Overcapacity in the United States International Air Transport Industry

Charles M. Sackrey Jr.
OVERCAPACITY IN THE UNITED STATES
INTERNATIONAL AIR TRANSPORT INDUSTRY

By Charles M. Sackrey, Jr.†

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Since 1955, the United States international air transport industry has shifted from a predominant reliance on piston driven aircraft to reliance on jets. And, having passed the financial crisis which resulted from the transition to jets, the international carriers look forward to what one writer calls the “fat years” of commercial air transport. Thus, from a strictly commercial point of view, America’s international air transport industry is at the dawn of an unparalleled decade of success. However, the current operations of the industry are not completely free from problems. The $100 million profit received by the industry during 1963 was realized despite the fact that, on the average international flight, almost half the available seats were empty. Of the 20.3 billion passenger seat miles provided by the international carriers during the year, about 47% were not utilized. The American public and the press in general apparently judge the success of the industry mainly in terms of its commercial achievements. Thus extensive overcapacity does not appear to be a significant problem in the eyes of the general public and the press as long as growing profits are received by the air carriers. Such a view, however, is obviously based on an unawareness of alternative standards by which to judge the industry’s operations.

The role of international civil aviation in the modern world is held by many writers to be a crucial determinant of the nature of cultural relations between individual nations; and amiability between nations, a
few of which unfortunately harbor the capacity to destroy the rest, is of no little importance. The idea that a growing number of international air transport passengers can facilitate friendly international relations has been expressed eloquently by Professor Joseph Schenkman, a leading authority on international civil aviation. According to Professor Schenkman:

Aviation is, of course, a new form of making contact with people of states and governments. This is a factor of primary importance in facilitating diplomacy.

Aviation in its international form makes possible the swift interchange of ideas and facilitates high policy decisions by heads of states in face to face conferences. This has contributed increasingly to establishing modern methods of diplomatic conduct by conferences.

... From the point of view of international relations in the broadest sense, the more the peoples of the world are able to move around and see other ways of life, the more quickly shall we arrive at an age of peace and plenty.4

Because this writer agrees that social intercourse between nations (in modern times to a considerable extent dependent on civil aviation) is a desirable goal, the dual purpose of this article is (1) to call attention to the growing volume of overcapacity being flown by the United States international air transport industry, and (2) to discuss alternative proposals aimed at the reduction of such overcapacity.

I. Organization of the Study and a Definition of the Industry

The most complex aspect of the United States international air transport industry is the fact that each carrier must make its operations compatible with the rules of three separate organizations: the Civil Aeronautics Board; the United States Department of State; and the International Air Transport Association (IATA). In fact, a discussion of any single aspect of overcapacity in the industry cannot be understood adequately unless it is prefaced by an analysis of the industry’s relation to the organizations which exert control over its operations. Part II of this article provides such an analysis.

Part III describes in considerable detail the extent to which overcapacity (1) has been generated by individual United States carriers, and (2) exists in specific geographic areas. Part IV delineates the chief causes of the re-

4 Schenkman, International Civil Aviation Organization 6 (1955). Recently, there has been considerable evidence lending support to the argument that cultural contacts can facilitate peace between hostile nations. As a case in point, the relations between the United States and the Soviet Union are considered by most observers as more amenable to peace than has been the case since 1945. No doubt, this new rapport with the Soviet Union has been facilitated by the growing number of personal contacts between Americans and Russians made possible by modern aviation technology.

The writer admits the subjectivity of the basic value judgment upon which this study is based. In a market oriented society like the United States, it is perhaps a mild heresy to deny that revenue and cost data are the only factors upon which an industry’s operations can be evaluated. In any case, the admission that the value judgment made is subjective provides ample opportunity for other writers to evaluate the industry on the basis of other criteria.
cent growth of overcapacity. Finally, Part V will contain alternative proposals timed at a reduction of the wasted capacity generated by the world international air transport industry.

The international air transport industry is defined here as consisting of the operations of United States air carriers which provide scheduled passenger services between this country and foreign nations. It must be pointed out that this definition excludes the following seven United States carriers, which are defined by the CAB as “international and territorial, passenger/cargo carriers”: Alaska Airlines, Caribbean-Atlantic Airlines, Mackey Airlines, Pacific Northern Airlines, South Pacific Air Lines, Trans-Caribbean Airways, and United Air Lines. The operations of these carriers have been excluded because each can be included in one of the two following groups:

(1) Interstate carriers—this group, providing service between cities in the continental United States and Alaska or Hawaii, includes Alaska Airlines, Pacific Northern Airlines, and United Air Lines.

(2) International carriers with limited, local service operations—the services of these carriers, though international, are confined to local service in limited geographical areas. Carriers in this group are: Caribbean-Atlantic Airlines, Mackey Airlines, South Pacific Air Lines, and Trans-Caribbean Airways.

For the benefit of the reader who questions the exclusion of the seven carriers listed above, it may be noted that, in 1963, the services of the seven airlines comprised less than 5% of the total revenue passenger miles flown by United States carriers on international routes. More important, because of the geographical limitations of their operations, these carriers are not subject to the same framework of regulation as are the nine carriers which make up the international air transport industry under scrutiny, a point which will become clear in Part II.

Thus, the specific definition of the “United States international air transport industry,” to be used in this study, involves only the following nine carriers: American Airlines, Braniff Airways, Delta Air Lines, Eastern Air Lines, Northwest Airlines, Pan American-Grace Airways (Pan American Airways) also provides flights from Seattle to Vancouver, B.C. Nonetheless the limited international operations of United comprise but a small fraction of the operations of the total industry, thus United is defined here as a “domestic” operator.

Since 1 January 1964, Pan American Airways has been conducting South Pacific’s operations in the south Pacific region. Effective 1 April 1964, the CAB granted South Pacific’s route certificate to Pan American. See South Pacific-Pan American Route Transfer Case, CAB Docket No. 14847, (21 April 1964).

Part of the operations of four of these carriers cannot be defined strictly as “international.” Nonetheless, the noninternational operations of the four carriers are but a relatively small portion of the total operations of the industry. Therefore, for purposes of this study, the following interstate and territorial operations will be defined as international operations: (1) Pan American services between (a) the United States and Hawaii and (b) Pan American services between Seattle and Fairbanks, Alaska; (2) Eastern and Delta services between the United States and Puerto Rico; and (3) Northwest services from the west coast to Alaska and Hawaii.
nagra), Pan American World Airways (Pan American), Trans World Airlines (TWA), and Western Air Lines.

II. Regulation of the United States International Air Transport Industry

A. The Civil Aeronautics Board

This analysis of the Board's regulatory control over the international air transport industry is brief, since a general knowledge on the part of the reader of the provisions of the Federal Aviation Act of 1958 is assumed. The sole purpose here is to review those parts of titles I, IV, VIII, and X of the act which are especially relevant to the present study.

The most important feature of title I is incorporated in section 102, which charges the Board with both "promotion" and "regulation" of civil aeronautics in the United States. The Board must see to it that the carriers charge "reasonable" rates without "unjust discriminations or prejudices." These goals are to be realized concurrently with "sound economic conditions" in the industry, free from the evil of "destructive competition." In achieving this broad and idealistic policy in the international industry, the Board's task is twofold: first, it must control the operations of United States carriers operating abroad; and, second, the Board must regulate foreign air carriers operating routes to or within the United States or its territories. The rules for accomplishing this monumental task are outlined in titles IV, VIII, and X.

The principal provisions of title IV are section 401, which empowers the Board to control entry into the United States international air transport industry, and section 402, which stipulates that no foreign carrier can fly into American cities without Board certification. Section 401 (e) (2) of the act further states that insofar as United States international carriers are concerned,

[The Board shall] designate the terminal and intermediate points only insofar as the Board shall deem practicable, and otherwise shall designate only the general route or routes to be followed. . . .

Section 412 states that every air carrier shall file with the Board a true copy of every contract or agreement affecting air transportation to which the carriers become a party. This provision is of considerable importance to the international carriers, for it gives the Board the right to pass on any IATA agreement into which the carriers may enter.

Title VIII defines the Board's relationship to other administrative agencies. Of particular importance are sections 801 and 802. The former states that the issuance, denial, transfer, amendment, cancellation, sus-

pension, or revocation of any certificate authorizing an air carrier to engage in overseas or foreign air transportation, shall be subject to the approval of the President; the latter section makes it mandatory that the Secretary of State consult with the Board before effecting any aviation agreement with a foreign nation.

According to section 1002 (d) of title X, when the Board judges that a fare set by an air carrier is "or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential . . ." the Board may:

determine and prescribe the lawful rate, fare, or charge (or the maximum or minimum, or the maximum and minimum thereof) thereafter to be . . . charged . . . . Provided, That as to rates, fares, and charges for overseas air transportation, the Board shall determine and prescribe only a just and reasonable maximum or minimum, or maximum and minimum rate, fare, or charge.

Finally, section 1002 (g) gives the Board the additional power to suspend any new rate set by any air carrier until a hearing concerning the "reasonableness" of the rate can be held.\textsuperscript{13}

B. The Executive Branch Of The Federal Government

Though the CAB has principal control over domestic air transportation, the Board shares the job of regulating international air transportation with the Executive Branch of the Federal government. Prior to 1943,\textsuperscript{14} the role of the Department of State was less clearly defined than it is presently. During that period, the Department ordinarily played a passive role in route development, leaving the job to the single operating United States international carrier, Pan American Airways. However, after World War II, recognizing the crucial political and commercial importance of international air transport, the United States, as well as most other nations, made the negotiation and development of international routes a governmental task rather than one to be undertaken solely by private airlines.\textsuperscript{14} In fact, the present role of the Executive Branch (especially that of the Department of State) cannot be understood without discussion of the 1943-1946 period during which the framework for the postwar development of international aviation was established.

In 1944, the United States invited fifty-four countries to send delegates to Chicago to discuss the problems of postwar development of international aviation.\textsuperscript{15} The two most powerful countries at the Chicago Con-

\textsuperscript{13} As we shall discover, the Board’s power over international fares is severely limited by the terms of bilateral air transport agreements with foreign governments.

\textsuperscript{14} On 2 December 1943, the CAB issued a memorandum to all holders of public convenience and necessity stating that thenceforth the Department of State would secure all commercial rights for international air transport services provided by United States carriers.

\textsuperscript{14} Between 1919 and 1940 the Department of State had negotiated only eight bilateral aviation agreements. Yet, during the 1940-1955 period, this country became a party to some fifty such agreements. For the most informative description of the development of international routes between 1919 and the end of World War II, see H. Smith, Airways Abroad (1950).

\textsuperscript{15} Every nation in the world was represented except the Axis States, Argentina, Saudi Arabia, and the Soviet Union. The absence of delegates from the Soviet Union made a truly international aviation policy impossible. To the present time the United States has effected no bilateral agreement with the Soviet Union, nor with any of its satellites. There is evidence, however, that the future will require further negotiations with Russia since that country has developed an airline on the
ference were, of course, Britain and the United States, and the outcome of the Conference represented a compromise between the positions taken by these two countries. The United States advocated "freedom of the air" and interpreted this to mean that competition, unfettered by an international regulatory agency, should be maintained on the world's air routes. The United States was especially opposed to restrictions on fifth freedom traffic (the right of Country A to pick up passengers in Country B and transport them to a third or fourth country) and maintained that such rights were necessary for the operation of long distance world-wide routes. Thus, the American delegation to the Conference favored the adoption of a multilateral convention granting fifth freedom rights to all signatory nations. This position taken by the American delegation was similar to that taken by the proverbial elephant, who, while he danced through the chicken yard, cried "everyone for himself."

Opposing the American position were those countries advocating a more restrictive policy because they feared that in open competition the United States industry could easily dominate the postwar international air transport market. Two countries, Britain and Canada, favored an international agency (modeled after the CAB) with economic powers over routes, fares, capacity, and frequencies. While other policy positions were mentioned by others at Chicago, these were of little importance since delegations of the United States and Britain dominated the Conference.

Because of United States hostility towards the creation of any economic regulatory body, provisions concerning regulation over capacity, frequencies, or rates were omitted from any of the documents produced at the Conference. In fact, it appeared for a while that the Conference might be a total failure since no point of agreement could be reached between the British and the Americans. However, at the last minute, the Netherlands delegation produced a compromise aimed at finding just such a point of agreement between the delegations. The Netherlands delegation suggested the adoption of the "Air Transit Agreement," which would provide first and second freedoms (the right to cross the airspace above a foreign country, and the right to land in a foreign country for non-commercial reasons) to all signatory nations. The "Air Transit Agreement" proved popular, and the majority of the delegates promised that they would urge their respective governments to ratify it.

