representing Germany, Italy and Japan; the growing economic strength of other countries and their carriers; and the birth of international air carriers representing a number of countries which ten years ago or less did not feel the need to mount a major international airline operation. This growth of foreign carriers is, in large measure, the natural consequence of the growing strength of our friends and allies around the world.

The result of these and other influences is that while the United States remains by far the leading international air transport nation, and while the absolute growth of traffic carried by United States carriers has been healthy, its share of international air traffic has declined. A realistic view of the future suggests that the same forces may result in some further decline in the relative share. The same look into the future tells us that, in any event, United States international air carriers should continue to grow at an impressive rate, one considerably greater than the growth rate of our economy as a whole. We are dealing with a United States industry growing in size and maturity; not one which is sick and declining and can be expected to fade away to obscurity or death.

The reduction of this country's unfavorable balance of payments is a matter of great national importance, and consequently the impact of air transport on this balance has been and must continue to be considered with exceptional care. At present air transport contributes to this deficit. Assuming any kind of realistic division of market between United States and foreign carriers, so long as United States residents predominate among air travellers, it will be impossible to eliminate the present unfavorable balance in the air transport account of the balance of payments. The fact is, within the realm of practical alternatives, the effect of various air transport policies on our balance of payments is limited. Nevertheless our policies must constantly keep in mind the need to keep the air transport account deficit from rising, and to improve it to the extent possible. The policies in this report, such as those dealing with route exchanges and our opposition to unilateral restrictions on capacity, will help in this regard. Furthermore, in the implementation of our policies there will arise opportunities—and we must grasp them—to aid in solving this vexing problem.

It is important to note that the adverse effect on the United States balance of payments of international air transportation is not the same as that created by the non-transportation spending of American travellers abroad. Such non-transport expenditures cause a far greater deficit in the United States balance of payments. Air transport policies, as such, can probably have little effect upon the money Americans spend in their travels. The Commerce Department is attempting to offset this deficit item by encouraging foreign residents to travel in the United States. To the extent that these efforts increase the ratio of foreign travellers to United States travellers, they will tend to correct not only the deficit arising from travellers' expenditures abroad, but also, as a by-product, to improve the air transport balance.

The importance of improving this ratio cannot be overemphasized. Because "port expenses" incurred abroad by international carriers (for airport facilities,

fuel, maintenance, sales, etc.) take, world-wide, about one-third of the passenger revenue dollar, our air transport account is always *hurt* where United States travellers are involved—the degree varying historically between two-thirds of each passenger dollar when United States travellers use foreign carriers to one-third of each passenger dollar when United States travellers use United States carriers. Roughly, the opposite situation prevails when a foreign resident travels to the United States. Our transport account is always *helped* here—the degree varying similarly between one-third and two-thirds of each passenger dollar.

The United States policy for air transport includes the following principles:

1. *Basic Framework*—The United States will maintain the present framework of bilateral agreements by which air routes are exchanged among nations and the rights to carry traffic on them are determined according to certain broad principles. The substitution of a multilateral agreement seems even less feasible or acceptable today than when first attempted at the Chicago Conference of 1944.

This framework of agreements rejects the extreme positions considered both at the Chicago Conference and subsequently. On the one hand it rejects as completely impractical unregulated freedom of the skies, and recognizes that the exchange of routes is a useful tool in building sound and economic growth of air transport. On the other hand, this framework rejects the concept that agreements should divide the market or allocate to the carrier of a particular country a certain share of the traffic. The latter concept would surely restrict the growth of international aviation and would result in endless bickering among nations as to their proper share of traffic. It is totally foreign to our basic trade policies and would clearly harm the long-range interest of United States carriers as well as those of the traveller and shipper.

2. *Air Routes and Services*—Our policy is to provide air service where a substantial need therefor develops. The present network of international air routes is, however, rather fully developed. Consequently, an expansion of the present route structures must be approached with caution.