Having thus discovered a point of agreement, the delegates then proceeded to produce six separate documents aimed at the facilitation of scale of Pan American. For a discussion of Aeroflot (the State monopoly airline of the Russian Government), see Heymann, The Soviet Role in International Civil Aviation, 25 J. AIR L. & COM. 265 (1958), and Porch, Aeroflot, the Soviet Airline—at Home and Abroad, 30 J. AIR L. & COM. 193 (1964).

The most interesting was the plan jointly sponsored by Australia and New Zealand which called for international ownership and control of international airlines. This plan would have eliminated competition on international routes. Needless to say, the Australia-New Zealand plan was unacceptable to both the British and the United States and was thus ignored. For an excellent discussion of the various proposals brought forth at the Conference, see Schenkm an, op. cit. supra note 4, at 82-92. For an alternative proposal for world operation of the international air transport industry, see Cooper, International Ownership and Operation of World Air Transport (1948).
postwar civil aviation." Appendix I to the Final Act was the "Interim Agreement on International Aviation" which created the Provisional International Civil Aviation Organization (PICAO). The main tasks of PICAO were to gather information and disseminate it to the various governments, to coordinate the activities of the countries signing any of the other conventions adopted at the Conference, and to act as arbiter between disagreeing States. Appendix II of the Final Act made provisions for an organization to supersede PICAO, the International Civil Aviation Organization (ICAO). This organization, which was created on 4 March 1947 when the 26th State ratified appendix II, presently has much the same duties as those originally assigned to PICAO.

Appendix III of the Final Act (the "Air Transit Agreement") granted first and second freedoms to signatory nations, while appendix IV (the "International Air Transport Agreement") granted multilateral five freedom rights to signatory nations. Appendix IV embodied the United States position, but did not prove popular: one year after the Conference only nine countries had ratified appendix IV.18

Appendix V contained a tentative set of twelve technical annexes aimed at the standardization of several technical aspects of aviation including airways systems, communications, and air traffic control. Schenkman has argued that:

[I]t is generally agreed that the most important work accomplished by the Chicago Conference is in the technical field. The international standards and recommended practices, contained in the Annexes of the Convention, are a remarkable success. An achievement of immense aid not only to pilots but to air navigation as a whole, they make the possibility of safe flying a reality.19

The Final Act also included Resolution VIII, recommending a Form of Standard Agreement for Provisional Air Routes, which it was hoped would be used by countries effecting bilateral agreements after the Conference. Within one year after the Conference, the United States, following the standard prescribed by Resolution VIII, had concluded bilateral agreements with Denmark, Sweden, Iceland, Switzerland, Norway, and Portugal.

After the Conference, many nations still believed that the Chicago meeting had been a failure, especially since no program for economic control of international aviation had been adopted. Other delegations, such as that of the United States, were disappointed because a multilateral convention granting fifth freedom rights to all the representative nations had not been adopted. Nonetheless, most writers are convinced that the Chicago Conference was perhaps the most valuable international civil aviation convention ever held. In adopting this position, Schenkman stated that:

17 For the text of the Final Act of the Conference, see U.S. DEP'T OF STATE, PUB. No. 2282, INTERNATIONAL CIVIL AVIATION CONFERENCE—FINAL ACT AND RELATED DOCUMENTS (1945).
18 Because of the unpopularity of Appendix IV, the United States withdrew from the Air Transport Agreement in 1946. See U.S. Withdraws from Air Transport Agreement, 15 DEP'T STATE BULL. 236, 256 (4 Aug. 1946).
19 SCHENKMAN, op. cit. supra note 4, at 99.
In the political history of commercial aviation the Chicago Conference ranks as the most important ever held. This is not because of its accomplishments, although they were impressive enough, but rather because of the conviction on all sides that a way had to be found for appropriate international cooperation.\(^{20}\)

H. L. Smith concurred with Schenckman:

Was the Chicago conference . . . successful . . .? In the midst of a weary war half a hundred nations had sent representatives to work out one of the vexatious problems of the peace. That in itself was a remarkable achievement. If the delegates had merely stated their respective policies on world air commerce the meeting would have justified the cost.\(^{21}\)

At all events the Chicago Conference laid a firm framework for postwar civil aviation and a framework much less ambiguous and more modern than that existing prior to 1944.

Though of great importance in facilitating postwar commercial aviation, the Chicago Conference did not alter the role of the Executive Branch in regulating air transport in the United States as that role had been established in the implementation of the Civil Aeronautics Act of 1938. The procedure for route development still involved preliminary negotiations by the Department of State for landing rights in foreign countries; and, once landing rights were secured, the CAB still maintained the power to grant route certificates to carriers flying between the United States and foreign countries. In addition, the President retained his power to pass on all such route certificates issued by the CAB. Nevertheless, the Chicago Conference clarified the task of the Executive Branch during the postwar period: after the Conference, the Department of State faced the long and involved process of negotiating bilateral air transport agreements with most of the world’s nations.

In February 1946, the United States and Britain held negotiations in Bermuda in order to draw up the first postwar bilateral air transport agreement, an agreement which would make possible additional flights between the United States and Europe. The “Bermuda Agreement” merits special attention here, because the development of international routes for this country (and for many other nations) has been based primarily on “Bermuda-type” bilaterals.\(^{22}\)

The primary task facing the two delegations at Bermuda was to work out some arrangement regarding landing privileges, rates, and capacity—in short, the task was to construct an agreement concerning every significant aspect of air transport between the two countries. The matter of allowable capacity on designated routes was the first order of business at Bermuda. First, the delegates attempted to devise mathematical formulae which would specify the exact proportion of traffic flowing between the two countries to be allotted to carriers of each nation. However, these

\(^{20}\) Id. at 101.

\(^{21}\) H. Smith, op. cit. supra note 14, at 191.

formulae were rejected for more general principles. When agreement was
finally reached, each nation was granted the right to determine, in the first
instance, the capacity to be offered and the number of frequencies to be
flown on routes designated in Annex III to the Agreement. The Final Act\textsuperscript{33} states that capacity offered by a carrier should be determined primarily
by the traffic demands “between the country of which such airline is a
national and the countries of ultimate destination.” Thus capacity on
third and fourth freedom traffic (these two freedoms allow United States
carriers, for instance, to carry United States citizens to Britain, dispatch
them, and then carry British citizens back to the United States) was to
be roughly determined by the traffic flowing between the two countries.
The right to carry fifth freedom traffic was to be related:

(a) to traffic requirements between the country of origin and the countries
of designation;
(b) to the requirements of through airline operation; and
(c) to the traffic requirements of the area through which the airline passes
after taking account of local and regional services.\textsuperscript{34}

According to these principles, fifth freedom traffic could be limited for
either of the two following reasons: (1) if the airlines of one nation,
while operating its trunkline services, “unduly affected” the other na-
tion’s traffic on the same route; or (2) if capacity offered on fifth free-
dom flights adversely affected the “local and regional services” of the
other nation’s carriers. The possibility of future restrictions on capacity,
however, did not mitigate the essential freedom of the capacity clauses,
for the United States had gained its most sought after privilege: fifth
freedom rights through Britain with capacity provisions, at least in the
first instance, to be determined by United States carriers. The Final Act
also required that, in the event either of the two nations became dis-
satisfied with the number of frequencies or capacity provided by the
other, it could beseech PICAO to arbitrate the difference in opinions.

To gain this concession regarding capacity limitations, however, the
United States was forced to grant concessions to the British in the form
of rate controls on flights between the two countries. The British were
aware that even if the United States demonstrated restraint in the amount
of capacity flown, American carriers could still monopolize traffic by cut-
throat rate reductions. From the British point of view, it was necessary
to conclude some agreement which would prohibit such a practice by
either country. Thus the Agreement states that each government will
accept, in the first instance, rates agreed on through the machinery of
the International Air Transport Association, which had been established
in April 1945. The United States agreed to accept this machinery for a
trial period of one year, and any new proposed rate to be charged by car-
riers of either country was thus subject to the approval of the aeronautical

\textsuperscript{33} The Bermuda Agreement refers to three separate documents, the following two of which are
important here: (1) a Final Act, primarily concerned with the matter of capacity; and (2) a
Bilateral Agreement concerned with rate control and route designation.

\textsuperscript{34} Bermuda Agreement, Final Act, para. 6.
TABLE 1

EXCERPTS FROM ANNEX III TO THE BERMUDA AGREEMENT:
ROUTE PRIVILEGES GRANTED TO EACH COUNTRY

(a) Routes to be served by Air Carriers of The United Kingdom
   (In both directions; stops for non-traffic purposes omitted)

<table>
<thead>
<tr>
<th>Point of Departure</th>
<th>Intermediate Points</th>
<th>Destination in U.S. Territory</th>
<th>Points Beyond</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Any one or more of the following)</td>
<td>(Any one or more of the following, if desired)</td>
<td>(Any one or more of the following, if desired)</td>
<td>(Any one or more of the following, if desired)</td>
</tr>
<tr>
<td>1. London</td>
<td>New York</td>
<td>San Francisco and the points on Route 7.</td>
<td></td>
</tr>
<tr>
<td>2. London Prestwick</td>
<td>Shannon</td>
<td>New York</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Iceland</td>
<td>Detroit</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Azores</td>
<td>Philadelphia</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Bermuda</td>
<td>Washington</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Gander</td>
<td>Baltimore</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Montreal</td>
<td>Boston</td>
<td></td>
</tr>
</tbody>
</table>

(b) Routes to be served by Air Carriers of The United States
   (In both directions; stops for non-traffic purposes omitted)

<table>
<thead>
<tr>
<th>Point of Departure</th>
<th>Intermediate Points</th>
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<td>(Any one or more of the following, if desired)</td>
</tr>
</tbody>
</table>

Source: 14 DEP'T STATE BULL. 589-90 (1946).
authorities of both countries. At that time, the CAB did not have statutory powers to set exact rates on international flights by United States carriers or foreign carriers operating to the United States, being empowered only to set maximum or minimum rates, or both. As a reflection of the Board's lack of power in this area, paragraphs (c) through (j) of the Agreement contain an elaborate procedure for establishing rates in the event that one of the aeronautical authorities fails to ratify a rate agreed to by IATA.  

Having come to terms on capacity limitations and rate making procedures, the two nations drew up an elaborate Annex III, specifying the routes that air carriers of each country would be allowed to fly. Excerpts from Annex III of the agreement are presented in Table I in order to illustrate better the conditions and complexities of a bilateral agreement.

Within a year after the Bermuda Conference, the United States had become a party to bilateral air transport agreements with twenty-five nations. Every one of these bilaterals granted five freedom rights to American carriers. By 1963, the United States had entered into bilateral agreements with sixty-eight countries, all of which currently operate flights into the United States, or have the right to exercise that privilege.

It should be emphasized, however, that while most of the conditions under which these foreign carriers are allowed to fly into the United States are determined by "Bermuda-type" bilaterals, the terms of these bilaterals may or may not extend privileges similar to those extended to Britain by the Bermuda Agreement. By the same token, rights secured by the United States in such bilaterals may differ from privileges secured from the British. The precise terms of such a bilateral agreement depend upon several factors. Among the most important factors are: (1) the transportation needs of the two nations involved, (2) the relative bargaining strength of each nation, and (3) the political relationship which exists between the two nations at the time of bargaining. In other words, the agreements are not identical.

In 1946, the United States signed a bilateral agreement with France quite similar to that which had been negotiated with Britain at Bermuda, differing primarily in the Annex which designated routes. In 1945, however, the United States had signed an agreement with Switzerland which provided American carriers rights to operate to points in and beyond Switzerland while, in return, the Swiss were only privileged to fly to New York City and then back to Switzerland. A 1945 agreement with

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25 Until 1962, there were no IATA rates which were not agreed to by both countries, thus the machinery set up in paragraphs (c) through (j) was not utilized. There had been a brief skirmish involving Pan American rates on transatlantic flights in 1945, but this problem was worked out without the aid of the CAB. During 1963, however, the CAB refused to ratify rates established by the IATA in October 1962 and this caused a mild crisis in international air transport. This issue is discussed in the following section.

26 Walstrom, Bilateral Air-Transport Agreements Concluded by the United States, 15 DEPT STATE BULL. 1126-29 (22 Dec. 1946).

27 Kittrie, United States Regulation of Foreign Airlines Competition, 29 J. AIR L. & COM. 1, 2 (1963).


29 Thomas, Economic Regulation of Scheduled Air Transport 213 (1951).
Ireland stipulated that the United States could fly into Ireland, but only if it made Shannon airport its first and last European port of call. It is obvious that the establishment of bilateral agreements has allowed the United States to avoid, in great part, the restrictionist policy which the British advocated in Chicago in 1944. However, this country has been able to avoid capacity and frequency restrictions only by (1) granting reciprocal landing rights to most of the countries with which it has negotiated bilaterals, and (2) by agreeing to allow the International Air Transport Association to set rates on the international flights of carriers belonging to that organization. Our discussion of the regulation to which United States international air carriers are subjected, therefore, would not be complete without giving attention to the mechanism by which rate wars are avoided.

C. The International Air Transport Association

This section describes the operations of IATA and analyzes the power of that organization to exercise control over United States international carriers. In the great majority of cases, IATA determines the rates to be charged on the international flights of American carriers; however, there are rare instances when the establishment of rates cannot be effected by IATA. Thus, this section will also discuss those cases where rates are established according to the principles of the Bermuda Bilateral Agreement.

1. Early History of IATA

As early as 1919, representatives of six European countries had established an organization called the International Air Traffic Association. The chief aim of this organization, which included airlines from England, Denmark, Germany, Norway, Sweden, and the Netherlands, was “establishment of unity in the operation of air tours of affiliated organizations whose systems are of international importance.” Between 1919 and 1939, the “old” IATA undertook the task of providing guidelines for the standardization of international air carriage among the Association members. The organization conceived its chief initial functions to be (1) the clarification of international aviation law, and (2) the standardization of aviation technology. During the first two decades of its existence, IATA provided an invaluable service to the future development of the industry by its efforts to bring some semblance of order into these two areas. However, at no time during this entire pre-World War II period did the old IATA establish the price-fixing machinery which was to be the most important feature of the organization after the war. The founders of the earlier organization were more concerned with standardizing the conditions of air travel than with avoiding competition.

The amazing expansion of the industry’s operations during World War
II created a host of new postwar problems in international commercial aviation, many of which were manifest in the discussion at the Chicago Conference. The delegates to the Conference, it will be recalled, had left that meeting without formulating a postwar policy to avoid "unhealthy competition" on international routes. Therefore, it was imperative that the world's international carriers effect some kind of agreement which would make such competition impossible. As a response to this need, representatives of forty-one airlines met in Havana in December 1945 and created the International Air Transport Association, the main purpose of which was to control rates on the international flights provided by its members.

To insure that American participation in the organization would not run afoul of domestic legislation, the IATA Bylaws included two important provisions, both of which were aimed at clearly distinguishing that organization from the type of cartel which was thought to be in conflict with United States antitrust laws. The first provision stipulated that a rate could be established by IATA only when the tariff received unanimous approval from members of the organization, thereby making it impossible for any group of carriers to exercise absolute control over the rate structure. The second provision stipulated that rate agreements made by IATA would be subject to the approval of the aeronautical authority of each country represented by an airline in IATA. This second bylaw was really the significant one from the United States point of view, since it made it possible for the CAB to control, although indirectly, any rate agreement to which an American carrier became a party, thereby, hopefully, providing an antitrust exemption.  

For the purposes of establishing rates, IATA divided the world into nine separate areas. Airlines operating in any of the nine areas would be allowed one vote on any proposed rate for flights to and from that area. Once IATA had established rates for flights in all nine areas, the CAB would be empowered to pass upon such rates before they could be charged to the public. Because the IATA Bylaws contained these two important provisions, by 1946 the organization had garnered support from both the CAB and the American international carriers. The current operations of IATA have been substantially broadened as additional carriers have joined the Association, and as the world international air transport industry has extended its operations to every area of the world.

2. IATA in 1964

In the Articles of Association of IATA, the broad aims of the organization are articulated. According to these Articles, the aims and objects of IATA are:

(1) To promote safe, regular and economical air transport for the benefit of the peoples of the world, to foster air commerce, and to study the problems connected therewith;

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28 It will be recalled that Section 412(a) of the Federal Aviation Act of 1958 gave the Board power to pass on all agreements entered into by any certified air carrier.

(2) To provide means for collaboration among the air transport enterprises engaged directly or indirectly in international air transport services;

(3) To co-operate with the International Civil Aviation Organization and other international organizations.44

In addition to the establishment of rates on all flights involving IATA members, IATA has other functions which are aimed at facilitating international air transport. The IATA Financial Committee,5 for instance, is charged with operation of the IATA “clearing house.” The clearing house allows member airlines (and some non-members) to settle interline accounts much in the same way as that in which commercial banks clear their own accounts through the Federal Reserve System. Another example of non-rate functions are those provided by the Executive Committee, which is headed by a permanent Director. The Director acts as the final arbiter of IATA policy disputes, he supervises the activities of regional branches, and he is the main public spokesman for the Association.

Such non-price fixing functions of IATA, while extremely important in facilitating the operations of the members, are only secondary functions of the Association. No doubt, the provisions for standardization of flight conditions, the dissemination of aviation technology, and the clarification of international aviation law, are to the benefit of both the airlines and their customers. By reducing inefficient trade practices, these IATA activities have, in substantial part, provided for the rapid development of international air transport into its present form. Nonetheless, this development would have been much more chaotic had it not been for the remaining function of IATA—the establishment of “healthy” non-competitive rates on international flights.

Every year,56 Traffic Conferences are held at which time rates for all cargo and passenger flights by IATA members are established. Also, pursuant to the Articles of Association, each Traffic Conference:

may consider and act upon all traffic matters of concern to their members in their respective areas; provided that . . . the Traffic Conferences shall concern themselves with all international air traffic matters involving passengers, cargo and mail in their respective areas, particularly the following:

(1) Analysis of operating costs;

(2) Fares, rates and charges for passengers and cargo;

44 Ibid. Apparently the assumption of the authors of the Articles is that the avoidance of competition in international air transport is to the direct benefit of the air carriers' customers. It may well be difficult to convince the American tourist who paid $484 to fly round trip from New York to London in July 1964 that this rate is to his “benefit.” It may also seem strange to the 95% (!) of the world's population who did not experience an international flight in 1963 that maintenance of non-competitive rates on international flights is to their “benefit.” Apparently “economic air transport” means one thing to the air carriers and another to the consuming public.

56 There are four standing Committees of IATA which are not directly concerned with rate control. These are: the Medical Committee, the Technical Committee, the Legal Committee, and the Financial Committee.

57 In recent years Traffic Conferences have been held each October to establish rates effective the following April. For administrative purposes, the world has been divided into three broad areas, and, for each area, there is an annual Traffic Conference. (The nine Traffic Conference Areas established in 1945 were reduced to three areas in 1947.) Area No. 1 includes the Western Hemisphere, Greenland, and Hawaii; Area No. 2 includes Europe, Africa, the Middle East, and Iran; and Area No. 3 includes Asia, Australasia, and the islands of the Pacific.
The matter of business of a Traffic Conference is divided into two broad areas. First, the members agree to resolutions which facilitate interline traffic. This action does not include determination of the number of scheduled flights, for IATA has no power in this regard. However, interline traffic is facilitated by allowing members to promulgate their schedules, and thus make them compatible with the schedules of other airlines which may provide extension to their own routes. Methods of standardizing waybills, baggage receipts, and tickets, and ways to improve airport services, are discussed at the Traffic Conferences. The ease with which passengers are able to make an extended flight which necessitates traveling on more than one IATA airline is, next to the establishment of rates, the main concern of the Traffic Conferences.

The second type of business at a Traffic Conference is (1) the establishment of rates on the 60,000 separate services provided by IATA members, and (2) agreements about the types of services to be provided on each class of flights. When a resolution is made to establish a tariff for a particular service, a vote is taken of all carriers providing that service; if the vote is unanimous in favor of the rate, it becomes binding on all voting members. In the event that the vote is not unanimous, efforts are made to reach agreement on a compromise tariff. On rare occasions, no agreement can be reached for a service; and in such cases, an "open rate" situation prevails in that area beginning the following 1 April. Of course, the primary purpose of IATA is to avoid price competition; thus the threat of open rates has induced the carriers to reach agreement on all services in the overwhelming majority of Traffic Conferences.

After the three Traffic Conferences succeed in establishing the 60,000 separate tariffs, the American carriers submit this schedule of rates to the CAB for approval. In the event that the Board (or the equivalent agency in any other foreign government) fails to approve a schedule of rates set by the Traffic Conferences, IATA ordinarily will call supplementary conferences in order to work out some new agreement which will satisfy the dissident aeronautical authority.

The IATA rate agreements are policed by an Enforcement Section under the direction of the Director General. The purpose of this Enforcement Section is to maintain the closest possible adherence to rate and service agreements during the period between Traffic Conferences. Member carriers not adhering to IATA agreements are subject to fines up to $25,000 per offense; and, in extreme cases, carriers can be suspended from the organization. Because most members of IATA have

37 For an excellent discussion of the procedure of an IATA Traffic Conference, see Cohen, A Case History in International Air Fares and Rates Negotiation, 27 J. AIR L. & COM. 150 (1960).
38 Open rate situation have never degenerated into rate wars; apparently there is a tacit agreement among the members of IATA simply to maintain the rates agreed to in the previous Traffic Conference. In 1953, the CAB rejected the entire Pacific rate agreement. Nonetheless, throughout 1953, members charged the rates established in 1952. See Bebchick, The International Air Transport Association and the Civil Aeronautics Board, 21 J. AIR L. & COM. 8, 25 (1958).
joined the Association to avoid price competition, compliance with IATA resolutions is the general rule. Most frequently, infractions involve a failure to comply with agreements concerning the type of service to be provided on flights, rather than failure to charge the correct rate. Although the Enforcement Committee is in almost continuous session dealing with alleged infractions, apparently "the great majority of IATA's members follow the spirit as well as the letter of its rules and do their best to train their staffs with these principles in view." From the point of view of IATA member airlines, the Association has been very successful since its incorporation in 1945. Rate wars have been almost nonexistent, and the non-price activities of IATA have greatly reduced the complexities of international air transport. Moreover, less than five per cent of IATA rate agreements have been disapproved by governments; this fact is cited by IATA as evidence that, in the great majority of cases, the rates agreed to have been in the best interest of the consuming public. The prevailing opinion among member airlines is that the IATA machinery affords a highly successful method of avoiding rate wars, and is an excellent framework for coordinating the industry's operations.

There are other writers, however, who do not agree that the activities of IATA necessarily accrue to the public's benefit. In 1961, an article in the Harvard Law Review argued that:

The real reasons for the carriers' support of the IATA is probably not the danger of destructive rate wars but the advantage of being able to set high rates, which protect the less efficient operators. . . .

In 1955, Joshua Lee, then a Member of the Board, argued vigorously against giving permanent approval to IATA. Lee maintained that effective competition depends upon the ability of competing firms to cut rates, and that rate controls "always lead to setting the price at a level profitable to the most inefficient operator." Bebchick concurred with Lee, and argued that the "excessively high" level of international rates in 1958 indicated that Lee's prophecy about non-price competition had come true. As a rejoinder to criticisms regarding the general level of rates, the member airlines are quick to point out that the price of international air transport has been progressively reduced since the 1945 period.

In 1955, the IATA Atlantic Traffic Conference agreed to establish "economy-class" fares. Passengers purchasing this class of ticket were given smaller seat spaces and were served sandwiches rather than the more elaborate meals served the tourist and first-class passengers. Soon after, Pan American complained to the IATA Enforcement Section that several European airlines were "piling whole rich meals of paté, fish, and even fruit on a slice of bread and calling it a sandwich. . . ." This "sandwich affair" is a good example of failure on the part of members to comply with non-rate IATA agreements. For a discussion of the sandwich crisis, see International Airlines: The Great Jet Gamble, Fortune, June 1958, p. 228.


INTERNATIONAL AIR TRANSPORT ASSOCIATION, FACTS ABOUT IATA 13 (1964).

Comment, CAB Regulation of International Aviation, 75 Harv. L. Rev. 575, 579 (1961).

Lee is quoted in Bebchick, supra note 38, at 161.

Id. at 40.

For example, in 1945, the cost of a one-way trip from London to New York was as much as $575. Effective April 1964 a round trip flight from London to New York can be made for as little as $300. The reduction in rates since 1945 has not been confined to the Atlantic area.
Other writers have criticized IATA because its members do not provide adequate information to governments concerning the relationship of IATA rates to the costs incurred by the member airlines. Stephen Wheatcroft stated:

Most governments have undertaken in their air transport agreements to insure that the fares and rates approved are "fixed at reasonable levels, due regard being paid to all relevant factors..." The Governments are obviously unable to form any reasonable opinion about "economical operation" unless they have available adequate financial and statistical data not only about their own airlines but also other airlines operating in the same area. 46

Nonetheless, Wheatcroft did conclude that the Traffic Conferences "seem reasonably well to protect the public interest in international air transport..." 47

Notwithstanding these criticisms of IATA, the nineteen-year perpetuation of the Association provides ample evidence that both the airlines and the governments they represent accept IATA as necessary to the development and orderly operations of the international air transport industry. The CAB, though at times not fully in agreement with IATA rate policies, has never wavered in its view that the Association provides a crucial service to the American industry. Evidently, the Board, like most foreign aeronautical authorities, approves the IATA machinery as the least problematic method of avoiding ruinous price wars among competing international carriers. As long as most international carriers fear domination by the larger members of the industry, and a majority is opposed to control by an international government agency with economic regulatory powers, the IATA will probably continue to carry out its present functions.