In negotiations for the exchange of routes and rights particularly where traffic can be expected to be heavy, the United States shall (i) seek such exchange whenever it would contribute significantly to the development or improvement of a service network, and (ii) seek to assure United States carriers the opportunity to gain as much benefit in this over-all exchange as the foreign country's carriers. In instances where traffic is thin, our effort must be to provide service without unduly proliferating the number of carriers, and the resulting capacity they would offer. Neither the interests of a sound transportation system nor of the countries involved are served when a route with little traffic is burdened by a number of carriers greater than is economically justifiable. The demand for swift, safe passage, not forced flag flying, should determine the services offered.

The problem of the number of carriers on a particular route or in a market extends to markets having dense traffic—such as the North Atlantic, which is now served by nineteen carriers. It must be our over-all policy not to accentuate this situation which, on its face, cannot be sound.

On the other hand, in regions of the world where air service is still inadequate, our policy is to encourage nations in such regions to expend their energies in developing adequate local and regional service.

3. *Capacity Principles*—The United States supports the "Bermuda" capacity principles which flexibly govern the amount of service individual carriers may offer to the world travelling and shipping public. They retain for airline managements substantial business incentive and opportunity for a considerable degree of business judgment. They prohibit predetermined limits on capacity, but permit capacity restrictions on certain categories of traffic, known as secondary justification traffic, on the basis of *ex post facto* review of traffic carried. Generally, the result has been to provide the traveller and the shipper with an increasing range of efficient air services.

We believe that the "Bermuda" principles accommodate, to the general good,

the legitimate economic interests of all nations engaged in international air transport. Our policy, then, will be to oppose both arbitrary capacity restrictions and the stretching of those principles to the point of abuse. We shall continue to take the initiative in resisting predetermined capacity levels. We shall also take the initiative to seek agreement to a reasonable and fair interpretation of what constitutes secondary justification traffic under "Bermuda" capacity principles.

Past efforts to resolve the latter problem have not been successful. We must seek a new approach. Our position will take into account the legitimate interests of other countries and their carriers as well as our own interests and those of our carriers. We anticipate general agreement on a reasonable interpretation of the "Bermuda" capacity principles.

If despite our best efforts we were to be confronted with serious abuses of the capacity principles, recourse will be had to the procedures available under our bilateral agreements. These include consultation, arbitration, and in the last analysis, denunciation and renegotiations of such agreements.

4. *Air Carrier Pooling*—It is a common practice for foreign carriers to form combinations or pools which divide revenues or traffic on a particular route or market. Our dealings with foreign carrier pools must be on a case-by-case basis. We must not encourage pools which substantially reduce competition to the detriment of the system we seek. In considering the possible effect of such foreign pools, their size or market power and their intentions or attitudes toward a basically competitive system are clearly relevant factors.

There are times when it is suggested that United States carriers participate in such pools. We believe such arrangements will generally impair the benefits competition can bring to the system, and it will be difficult to limit the arrangements once this practice has begun. Therefore, United States carriers will be permitted to participate in them only when the national interest requires.

5. *Rates*—International air transport rates are now recommended by the carriers, acting through their organization, known as the International Air Transport Association (IATA), and approved by the governments concerned. This multilateral mechanism, though it has some drawbacks, seems to be the most practical one we can achieve, and it should be maintained. We cannot, however, abdicate our responsibility to protect the traveller and the shipper; we will continue to press for rates we consider reasonable. To provide for more effective governmental influence on rates, Congress should adopt legislation which would give to the Civil Aeronautics Board authority, subject to approval by the President, to control rates in international air transport to and from the United States.

Our efforts to secure reasonable rates can also be furthered by direct government-to-government discussions, initiated by the United States concerning general rate levels; by continued United States support of practicable means which help to achieve reasonable rates, such as charter services; and by disapproving recommended IATA rates if they are clearly unreasonable.

Our acceptance of the IATA mechanism is predicated upon strict adherence by carriers to their IATA agreements. If the agreements are violated we will have to reconsider our relationship to IATA and our authority over violations.