3. Establishment of International Rates When IATA Fails

This section discusses the procedure through which international rates are established in the event that no agreement can be reached in the IATA Traffic Conferences. Specifically, we are concerned here with cases in which IATA rate agreements are not approved by the CAB.

It will be recalled from earlier discussion that the CAB derives its power to void IATA rate agreements from section 412 of the 1958 Federal Aviation Act. 48 Though the Board had not chosen to exercise this power for over a decade, in March 1963 it refused to approve IATA rate resolutions made in the preceding October, and this refusal created a mild crisis in the industry. In September and October of 1962, IATA met at Chandler, Arizona, at its annual Traffic Conference, at which the membership adopted fare increases on both transatlantic and transpacific

47 Id. at 224.
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routes. On 10 December 1962, the CAB met with Pan American and TWA, the two American carriers servicing the transatlantic route, and ordered the two airlines to submit reports explaining why they favored increased rates. On 18 March 1963, the CAB, having failed to receive adequate justification from Pan American and TWA for increasing fares on the North Atlantic route, issued an order disapproving initiation of the proposed rate. With the exception of Canada, governments of the remaining members of IATA had approved the proposed rate increase. The Board's order, therefore, threatened to create an open rate situation for the coming year.

The reasons for the Board's decision in the matter were complex and reflected several changes in the character of the industry which had taken place since 1945. For a long time prior to 1962, the Board, the Department of State, and the two American carriers had advocated significant reductions in the transatlantic route structure. The Americans argued that by lowering transatlantic air fares, the industry could go a long way in solving the growing problem of overcapacity. Apparently, the profit-motivated airlines believed that the additional passengers induced to fly because of reduced fares, would produce increased profits. On the other hand, it has been argued that most of the European airlines:

are in a very real sense government organizations, either being government entities or business in form but heavily subsidized by government. Generally, foreign airlines are as much an instrument of policy and governmental prestige as a carrier of passengers and cargo. Certainly this is a legitimate function of an international fleet. However, long-term subsidization combined with continued awareness of prestige and policy are factors which contribute to the generally accepted fact that foreign carriers are rarely as economically efficient as are United States carriers. In addition it is generally thought that discounting and rebating are practiced heavily by some foreign carriers. In these circumstances foreign airlines and their governments have generally sought to solve the economic problem by raising tariffs in attempts to make current operations pay or to cut losses on the basis of present capacity and the prevailing volume of traffic.

The European airlines opposed rate reductions because they were not convinced, as were the American carriers, that, in the event of fare reductions, the market would be expanded and that their profits thus would be increased.

For a discussion of this entire issue, see the following: Comment, *The Role of the United States in the 1963 Transatlantic Air Fare Crisis*, 30 J. AIR L. & COM. 82 (1964); Aviation Week & Space Technology, 20 May 1963, pp. 39-40; and, *Hearings on International Air Transport Rates before the Senate Subcommittee on Commerce, 88th Cong., 1st Sess., ser. 15* (1963) [hereinafter cited as 1963 Rate Hearings].

For a general discussion of this matter, see Comment, *The Role of the United States in the 1963 Transatlantic Air Fare Crisis*, 30 J. AIR L. & COM. 82, 84 (1964). Specific statements concerning the rate policy of the Department of State and the two American carriers can be found in 1963 Rate Hearings. Abram Chayes, legal advisor to the Department of State, stated that the United States Government "has been and continues to be in favor of lower transatlantic fares." *Id.* at 31. John Leslie of Pan American argues that his company has advocated lower transatlantic fares consistently since 1945. *Id.* at 54. Thomas K. Taylor of TWA advocates lower transatlantic fares and discusses the reason for his position. *Id.* at 86.

Comment, *The Role of the United States in the 1963 Transatlantic Air Fare Crisis*, 30 J. AIR L. & COM. 82, 84 (1964). In 1962, the British Overseas Airways Corporation incurred a loss of over £9 million. It is understandable why BOAC would be adverse to rate cuts at the Chandler Conference in October 1962.
In an attempt to avoid an open rate situation, officials of the United States Government met with government officials from interested European nations. However, this meeting failed to result in a solution to the problem. Although the new rates went into effect on 29 April 1963 (the 1 April deadline had been extended in order to provide time to negotiate some settlement), Pan American and TWA continued to charge the lower fares agreed to in October 1961. The action of these two airlines provoked several European governments, notably the British, to announce that if Pan American and TWA continued to charge the lower fares, the aircraft of these two companies would be seized upon landing on European soil.

On 14 May, upon the advice of the State Department, the CAB reversed its earlier position and advised Pan American and TWA to raise their rates on flights to those countries threatening to impose severe economic sanctions. The problem was finally resolved by a meeting of nineteen members of IATA in Bermuda which agreed to a compromise rate that went into effect on 16 July 1963.

Immediately afterwards, the Interstate and Foreign Commerce Committee of the United States Senate began hearings aimed at determining answers to several provoking questions: Why, the Committee wanted to know, did the CAB not counter the British threats with a reciprocal threat to seize British aircraft landing in the United States? Why, since the United States provides the great majority of transatlantic passengers, does the CAB lack the power to establish lower fares which it considers to be in the public’s interest?

In general, the Committee’s hearings revealed that the CAB lacked legislative authority to deal adequately with cases in which it disapproved of rates established by IATA. This inadequacy apparently was the result of (1) ambiguity in Section 402 of the Federal Aviation Act of 1958 and (2) certain stipulations in Annex II of the 1946 Bermuda Agreement. It will be recalled that by the terms of the Bermuda Agreement the United States and Britain had agreed to accept the rate making machinery of IATA for a trial period of one year. In the event, however, that rates could not be agreed upon through this machinery, the Bermuda Agreement included two separate clauses which specified the procedure through which rate disputes could be solved. This procedure was as follows: The first clause, included in Annex II, paragraph (e) of the Agreement, would apply when (and if) the Board received legislative authority to set exact rates on international flights. The second clause included in Annex II, paragraph (f) (which is still in effect, since the CAB has not received such authority), provides that in cases where IATA fails to establish rates acceptable to either the United States Government or the British Government, the two nations can seek to reach agreement at the

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52 In 1962, 62.4% of all passengers flying the transatlantic route were United States citizens. However, foreign airlines carried over 60% of the total number of transatlantic passengers during the same year.
53 1963 Rate Hearings.
54 Bermuda Agreement, Annex II, para. (e) & (f).
governmental level. If such an agreement is reached, each contracting party
is charged with inducing its carriers to charge the agreed upon rate. If,
however, no agreement can be reached at the governmental level, the
objecting party "may take such steps as it may consider necessary to pre-
vent the inauguration or continuation of the service in question at the
rate complained of." And so, when Pan American and TWA continued
to charge a rate unacceptable to the British, the British Government (in
this case, the objecting party) relied on this clause of the Bermuda Agree-
ment and threatened to take such steps as were necessary to "prevent the
inauguration or continuation" of the service.

At the same time, the CAB did not believe that it had legislative
authority to impose similar sanctions on foreign airlines. Section 402 of
the Federal Aviation Act of 1958 provides that the Board can attach to
a foreign air carrier permit "such reasonable terms, conditions, or limita-
tions as, in its judgment, the public interest may require." The Board,
according to Chairman Alan Boyd, however, did not interpret section 402
as giving the CAB power to impose economic sanctions similar to those
threatened by the British.56

At the 1946 Bermuda Conference, the American delegation had believed
that as soon as the Agreement was signed, or shortly thereafter, Congress
would grant the Board power to set exact rates on international flights;
the two separate rate clauses of the Bermuda Agreement reflected this
mistaken belief. Paragraph (e), which becomes effective when the Board
is empowered to establish exact rates, provides that if one party objects
to a new rate, this rate could go into effect following consultations and
pending a third party report.57 A disputed rate could remain in effect in-
definitely, and, pending settlement, the American carriers could operate
at one rate level and British carriers at another, without either party hav-
ing power to take action against the carriers of the other party.

The advantage to the United States under the proposed paragraph (e)
is apparent. This country had long advocated lower fares on transatlantic
flights; thus, had paragraph (e) been in effect during 1962-1963, the
British carriers would have been forced, because of the lower fares being
charged by Pan American and TWA, to reduce their own rates on the
transatlantic route. Moreover, under paragraph (e), the British would
have had no legal power to threaten seizure of the aircraft of the United
States airlines.

The 1963 hearings before the Senate Subcommittee on Commerce con-
vinced a majority of senators of the need for legislation which would
make impossible the type of situation which followed the 1962 Chandler
Traffic Conference. Thus, Senate Bill 1540, introduced by Senator Warren

55 Bermuda Agreement, Annex II, para (f). (Emphasis added.)
56 Abram Chayes, legal advisor to the Department of State, agreed with Chairman Boyd that the
CAB lacked legislative authority to impose economic sanctions upon foreign carriers. See 1963 Rate
Hearings 32, 37-43.
57 At this time (1945), ICAO had not been established. Annex II, para. (g), of the Bermuda
Agreement stipulated that the PICAO would act as a third party in the event of a rate dispute
between the United States and Britain.
Magnuson on 28 August 1963, passed the Senate on 29 November 1963. (Though S. 1540 received the support of the CAB, the Department of State, and the late President Kennedy, action has not yet been taken on the bill by the House of Representatives.) The bill would, among other things, give the CAB power to set exact rates on flights of United States and foreign carriers between the United States and foreign nations. Pursuant to the Bermuda Agreement, when such rate setting power is conferred upon the Board, paragraph (e) of the Bermuda Agreement will become effective.

Presumably, the Board currently hopes that IATA will establish rates acceptable to a majority of Board members, for the 1962-1963 experience has probably made the Board more hesitant than ever to void IATA rate agreements. Of course, this situation could be ameliorated if a bill similar to Senate Bill 1540 were to pass Congress. Until such time as comparable legislation is passed, however, recourse to the bilateral agreements as a means of establishing international rates appears to be a poor course of action.58

To this point, in addition to the price-fixing activities of IATA, the roles of the CAB and the Executive Branch of the United States Government in regulating this country's international carriers have been explained. In this and the past two sections, specific discussion of the international air transport policy of the United States Government as it is formulated by the Board and by the Executive Branch has been intentionally avoided. Although the Federal government's role in regulating the industry is defined by domestic and international law, it should be apparent that the letter of this body of law allows a considerable degree of flexibility to the Board and the Executive Branch in determining commercial aviation policy. This policy is analyzed below.

D. The United States International Air Transport Policy

1. The Formulation of Policy

The growing importance of international air transport during the past decade was reflected on 24 June 1963, when the Department of State announced that Mr. Allen R. Ferguson had been appointed Coordinator for International Aviation.59 This new office, some of whose duties had been performed by the State Department Office of Transport and Communications:

58 It has been argued that:

[Adj]option of S. 1540 would be the biggest single immediate step that the United States could take toward achieving practical results in its efforts to lower international air tariffs. Giving the CAB the power to make rates would relieve foreign governments of the power to impose sanctions and at the same time permit the United States to charge low fares in contrast to foreign high fares until settlements were reached.

Comment, 30 J. Air L. & Com. 82, 90 (1964).

It is worth mention that the Air Transport Association, the trade association for the United States airline industry, vigorously opposed S. 1540, and offered an alternative bill. The opposition to S. 1540 by ATA may partially explain the bill's unpopularity in the House of Representatives. For a discussion of S. 1539 (an ATA sponsored alternative to S. 1540), and the arguments supporting the bill, see 1963 Rate Hearings 134-44.

59 Dept. of State Press Release No. 332, 24 June 1963. This document was kindly forwarded to the writer by Henry T. Snowden, Chief of the State Department's Aviation Negotiations Division.
is charged with the responsibility for formulating international aviation policy. . . . The Office will be responsible for inter-agency coordination of international commercial aviation policy, working with the Department of Defense and Commerce, and the Agency for International Development as well as with the Federal Aviation Agency and the Civil Aeronautics Board. International air transport policies will be implemented largely through a continuation of the system of bilateral agreements for the exchange of air routes and air traffic rights.60

To perform his task, the International Aviation Coordinator is assisted by a Policy Staff, an Aviation Negotiations Division, and a Liaison Division which has primary responsibility for coordination of international air transport activities with the other interested government agencies. The Coordinator and his Policy Staff are charged with carrying out State Department negotiations with foreign governments, and thus have the responsibility, together with the CAB, of defining the character of reciprocal rights to be granted to foreign governments which allow United States carriers to service their country.

The Coordinator for International Aviation, after having consulted with the Board (and other concerned government agencies), recommends policy to the Secretary of State. His office is a part of the State Department's Bureau of Economic Affairs. Although the Secretary of State retains leadership in the field of international civil aviation, presumably policy recommendations made to the Secretary will now be based upon more intensive and specialized departmental research than formerly. At the same time, clearance of political desk officers is surely still required, and, of course, any policy recommended by the Secretary of State is presumably also cleared with other interested agencies and eventually subject to Presidential approval.

A recent reorganization of the Staff of the Civil Aeronautics Board also reflects the growing importance of international air transport. On 3 September 1964, Chairman Alan S. Boyd announced61 that the CAB's Bureau of International Affairs would be reorganized. This reorganization, according to Boyd, reflected:

the ever growing importance of the CAB's role in the international civil aviation community and in the implementation of the United States International Air Transport policy.

In addition, Boyd noted that the:

purpose of the reorganization is to streamline and strengthen the Bureau [of International Affairs] by realigning its functions to encompass two broad areas: a Negotiations Division and a Policy and Programs Division.

The Policy and Programs Division will:

perform special studies in problem areas and will represent the CAB in inter-agency and international aviation policy planning groups.

60 Ibid.
The Negotiations Division will have:

worldwide responsibility for handling of international civil aviation relations for the CAB and will represent it in bilateral negotiations with foreign governments. Previously these functions were handled by two separate divisions on a geographic basis.

Chairman Boyd stated that this division of labor in the Bureau of International Affairs will "streamline and strengthen" the method by which policy is formulated by the Board's Staff. In addition to providing greater emphasis on long-range planning in international civil aviation, the "reorganization will make for better utilization and productivity of staff through more direct placement of responsibility and improved procedures."

Thus, whatever the international air transport policy of the United States Government may be, it is initially formulated by specialized staffs in the Department of State and in the CAB and presumably cleared with other interested agencies. The Board promulgates international air transport policy primarily through the decisions it renders in rate cases and in route cases involving international carriers. The Secretary of State, acting as an agent of the President, promulgates the air transport policy of the Executive Branch through its consultation with and advice to the CAB on international air transport matters, and by the character of its bilateral negotiations with foreign governments. The essential features of present policy are outlined below.

2. The Present Policy

One particularly vexing problem of the international air transport industry which has arisen since 1940 has been caused by the increasingly intensive competition on the transatlantic route. The growing number of foreign carriers on this route has led to a steadily decreasing share of the transatlantic market held by American carriers. In the year ending June 30, 1962, United States carriers on the transatlantic route (Pan American and TWA) carried only 38.4% of the 2,274,697 persons flying between the United States and Europe. The share of the transatlantic market held by the two carriers has fallen during the past decade, despite the fact that during this same period, over 60% of all transatlantic passengers were American citizens. In 1961, the growing share of the market being taken by foreign carriers prompted President Kennedy to appoint a Steering Committee to study the entire area of international air transport. The Committee included members of several government agencies to which international air transport is a major area of concern, and was assisted in its investigation by two private research firms, several United States international carriers, the Air Transport Association, and by other organizations concerned with the international air transport industry. The dual

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2The members of the Committee were N. E. Halaby, Federal Aviation Agency, Chairman; K. R. Hansen, Bureau of the Budget, Executive Secretary; Alan S. Boyd, Chairman, Civil Aeronautics Board; H. B. Chenery, Agency for International Development; Griffith Johnson, Department of State; C. Daniel Martin, Department of Commerce; and Frank K. Sloan, Department of Defense.
purpose of the Committee's investigation were (1) to determine the causes of the diminishing share of the transatlantic market serviced by United States carriers and (2) to determine the effect of this diminution on the United States balance of payments.

In April 1963, after two years of research, the President's Steering Committee submitted a statement on international air transport policy.\(^5\) Apparently, the main purpose of the Policy Statement was to relate the balance of payments problems to the international air transport policy of the United States Government.\(^6\)

After approving the Committee's report, President Kennedy "directed the officials of this government concerned with air transport to be guided by this policy statement in carrying out their statutory responsibilities."\(^7\) The air transport policy recommended in the report received the support of the Department of State and the CAB (leading officials from these two agencies had played a dominant role in writing the Policy Statement) and, pursuant to the directive from President Kennedy, the two agencies have undertaken to implement the dictates of the Policy Statement. The Policy Statement is a fifteen page document setting forth the goals which the United States Government intends to pursue in international air transport. For the purpose of analysis, the Policy Statement has been subdivided into three general areas which are relevant to this study. Each area is discussed below.

3. **Broad Aims in International Air Transport**

The Policy Statement reveals the Committee's belief that non-economic considerations are a very important element of this country's international air transport policy:

\[\text{[The international air transport policy of this country] must promote the welfare of U.S. air carriers, an important element in our commercial life and a beneficial influence in the world's air transport system. It must be appropriately mindful of the U.S. strategic and political interests. Above all, it must develop for the passenger and the shipper of goods a sound, efficient system of air transport.}\]

The extent to which these non-economic factors determine United States

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\(^6\) Neither President Kennedy nor the Committee stated that the main purpose of the investigation was "to solve the problem of the adverse balance of payments in the international air transport account." President Kennedy asked the Committee to determine "whether U.S. air policies developed since 1944 can adequately serve U.S. interests in the future." Nonetheless, the discussion of the balance of payments problem covers almost half of the Committee's Policy Statement, and the discussion of other problem areas in international air transport is either superficially brief or avoided completely.

\(^7\) To the knowledge of this writer, President Johnson has not indicated whether the 1963 Policy Statement is consistent with his own views on international air transport. Nevertheless, this writer assumes that President Johnson approves the Committee's recommended international air transport policy, mainly because of his frequently reiterated concern about the adverse balance of payments.
air transport policy, is, of course, an important matter for consideration in the recommendations made below in Part V.\textsuperscript{67}

4. Problems of the Industry

With reference to the adverse affect on the balance of payments of the number of transatlantic passengers carried by foreign airlines, the Committee suggested that:

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 U.S. and foreign carriers, so long as U.S. 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.\textsuperscript{68}

Although the Committee conceded that within the framework of the existing system of bilateral agreements "the effect of various air transport policies on our balance of payments is limited," the "policies in this report . . . will help in this regard." Having hinted at the source of its major concern in international air transport, the Committee then described a "basic framework" within which United States international carriers should operate. It was hoped that implementation of a policy within this framework would help solve, or at least substantially reduce, the vexing problem of the gold drain. Although the Committee was apparently not concerned with the problem of extensive unutilized capacity in the industry, the Policy Statement underwrites an international air transport policy which has a direct bearing on the problem of overcapacity.

5. The Basic Framework for the United States International Air Policy

a. Bilateral Agreements—The fundamental conservatism of the Policy Statement is manifest in the discussion of bilateral agreements:

The U.S. 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.\textsuperscript{69}

According to the Committee, the restrictive policies of the British at Chicago "would result in endless bickering among nations as to their proper share of traffic." On the other hand, the United States position at Chicago of "unregulated freedom" was "completely impractical." In

\textsuperscript{67} The following is a hypothetical example of how a non-economic factor could shape aviation policy (a factor, in this case, which might compound the problem of overcapacity): Assume that Country A, which can offer the United States no profitable air routes, but which from a military view is strategically located, should desire to fly the New York to London route. While the CAB and the Department of State may desire to refuse certification of Country A carriers to fly the route for purely economic reasons, insistence by the Executive to certify the carriers for military reasons could lead to an "uneconomical" certification of a foreign carrier.

\textsuperscript{68} Policy Statement 4-5.

\textsuperscript{69} Id. at 7.
addition, the bilateral agreement method of exchanging routes was endorsed in the Policy Statement as a useful tool in providing economic growth of air transportation. Thus, any radical departure from the use of bilateral agreements for the determination of international routes would probably be denied support from the United States Government.

b. Extension of Existing Routes—According to the Policy Statement, the "present network of international air routes is . . . rather fully developed. Consequently, an expansion of the present route structures must be approached with caution." In areas where there are already several carriers providing services (such as on the transatlantic route), "our overall policy must not accentuate a situation which, on its face, cannot be sound."

c. Capacity Principles—The policy to be followed in this area is clear:

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.

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.

d. Rates—According to the Committee, the multilateral mechanism of IATA, "though it has some drawbacks, seems to be the most practical one we can achieve, and it should be maintained." However, the Policy Statement continues, in order 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.

Thus, the International Air Transport Association was given renewed support by the United States Government. The fact of this support means that it is unlikely that attempts will be made to solve the problem of overcapacity in the industry by a policy of substantial rate reductions. As was pointed out earlier, foreign carriers are allowed to maintain the high level of international rates (which, of course, are an important cause of low load factors) through the machinery of the IATA, only because they can veto any resolution for lower rates made by United States carriers.

e. Competition among United States Carriers—Since 1940, the Board has followed a policy of maintaining competition between United States carriers on international routes. The Committee underwrote this policy and described it as "sound," and "deserving" to be reaffirmed. The reasons for the Committee's support of the policy of regulated competition on international routes were explicit:

\[^{70}\text{Ibid.}\]
\[^{71}\text{id. at 8-9.}\]
\[^{72}\text{id. at 10.}\]
\[^{73}\text{id. at 10-11.}\]
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 multi-carrier policy...was developed...when the United States was by far the world's pre-eminent air power. ...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.74

Adherence to the policy of regulated competition, however, was qualified:

[The 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.75

A recent decision by a CAB hearing examiner indicates that the Board will perpetuate the policy of maintaining regulated competition on international routes. On 9 July 1964, Examiner James Keith issued a 157 page decision in which he rejected a plan to redraw the transatlantic routes flown by Pan American and TWA. In 1963, the Staff of the CAB had issued a report recommending a termination of competition between TWA and Pan American in Western Europe. The proposed route system would have divided Europe into "two spheres of operations," with Pan American serving the Northern, Central, and Eastern European area; and TWA serving Southern Europe and the Mediterranean area. Examiner Keith said that the recent experience of both TWA and Pan American in the transatlantic market has been so financially and operationally successful that the new route system was unnecessary. From all indications, the Board will approve these recommendations without substantial changes.76 Although the CAB may be determining policy in this area on a "case-by-case" basis, this decision, involving the most important international route in the world, hints that abandonment of "regulated competition" is unlikely.

6. Summary

The preceding analysis clearly indicates that the most recent statement of this country's international air transport policy is, to all intents and purposes, a tacit advocacy of maintaining the status quo in the international air transport industry. The broad principles governing the activities of international carriers laid down during the immediate post war period have not been abandoned.

In 1940, the CAB, by certifying American Export Airlines to compete with Pan American on the transatlantic route, established a policy of regulated competition on all international routes where such competition

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74 Id. at 11-12.
75 Id. at 13.
76 Transatlantic Route Renewal Case, CAB Docket No. 13577 (6 Feb. 1959) (examiner's opinion).
was justified by sufficient traffic. In 1945, this country adopted the bilateral agreement as the chief instrument for establishing international routes. In the following year, the CAB lent its support to the International Air Transport Association, giving that organization the power to establish rates on the great majority of all international commercial flights. Thus, by 1946, the United States Government had developed an international air transport policy which, in all of its important features, has remained unchanged to the present time.

President Kennedy's Steering Committee acknowledged that the air transport industry has been characterized by drastic changes over the past twenty years. Moreover, the Committee admitted that:

Our present policies on international civil aviation were formed in the mid-1940s, 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 U.S. 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.\textsuperscript{7}

The Committee, as this statement indicates, was obviously aware that existing international air transport policy may be inadequate to deal with present problems in the industry. It is surprising, therefore, that the "new" policy recommended in the Policy Statement is actually a restatement of an international air transport policy formulated almost two decades ago. Pursuant to the mandate of the Statement, entry into the United States international air transport industry remains under the control of the CAB; rates on most international flights are still established by the IATA; and international routes are still established according to the principles of bilateral agreements. The Committee's support of these three principles (and the support given to the Policy Statement by the Executive Branch and by the CAB) indicate that any new problems in the industry must be solved in a regulatory framework developed at a time when the international air transport system was embryonic and totally unlike the industry of today.

In addition to its reaffirmation of an admittedly obsolete international air transport policy, the Committee did not even consider, as a problem worth consideration, the extensive unutilized capacity generated by American international carriers. Apparently, the experts who concurred in writing the Policy Statement (and the government agencies which approved it) failed to recognize the degree to which overcapacity exists in the industry; it is inconceivable that such a group could have been unaware of the problem after two years of studying the industry's operations.

Since 1959, the passenger load factor for the combined operations of
United States international air passenger/cargo carriers has fallen steadily. Moreover, as the volume of seat miles offered by the industry has been rapidly increasing, the amount of overcapacity flown has risen more substantially than the falling load factors indicated. This growth in overcapacity generated by the United States international air transport industry raises two important questions: (1) What are the characteristics of unutilized capacity in the industry? and (2) What are the causes of its recent growth? Parts III and IV undertake to answer these two questions.