6. *Competition Among United States Carriers*—The Congress of the United States and several prior Administrations have repeatedly examined the question whether United States flag international service shall continue to be provided by more than one carrier. The policy to this effect was established about 1940, and has been followed ever since. It is sound, and deserves to be reaffirmed. It is in line with our general attitude favoring competition by private enterprise, and the statutory mandate found in the Federal Aviation Act of 1958. Government flexibility in implementing international political and aviation policies would be reduced if the interests of any single carrier became, over the long run, too dominant a factor in United States aviation policy. At present no one appears to be advancing the concept of a monopoly carrier to perform all United States international air services.

The question arises how the United States airline is to serve; that is, how the industry is to participate in the world markets. We should continue to aim for a United States carrier system in which one United States flag carrier has access to world markets on a scale comparable to that of the flag carriers or combination of carriers of other major civil aviation powers, and other United States carriers continue to be authorized to serve one or more areas of the world in over-all competition with this carrier.

Adherence to our traditional policy objective must, however, take into full account changed factual circumstances resulting from the development of foreign carrier systems. The multi-carrier policy of the United States was developed at a time when the United States was by far the world's pre-eminent air power and other countries carriers provided only weak competition. This condition no longer obtains in most areas. Nonetheless, achievement of the traditional policy of more than one strong United States carrier, and maintaining a competitive structure which strikes a balance between monopoly operation and excessive competition, is sound, possible and necessary. In implementing this policy, direct point-to-point competition between United States competitors, when considered in the light of existing foreign competition, undoubtedly raises a number of difficult questions. Such competition would be justified, for example, on routes which have a sufficiently high traffic density or where operating factors so require such as the points which constitute a logical terminus on long-haul routes.

The principles governing the nature and extent of competition among United States carriers will continue to require considerable study and evaluation in the light of changing factors. Obviously, this general concept of competition cannot be used alone to decide a particular regulatory question, and the potential impact of mergers was not considered by the Committee. The service pattern most in the public interest must continue to be considered and determined on a case-by-case basis.

7. *Development of Air Cargo*—The United States will press for lower cargo rates of a kind best calculated to stimulate the growth of the air freight industry and benefit the shipping public. Among other things, the United States will explore the feasibility of obtaining an experimental, short-term agreement with European countries and Canada which would provide for the reciprocal exchange of all-cargo aircraft traffic rights allowing substantially greater flexibility.

8. *Supporting Facilities*—The United States will cooperate in the development of international air traffic control and navigation systems, telecommunications, meteorological and other technical services. The objective is to meet, but not exceed, the essentials needed for the safe and efficient flow of traffic. The United States and other nations should individually finance the international facilities for which they are responsible. Where nations cannot meet this responsibility, multi-lateral financing through ICAO will be considered.

The United States must develop an equitable system of user charges for its air navigation and other airway services, to apply to all international air carriers. Pending the development of such a system, the United States shall refrain from imposing user charges on such carriers, and will oppose strenuously charges by other nations which are unfair or excessive.

9. *Aviation Assistance to Less Developed Countries*—More intensive consideration shall be given in the foreign aid program to the contributions that internal and regional aviation programs can make to economic development in the less developed countries. Where aviation assistance proposals are proposed for political or national security reasons, they must be subject to the same rigorous justification that applies to other projects competing for scarce resources.

A well reasoned policy for international air transport, containing the elements we have described, will carry us far toward the primary objective of United States international air transport policy: to develop and maintain expanding, economically and technologically efficient international air transport system best adapted to the growing needs of the Free World, and to assure air carriers of the United

States a fair and equal opportunity to compete in world aviation markets so as to maintain and further develop an economically viable service network wherever a substantial need for air transportation develops.

This objective has two parts of equal weight, and both are of great importance to the United States. The first—developing a sound system of transportation to carry people and goods safely, efficiently and economically—is necessary to the realization of our various national interests. The second also serves these interests, and in addition takes account of the United States position in the Free World, its predominant traffic generating capability and our conviction that the first part of the objective can best be achieved with competitive stimulus provided by substantial United States participation.

Achieving our objective will require the cooperation of all parts of our aviation community and all nations; but the system we seek deserves the fullest effort. The spirit of our aviation policy was set long ago, in 1944, at the threshold of the modern international air age, when President Roosevelt called upon all nations to “work together so that the air may be used by humanity—to serve humanity.” To this spirit we must rededicate ourselves today.