III. The Characteristics of Unutilized Capacity

The purpose here is to outline the chief characteristics of unutilized capacity generated by the United States international air transport industry between 1954-1963. Study of this ten year period has been undertaken for the following reasons: (1) unlike data for one year, figures for a ten year period allow an analysis of the growth of unutilized capacity, and also provide a description of the dramatic increase in overcapacity which has taken place since 1959, and (2) the magnitude of the unutilized capacity in the industry can be analyzed more meaningfully in terms of data for a decade. For purposes of clarity, the analysis below is separated into three sections. The initial section describes overcapacity occurring between 1954-1963 in the operations of the individual carriers. Additional background information concerning the development of each carrier’s route system is also included, since Part IV assumes some knowledge of this development. The second section combines several of the carriers into groups which service specific geographic areas. By so combining the carriers’ operations, it is possible to analyze the relation between unutilized capacity and the different market areas served by the industry. The last section summarizes and interprets the data presented in the preceding two sections.

A. Capacity Utilization Of The Individual Carriers

Before presenting data for the individual carriers, it will be useful to describe unutilized capacity as it occurred in the combined operations of all nine members of the industry between 1954-1963. Table 2 outlines these traffic data. The most important features of Table 2 are the following ten year figures: (1) total available seat miles (total passenger capacity) of 111,261.3 million; (2) total unutilized seat miles (total overcapacity) of 46,482 million; and (3) an average passenger load factor of 58.2%.

These figures provide convenient basic data to which the operations of the individual carriers may be compared. The following data for 1964 indicate clearly that no significant change has occurred in the industry’s ability to utilize available seat miles more completely:

<table>
<thead>
<tr>
<th>Description</th>
<th>1964 Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total available seat miles</td>
<td>22.8 billion</td>
</tr>
<tr>
<td>Total revenue passenger miles</td>
<td>12.6 billion</td>
</tr>
<tr>
<td>Total unutilized seat miles</td>
<td>10.2 billion</td>
</tr>
<tr>
<td>Passenger load factor</td>
<td>55.4%</td>
</tr>
</tbody>
</table>

Even though the load factor in 1964 showed a slight increase, the number of unutilized seat miles flown during the year was the highest in the history of the industry. Thus, the trend of flying a continually growing volume of overcapacity continues. (The data are compiled from CAB, Air Carrier Traffic Statistics (Dec. 1964)).
1. American Airlines

American's international operations are confined to service between the United States and two foreign cities, Mexico City and Toronto. Prior to 1957, American's sole international route was to Mexico City; the Toronto route was added that year. Table 3 describes unutilized capacity generated by American during the 1954-1963 decade on its international routes. During this period, American experienced a passenger load factor of 59.6%, and the company's operations resulted in over 712 million unutilized seat miles. During the decade, American provided 1.5% of the total available seat miles provided by the entire international industry, and flew approximately 1.5% of the industry's total revenue passenger miles.

2. Braniff Airways

Braniff was established as an international carrier in 1946, at which time Pan American's monopoly of the Latin American market was terminated. In a 1946 decision, the Board granted certificates to seven United States carriers, including Braniff, to service the Latin American area. In this 1946 decision, a majority of the Board asserted that the traffic potential in South America did not merit an additional carrier to compete with Panagra and Pan American. Nevertheless, President Truman overruled the Board's decision and, pursuant to the President's power to certify international carriers, ordered the Board to grant Braniff a South American route system. The route granted to Braniff was directly com-

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* Additional Service to Latin America, 6 C.A.B. 857 (1946) [hereinafter cited as Latin American case].
TABLE 3

AMERICAN AIRLINES UNUTILIZED CAPACITY*
1954-1963

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Available Seat Miles (Millions)</th>
<th>Total Revenue Passenger Miles (Millions)</th>
<th>Total Unutilized Seat Miles (Millions)</th>
<th>Passenger Load Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>1954</td>
<td>131.5</td>
<td>76.4</td>
<td>55.1</td>
<td>58.1%</td>
</tr>
<tr>
<td>1955</td>
<td>131.8</td>
<td>91.9</td>
<td>39.9</td>
<td>69.7</td>
</tr>
<tr>
<td>1956</td>
<td>149.3</td>
<td>99.0</td>
<td>50.3</td>
<td>66.3</td>
</tr>
<tr>
<td>1957</td>
<td>162.0</td>
<td>100.3</td>
<td>61.7</td>
<td>61.9</td>
</tr>
<tr>
<td>1958</td>
<td>218.4</td>
<td>115.3</td>
<td>103.1</td>
<td>52.8</td>
</tr>
<tr>
<td>1959</td>
<td>188.2</td>
<td>117.7</td>
<td>70.5</td>
<td>62.5</td>
</tr>
<tr>
<td>1960</td>
<td>192.7</td>
<td>114.2</td>
<td>78.5</td>
<td>59.2</td>
</tr>
<tr>
<td>1961</td>
<td>174.8</td>
<td>92.6</td>
<td>82.2</td>
<td>53.0</td>
</tr>
<tr>
<td>1962</td>
<td>206.7</td>
<td>121.2</td>
<td>85.5</td>
<td>58.6</td>
</tr>
<tr>
<td>1963</td>
<td>207.5</td>
<td>121.8</td>
<td>85.7</td>
<td>58.7</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>1,050.0</strong></td>
<td><strong>712.5</strong></td>
<td><strong>59.6%</strong></td>
</tr>
</tbody>
</table>

* Scheduled services.

** Ten year average.


TABLE 4

BRANIFF AIRWAYS UNUTILIZED CAPACITY*
1954-1963

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Available Seat Miles (Millions)</th>
<th>Total Revenue Passenger Miles (Millions)</th>
<th>Total Unutilized Seat Miles (Millions)</th>
<th>Passenger Load Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>1954</td>
<td>161.5</td>
<td>80.4</td>
<td>91.1</td>
<td>46.9%</td>
</tr>
<tr>
<td>1955</td>
<td>179.0</td>
<td>75.3</td>
<td>103.7</td>
<td>42.1</td>
</tr>
<tr>
<td>1956</td>
<td>144.6</td>
<td>69.4</td>
<td>75.2</td>
<td>48.0</td>
</tr>
<tr>
<td>1957</td>
<td>175.1</td>
<td>92.5</td>
<td>82.7</td>
<td>52.8</td>
</tr>
<tr>
<td>1958</td>
<td>181.8</td>
<td>88.8</td>
<td>93.0</td>
<td>48.8</td>
</tr>
<tr>
<td>1959</td>
<td>177.9</td>
<td>91.1</td>
<td>86.8</td>
<td>51.2</td>
</tr>
<tr>
<td>1960</td>
<td>241.9</td>
<td>128.4</td>
<td>113.5</td>
<td>53.1</td>
</tr>
<tr>
<td>1961</td>
<td>287.3</td>
<td>142.1</td>
<td>145.2</td>
<td>49.5</td>
</tr>
<tr>
<td>1962</td>
<td>295.2</td>
<td>137.7</td>
<td>157.5</td>
<td>46.6</td>
</tr>
<tr>
<td>1963</td>
<td>327.1</td>
<td>147.2</td>
<td>179.9</td>
<td>45.0</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>1,052.8</strong></td>
<td><strong>1,128.6</strong></td>
<td><strong>48.3%</strong></td>
</tr>
</tbody>
</table>

* Scheduled services.

** Ten year average.


competitive in some cities with Panagra on the west coast of South America, and competitive with Pan American on the east coast.

The 1946 Latin American case, particularly after the intervention of President Truman, represented a reiteration of the policy established in the
1940 *American Export* case when the Board certified American Export Lines to compete with Pan American on the transatlantic route, thus establishing the policy of "regulated competition" between United States carriers on international routes.

Table 4 shows that during the 1954-1963 decade, Braniff experienced a passenger load factor of 48.3%, the lowest load factor of any of the nine carriers in the industry. During the same decade, Braniff provided approximately 2.2 billion, or 2% of the total available seat miles offered by the industry. Of the 46.5 billion unutilized seat miles flown by the industry during the ten year period, Braniff's 1.1 billion seat miles represented 2.4% of the total.

3. *Delta Air Lines*

As in the case of Braniff, Delta's international operations are confined to the Latin American area. Table 5 shows that during the 1954-1963 period, Delta generated .54 billion unutilized seat miles, or about 1.2% of the industry's total. The table also shows that Delta's ten year passenger load factor was 49.4%, well below the ten year industry load factor of 58.2%.

**TABLE 5**

**DELTA AIR LINES UNUTILIZED CAPACITY**

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Available Seat Miles (Millions)</th>
<th>Total Revenue Passenger Miles (Millions)</th>
<th>Total Unutilized Seat Miles (Millions)</th>
<th>Passenger Load Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>1954</td>
<td>119.0</td>
<td>49.3</td>
<td>69.7</td>
<td>41.5%</td>
</tr>
<tr>
<td>1955</td>
<td>112.6</td>
<td>55.6</td>
<td>57.0</td>
<td>49.4%</td>
</tr>
<tr>
<td>1956</td>
<td>108.4</td>
<td>64.8</td>
<td>44.6</td>
<td>59.8%</td>
</tr>
<tr>
<td>1957</td>
<td>131.2</td>
<td>81.7</td>
<td>49.5</td>
<td>62.3%</td>
</tr>
<tr>
<td>1958</td>
<td>130.9</td>
<td>67.9</td>
<td>63.0</td>
<td>51.9%</td>
</tr>
<tr>
<td>1959</td>
<td>123.9</td>
<td>60.0</td>
<td>63.9</td>
<td>48.5%</td>
</tr>
<tr>
<td>1960</td>
<td>90.7</td>
<td>38.3</td>
<td>52.4</td>
<td>42.2%</td>
</tr>
<tr>
<td>1961</td>
<td>58.1</td>
<td>21.2</td>
<td>36.9</td>
<td>43.3%</td>
</tr>
<tr>
<td>1962</td>
<td>85.4</td>
<td>37.0</td>
<td>48.4</td>
<td>48.9%</td>
</tr>
<tr>
<td>1963</td>
<td>112.2</td>
<td>54.8</td>
<td>57.4</td>
<td>48.9%</td>
</tr>
<tr>
<td>Total</td>
<td>1,072.4</td>
<td>530.6</td>
<td>542.8</td>
<td>49.4% **</td>
</tr>
</tbody>
</table>

* Scheduled services.  ** Ten year average.


4. *Eastern Air Lines*

Unlike most of the other international carriers, Eastern's international services are not limited to a specific geographic area, but include flights to Northeast Canada, to Mexico City, and to the Caribbean area. Eastern's...
first international routes were awarded in connection with the 1946 *Latin American* case that certified Braniff to operate a South American route. The Board awarded Eastern a certificate to provide flights between New Orleans and Mexico City, and, in addition, the carrier was certified to operate from the United States to San Juan, Puerto Rico. In 1957, Eastern added the Canadian cities to its route system, and, in the same year it began servicing the East Coast-Bermuda market.

Table 6 shows that since 1954, Eastern has almost quintupled its annual capacity provided on international routes. Though the company's international services were relatively insignificant in 1954, by 1963 Eastern provided almost 10% of the total seat miles flown by the industry during that year. During the entire ten year period, Eastern provided about 7.7% of the total capacity offered by the industry, and these operations resulted in 3.4 billion unutilized seat miles.

**TABLE 6**

**EASTERN AIR LINES UNUTILIZED CAPACITY**

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Available Seat Miles (Millions)</th>
<th>Total Revenue Passenger Miles (Millions)</th>
<th>Total Unutilized Seat Miles (Millions)</th>
<th>Passenger Load Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>1954</td>
<td>387.7</td>
<td>201.0</td>
<td>186.7</td>
<td>51.8%</td>
</tr>
<tr>
<td>1955</td>
<td>381.9</td>
<td>240.8</td>
<td>141.1</td>
<td>63.0</td>
</tr>
<tr>
<td>1956</td>
<td>509.3</td>
<td>324.6</td>
<td>183.7</td>
<td>63.9</td>
</tr>
<tr>
<td>1957</td>
<td>646.7</td>
<td>424.2</td>
<td>222.5</td>
<td>65.6</td>
</tr>
<tr>
<td>1958</td>
<td>836.3</td>
<td>466.7</td>
<td>369.6</td>
<td>55.8</td>
</tr>
<tr>
<td>1959</td>
<td>952.8</td>
<td>593.7</td>
<td>359.5</td>
<td>62.3</td>
</tr>
<tr>
<td>1960</td>
<td>1,079.7</td>
<td>718.7</td>
<td>361.0</td>
<td>66.6</td>
</tr>
<tr>
<td>1961</td>
<td>1,159.1</td>
<td>750.1</td>
<td>409.0</td>
<td>64.7</td>
</tr>
<tr>
<td>1962</td>
<td>1,070.2</td>
<td>606.5</td>
<td>463.7</td>
<td>56.7</td>
</tr>
<tr>
<td>1963</td>
<td>1,621.2</td>
<td>874.6</td>
<td>746.6</td>
<td>54.0</td>
</tr>
<tr>
<td>Total</td>
<td>8,644.9</td>
<td>5,201.5</td>
<td>3,443.4</td>
<td>60.2%**</td>
</tr>
</tbody>
</table>

* Scheduled services.

** Ten year average.


5. **Northwest Airlines**

Throughout the entire pre-World War II period, Pan American was the only American carrier certified to service the transpacific route. However, in a 1946 decision, the Board ended Pan American's monopoly in the area by certifying Northwest Airlines to fly a route from Chicago and New York, via Canada and Alaska, to the Orient. Two years later, in 1948, Northwest was awarded a certificate to operate a route to Hawaii from Seattle, Tacoma, and Portland. Table 7 shows that during the 1954-1963 period, Northwest provided approximately 5.5% of the total pas-

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senger capacity offered by the industry. Because Northwest's passenger load factor of 51.3% is lower than the ten year industry average, the carrier generated almost 6.5% of the industry's total unutilized seat miles.

**TABLE 7**

**NORTHWEST AIRLINES UNUTILIZED CAPACITY***

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Available Seat Miles (Millions)</th>
<th>Total Revenue Passenger Miles (Millions)</th>
<th>Total Unutilized Seat Miles (Millions)</th>
<th>Passenger Load Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>1954</td>
<td>311.0</td>
<td>161.1</td>
<td>149.9</td>
<td>51.8%</td>
</tr>
<tr>
<td>1955</td>
<td>383.9</td>
<td>222.5</td>
<td>161.4</td>
<td>58.6</td>
</tr>
<tr>
<td>1956</td>
<td>470.3</td>
<td>259.8</td>
<td>210.5</td>
<td>55.2</td>
</tr>
<tr>
<td>1957</td>
<td>588.9</td>
<td>360.9</td>
<td>263.0</td>
<td>53.1</td>
</tr>
<tr>
<td>1958</td>
<td>558.4</td>
<td>335.9</td>
<td>364.5</td>
<td>53.8</td>
</tr>
<tr>
<td>1959</td>
<td>644.0</td>
<td>317.3</td>
<td>326.7</td>
<td>49.3</td>
</tr>
<tr>
<td>1960</td>
<td>706.4</td>
<td>341.5</td>
<td>364.9</td>
<td>48.4</td>
</tr>
<tr>
<td>1961</td>
<td>939.2</td>
<td>463.2</td>
<td>476.0</td>
<td>49.3</td>
</tr>
<tr>
<td>1962</td>
<td>1,123.3</td>
<td>553.4</td>
<td>569.9</td>
<td>49.3</td>
</tr>
<tr>
<td>Total</td>
<td>6,164.8</td>
<td>3,164.6</td>
<td>3,002.0</td>
<td>51.3%**</td>
</tr>
</tbody>
</table>

* Scheduled services.  ** Ten year average.


6. **Pan American-Grace Airways (Panagra)**

Panagra was formed in 1929 and is jointly owned by W. R. Grace and Company, and Pan American Airways. By purchasing 50% ownership of Panagra, Pan American was able to provide one-company service from the northeast United States traffic pool to the populous west coast of South America. Table 8 reveals a relatively slow growth rate in Panagra's traffic data, the main reasons for which have been that (1) during the decade, Panagra's route system has remained unchanged, and (2) since 1946, Panagra has been subjected to intense competition from Braniff on essentially the same South American route. Panagra provided 2.9% of the total seat miles flown by the industry between 1954-1963.

7. **Pan American World Airways**

Pan American is by far the largest "producer" in the industry. The development of Pan American's route system was initiated in 1925 and the system is presently the most complex and far reaching of any American carrier. Unlike the operations of the other United States international carriers, Pan American's combined services cannot be analyzed fruitfully as a unified, single operation. For purposes of clarity, it is necessary to discuss the carrier's services in terms of operations in the following four markets: Alaska, the Atlantic and Europe, Latin America, and the Pacific.
OVERCAPACITY IN AIR TRANSPORT

TABLE 8
Panagra Airways Unutilized Capacity*
1954-1963

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Available Seat Miles (Millions)</th>
<th>Total Revenue Passenger Miles (Millions)</th>
<th>Total Unutilized Seat Miles (Millions)</th>
<th>Passenger Load Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>1954</td>
<td>254.5</td>
<td>149.1</td>
<td>105.4</td>
<td>58.6%</td>
</tr>
<tr>
<td>1955</td>
<td>271.8</td>
<td>160.7</td>
<td>111.1</td>
<td>59.1</td>
</tr>
<tr>
<td>1956</td>
<td>283.7</td>
<td>168.7</td>
<td>115.0</td>
<td>59.4</td>
</tr>
<tr>
<td>1957</td>
<td>292.9</td>
<td>168.6</td>
<td>124.3</td>
<td>57.6</td>
</tr>
<tr>
<td>1958</td>
<td>301.4</td>
<td>160.1</td>
<td>141.3</td>
<td>53.1</td>
</tr>
<tr>
<td>1959</td>
<td>307.9</td>
<td>186.2</td>
<td>121.7</td>
<td>60.5</td>
</tr>
<tr>
<td>1960</td>
<td>345.0</td>
<td>198.1</td>
<td>146.9</td>
<td>57.4</td>
</tr>
<tr>
<td>1961</td>
<td>369.2</td>
<td>229.0</td>
<td>140.2</td>
<td>62.0</td>
</tr>
<tr>
<td>1962</td>
<td>369.7</td>
<td>236.7</td>
<td>133.0</td>
<td>64.0</td>
</tr>
<tr>
<td>1963</td>
<td>386.1</td>
<td>237.8</td>
<td>148.3</td>
<td>61.6</td>
</tr>
<tr>
<td>Total</td>
<td>3,182.2</td>
<td>1,895.0</td>
<td>1,287.2</td>
<td>57.5%</td>
</tr>
</tbody>
</table>

* Scheduled services.  ** Ten year average.


TABLE 9
Pan American: Alaskan Operations Unutilized Capacity*
1954-1963

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Available Seat Miles (Millions)</th>
<th>Total Revenue Passenger Miles (Millions)</th>
<th>Total Unutilized Seat Miles (Millions)</th>
<th>Passenger Load Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>1954</td>
<td>145.4</td>
<td>73.6</td>
<td>71.8</td>
<td>50.7%</td>
</tr>
<tr>
<td>1955</td>
<td>137.3</td>
<td>73.2</td>
<td>64.1</td>
<td>53.3</td>
</tr>
<tr>
<td>1956</td>
<td>129.5</td>
<td>77.5</td>
<td>52.0</td>
<td>59.9</td>
</tr>
<tr>
<td>1957</td>
<td>128.2</td>
<td>74.4</td>
<td>53.8</td>
<td>58.0</td>
</tr>
<tr>
<td>1958</td>
<td>87.2</td>
<td>46.9</td>
<td>40.3</td>
<td>53.9</td>
</tr>
<tr>
<td>1959</td>
<td>104.8</td>
<td>52.1</td>
<td>52.7</td>
<td>49.7</td>
</tr>
<tr>
<td>1960</td>
<td>132.4</td>
<td>68.4</td>
<td>64.0</td>
<td>51.7</td>
</tr>
<tr>
<td>1961</td>
<td>147.9</td>
<td>64.6</td>
<td>83.3</td>
<td>43.7</td>
</tr>
<tr>
<td>1962</td>
<td>224.4</td>
<td>63.2</td>
<td>161.2</td>
<td>28.2</td>
</tr>
<tr>
<td>1963</td>
<td>247.4</td>
<td>65.1</td>
<td>182.3</td>
<td>26.3</td>
</tr>
<tr>
<td>Total</td>
<td>1,484.3</td>
<td>619.0</td>
<td>823.5</td>
<td>44.4%</td>
</tr>
</tbody>
</table>

* Scheduled services.  ** Ten year average.


Pan American's Alaskan route was initiated in 1932 when the carrier purchased two small Alaskan airlines. The dual purpose of this purchase was to provide a base of operations for eventual flights to the Soviet
Union and to train Pan American pilots in Arctic flying. Although the Russian route has not been developed, Pan American continues to service three Alaskan cities. However, as Table 9 demonstrates, the scale of the Alaskan operations has never become a significant part of the carrier's total operations. Between 1954-1963, Pan American's Alaskan operations absorbed approximately 2% of the carrier's total capacity, and 1.3% of the industry's total capacity. The passenger load factor for the decade, an industry low of 44.4%, reflects the intense competition on the Alaskan route resulting from the operations of Alaska Airlines and Pacific Northern Airlines.

Pan American's Latin American operations were initiated in 1927 when the company was awarded a United States Government contract to fly mail between Key West and Havana. The carrier greatly increased its Latin American operations during the 1930s, and by 1940 had developed a complex route system serving most of the populous regions of the entire area. Together with Panagra, Pan American was able to dominate the Latin American market until the 1946 Board decision (and the intervention of President Truman) ended the company's monopoly. Nonetheless, Table 10 demonstrates that the Latin American market has provided Pan American with one of its healthiest passenger load factors for the 1954-1963 period. The importance of Pan American's Latin American operations is emphasized by the fact that, during the 1954-1963 period, these operations provided almost 20% of the total capacity offered by the industry, and 34% of the total capacity offered by Pan American.

Pan American's transatlantic services are defined here to include the company's operations in West Europe, Southern Europe, and the Near East. The origin of Pan American's transatlantic route goes back to 1939. During that year, the United States Government negotiated bilateral agreements with Britain and France which allowed Pan American to fly from New York to London and Marseilles. The company's South Atlantic route was first certified in 1941, and its present South Atlantic route system was awarded in 1946. The carrier's Mid-Atlantic route, extending from San Juan to the Azores, Lisbon, and Madrid, was certified in 1957.

The combined operations of Pan American and TWA have resulted in a decreasing share of the total transatlantic traffic. During the 1954-

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80 It is important to note that despite the relatively high passenger load factors in its Latin American operations, Pan American has frequently incurred losses in these operations in the recent past. These losses were incurred although Pan American's per mile passenger fares were moderately lower in this area than in other areas. This situation provides a good example of the frequent disparity between profits and passenger load factors. In the case of its Latin American operations, Pan American would obviously be more concerned with increasing load factors than in areas, such as the transatlantic market, where profits are relatively high, and load factors are relatively low. See Agreements Adopted by the International Air Transport Association, CAB Docket No. 13777 (12 Feb. 1963).


83 In 1954, the combined operations of Pan American and TWA comprised 52.5% of the transatlantic passengers; by 1963, this share of the total market had fallen to 41.8%. This issue is discussed more extensively in Part III infra.
1963 decade, Pan American provided 65.7% of the total capacity generated by the two American carriers. During the same period, Pan American's transatlantic operations comprised 27.6% of the passenger capacity offered by the entire United States international industry. The transatlantic serv-
ices also absorbed 43% of the total capacity offered by Pan American during the decade. Table 11 shows that since 1960, Pan American has found it increasingly difficult to fill its aircraft on the transatlantic route. The carrier's passenger load factor for this area has dropped from 61.3% in 1960, to 48.7% in 1963. During the decade, Pan American's transatlantic operations resulted in 29.3% of the unutilized seat miles flown by the entire industry.

Pan American's transpacific route includes: (1) flights originating in the United States, via Hawaii, to the Orient; (2) polar flights from San Francisco to Tokyo; and (3) flights via Hawaii to the South Pacific and Australasia. The carrier's first transpacific flight occurred in 1935 when a Pan American "Clipper" flew United States mail from Alameda, California, to Manilia, via Honolulu and Midway, Wake, and Guam Islands. In a 1946 decision,\textsuperscript{7} the Civil Aeronautics Board certified Pan American to develop routes branching from Hawaii to Australia, Manilia, and Japan. A further branch route extending from Hawaii through South Asia connected Pan American's Pacific route with the carrier's Atlantic route system.

### TABLE 12

**Pan American: Transpacific Operations Unutilized Capacity\textsuperscript{*}**

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Available Seat Miles (Millions)</th>
<th>Total Revenue Passenger Miles (Millions)</th>
<th>Total Unutilized Seat Miles (Millions)</th>
<th>Passenger Load Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>1954</td>
<td>809.7</td>
<td>515.2</td>
<td>294.5</td>
<td>63.6%</td>
</tr>
<tr>
<td>1955</td>
<td>956.3</td>
<td>663.0</td>
<td>293.3</td>
<td>69.3</td>
</tr>
<tr>
<td>1956</td>
<td>1,144.7</td>
<td>817.3</td>
<td>327.4</td>
<td>71.4</td>
</tr>
<tr>
<td>1957</td>
<td>1,272.9</td>
<td>902.3</td>
<td>370.6</td>
<td>70.9</td>
</tr>
<tr>
<td>1958</td>
<td>1,183.7</td>
<td>805.2</td>
<td>378.5</td>
<td>68.0</td>
</tr>
<tr>
<td>1959</td>
<td>1,397.4</td>
<td>1,029.3</td>
<td>368.1</td>
<td>73.7</td>
</tr>
<tr>
<td>1960</td>
<td>2,108.7</td>
<td>1,411.7</td>
<td>697.0</td>
<td>66.9</td>
</tr>
<tr>
<td>1961</td>
<td>2,525.4</td>
<td>1,572.2</td>
<td>753.2</td>
<td>62.3</td>
</tr>
<tr>
<td>1962</td>
<td>2,915.2</td>
<td>1,735.9</td>
<td>1,179.3</td>
<td>59.5</td>
</tr>
<tr>
<td>1963</td>
<td>3,267.9</td>
<td>1,951.1</td>
<td>1,317.8</td>
<td>59.7</td>
</tr>
<tr>
<td>Total</td>
<td>17,581.9</td>
<td>11,403.2</td>
<td>6,179.7</td>
<td>64.9%\textsuperscript{**}</td>
</tr>
</tbody>
</table>

\* Scheduled services.  
\*\* Ten year average.


Thus, by 1946, Pan American's present, world-wide route system had been essentially completed. Table 12 shows that Pan American has achieved its highest passenger load factors during the 1964-1963 decade in the Pacific area. In fact, with the exception of recent years, the company has

\textsuperscript{7} Northwest Airlines, Inc., Pacific Case, 7 C.A.B. 209, 213 (1946). This is the decision which certified Northwest to operate a Pacific route system.
been able to maintain a load factor in excess of 65% on transpacific operations, a remarkable performance relative to the experience of the other eight firms of the international air transport industry. During the 1954-1963 decade, Pan American’s transpacific operations provided 15.8% of the total passenger capacity generated by the entire industry.

8. Trans World Airlines
In the 1946 North Atlantic case, the CAB certified TWA to begin servicing the transatlantic route, and thereby to provide competition to Pan American in that area. In this case TWA was awarded the “southern” transatlantic route, and was certified to provide flights to most of the major European and Asian cities which the carrier presently serves. In 1956, TWA was granted a route extension beyond India to Bangkok and Manila. This 1956 extension connected TWA’s route system with that of Northwest Airlines, providing a second American-flag, round-the-world route.**

**TABLE 13**

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Available Seat Miles (Millions)</th>
<th>Total Revenue Passenger Miles (Millions)</th>
<th>Total Unutilized Seat Miles (Millions)</th>
<th>Passenger Load Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>1954</td>
<td>897.2</td>
<td>574.0</td>
<td>323.2</td>
<td>64.0%</td>
</tr>
<tr>
<td>1955</td>
<td>937.2</td>
<td>610.7</td>
<td>326.5</td>
<td>65.2</td>
</tr>
<tr>
<td>1956</td>
<td>1,086.4</td>
<td>673.8</td>
<td>412.6</td>
<td>62.0</td>
</tr>
<tr>
<td>1957</td>
<td>1,117.3</td>
<td>699.9</td>
<td>417.4</td>
<td>62.6</td>
</tr>
<tr>
<td>1958</td>
<td>1,379.8</td>
<td>747.9</td>
<td>631.9</td>
<td>54.2</td>
</tr>
<tr>
<td>1959</td>
<td>1,126.1</td>
<td>622.8</td>
<td>503.3</td>
<td>59.7</td>
</tr>
<tr>
<td>1960</td>
<td>1,765.2</td>
<td>1,039.2</td>
<td>726.0</td>
<td>58.9</td>
</tr>
<tr>
<td>1961</td>
<td>1,913.4</td>
<td>904.5</td>
<td>1,008.9</td>
<td>47.3</td>
</tr>
<tr>
<td>1962</td>
<td>2,439.9</td>
<td>1,194.1</td>
<td>1,245.8</td>
<td>48.9</td>
</tr>
<tr>
<td>1963</td>
<td>3,338.3</td>
<td>1,564.1</td>
<td>1,774.2</td>
<td>46.9</td>
</tr>
<tr>
<td>Total</td>
<td>16,000.8</td>
<td>8,631.0</td>
<td>7,369.8</td>
<td>53.9%**</td>
</tr>
</tbody>
</table>

* Scheduled services.  
** Ten year average.


Table 13 shows that during the 1954-1963 period, TWA provided over 16 billion seat miles; this figure represented 14.4% of the total capacity flown by the industry during the decade. However, as the table indicates, TWA has experienced a very rapid growth in its international operations. Because of this growth, by 1963 the carrier provided 16.5% of the passenger capacity offered by the industry, a figure significantly higher than its ten year proportion of total industry capacity. A final

notable feature of Table 13 is the tremendous decrease in TWA’s passenger load factors between 1960 and 1961. Much of the blame for the problems of TWA since 1960 (and thus much of the blame for TWA’s lower passenger load factor since that time) has been heaped upon the shoulders of the major stockholder of the firm, Mr. Howard Hughes. Charging that Hughes has mismanaged the airline during the 1950s, prospective lenders forced Hughes to surrender control of TWA in 1960 as a condition for the advancement of a $165 million loan to the company. Presently, however, there is some indication that Hughes may eventually regain control of TWA as the company is apparently on the road back to operational and financial success.8

9. Western Air Lines

Western’s international services are limited to flights from (1) Great Falls, Montana, to Calgary, Alberta, and (2) from San Diego and Los Angeles to Mexico City. In the 1946 Latin American case, the Board argued that additional service should be offered to Mexico City, via Los Angeles, but concluded that Pan American should be awarded the certificate. Nonetheless, President Truman overruled the Board’s judgment and granted the certificate to Western. Table 14 shows that since 1958 the company has been quite successful in maintaining a relatively high passenger load

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Available Seat Miles (Millions)</th>
<th>Total Revenue Passenger Miles (Millions)</th>
<th>Total Unutilized Seat Miles (Millions)</th>
<th>Passenger Load Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>1954</td>
<td>Western began its international services in 1957: the company’s first complete year of international services was 1958.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1955</td>
<td>129.4</td>
<td>82.9</td>
<td>46.5</td>
<td>64.1</td>
</tr>
<tr>
<td>1956</td>
<td>129.7</td>
<td>83.0</td>
<td>46.7</td>
<td>64.0</td>
</tr>
<tr>
<td>1957</td>
<td>143.8</td>
<td>83.8</td>
<td>60.0</td>
<td>58.3</td>
</tr>
<tr>
<td>1958</td>
<td>168.5</td>
<td>123.8</td>
<td>44.7</td>
<td>73.5</td>
</tr>
<tr>
<td>1960</td>
<td>223.4</td>
<td>153.4</td>
<td>70.0</td>
<td>68.7</td>
</tr>
<tr>
<td>1962</td>
<td>223.4</td>
<td>153.4</td>
<td>70.0</td>
<td>68.7</td>
</tr>
<tr>
<td>1963</td>
<td>223.4</td>
<td>153.4</td>
<td>70.0</td>
<td>68.7</td>
</tr>
</tbody>
</table>
| Total | 844.9 | 552.8 | 292.1 | 65.4% * &

* Scheduled services.  
& Six year average.


8 During the year ending August 1964, TWA increased its international passenger load factor to 52.4% from 46.4% during the preceding year. For a lively discussion of the interesting, though perhaps not too relevant, dispute between TWA and Howard Hughes, see The World’s Second Largest Airline, Cartel, June 1963, pp. 29-31.
factor. In fact, excluding 1958 operations, the carrier's average load factor exceeded 67%. Between 1958 and 1963, Western provided .8 billion seat miles, or less than 1% of the total capacity offered by the entire industry.

The foregoing discussion has provided a company-by-company analysis of relevant traffic statistics for the United States international industry during the 1954-1963 decade. Two important factors which have been discussed above should be emphasized. First, the above discussion demonstrates the extent to which the operations of Pan American and TWA dominate the international air transport industry. These two carriers provided almost 80% of the industry's total passenger capacity during the 1954-1963 period, and their combined operations resulted in almost 76% of the unutilized seat miles flown by the industry during the decade. In fact, the two carriers' transatlantic operations alone accounted for almost one half of the total capacity offered by the industry during 1954-1963, and about the same proportion of the industry's unutilized seat miles.

The second factor which is of importance is that the capacity utilization for each of the nine carriers is apparently correlated to some extent with the geographic area the carrier services. In general, the combined operations of carriers serving the Latin American and transpacific routes resulted in higher ten year load factors than the combined operations of carriers servicing the transatlantic market. The extent to which passenger load factors varied among carriers serving different geographic areas is analyzed below.

B. The Incidence Of Unutilized Capacity In Specific Market Areas

The total operations of the industry can be divided into three broad geographic areas. The first area is defined here as the “Latin American” area and includes services to all points in Mexico, Central America, the Caribbean area, and South America. The second area is defined as the “transatlantic” area and includes the industry's services between the United States and Western Europe, Southern Europe, Africa, and the Mid-East. (Also included in the transatlantic area are TWA flights, via Western Europe, to the Near East.) Finally, the “transpacific” area includes services from the United States to Hawaii, the Far East, Australasia, and Southeast Asia.

Three of the carriers in the industry (American, Eastern, and Western) provide international services into more than one of the geographic areas outlined above. Thus, the operations of these carriers will not be included in the analysis below. However, five of the six remaining firms (Braniff, Delta, Northwest, Panagra, and TWA) operate on routes which are confined to one of the three geographic areas. Finally, data describing Pan American's operations are conveniently separated by the Civil Aeronautics Board into figures representing that carrier's services to each of the three areas.
Pan American and TWA operate in the transatlantic area; Braniff, Delta, Pan American and Panagra operate in the Latin American area; and, Northwest and Pan American operate in the transpacific area. Although the operations of three carriers (as well as Pan American's Alaskan services) have been excluded from this analysis, the operations of the remaining six carriers comprised 87.6% of the total capacity offered by the entire industry during 1954-1963.

1. The Transatlantic Area

Table 15 outlines the ten year operating data for the two firms serving this area. The two most important features of Table 15 are: (1) the fact that 42% of the total industry capacity during 1954-1963 was provided by TWA and Pan American in the transatlantic area; and (2) that 45.2%, or almost half, of the unutilized seat miles flown by the industry during the decade were the result of transatlantic operations. The passenger load factor of 55.0% during the decade on the transatlantic route was below the industry average of 58.2%, and lower than the load factor for operations in either of the two other geographic areas. Pan American, historically the dominant carrier on that route, provided 65.7% of the passenger capacity, and flew 66.4% of the passenger revenue miles.

| TABLE 15 |
| TRANSATLANTIC AREA TRAFFIC STATISTICS |
| 1954-1963 |

<table>
<thead>
<tr>
<th>Carrier</th>
<th>Total Available Seat Miles (Millions)</th>
<th>Total Revenue Passenger Miles (Millions)</th>
<th>Total Unutilized Seat Miles (Millions)</th>
<th>Passenger Load Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pan American</td>
<td>30,660.6</td>
<td>17,042.9</td>
<td>13,617.7</td>
<td>55.6%</td>
</tr>
<tr>
<td>TWA</td>
<td>16,000.8</td>
<td>8,631.0</td>
<td>7,369.8</td>
<td>53.9</td>
</tr>
<tr>
<td>Total</td>
<td>46,661.4</td>
<td>25,673.9</td>
<td>20,987.5</td>
<td>55.0%</td>
</tr>
</tbody>
</table>

Relative Share of the Transatlantic Market

<table>
<thead>
<tr>
<th>Carrier</th>
<th>Total Available Seat Miles (Per Cent)</th>
<th>Total Revenue Passenger Miles (Per Cent)</th>
<th>Total Unutilized Seat Miles (Per Cent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pan American</td>
<td>65.7</td>
<td>66.4</td>
<td>64.9</td>
</tr>
<tr>
<td>TWA</td>
<td>34.3</td>
<td>33.6</td>
<td>35.1</td>
</tr>
<tr>
<td>Total</td>
<td>100.0</td>
<td>100.0</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Relative Share of the Total United States Industry

<table>
<thead>
<tr>
<th>Carrier</th>
<th>Total Available Seat Miles (Per Cent)</th>
<th>Total Revenue Passenger Miles (Per Cent)</th>
<th>Total Unutilized Seat Miles (Per Cent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pan American</td>
<td>27.6</td>
<td>26.3</td>
<td>29.3</td>
</tr>
<tr>
<td>TWA</td>
<td>14.4</td>
<td>13.3</td>
<td>15.9</td>
</tr>
<tr>
<td>Total</td>
<td>42.0</td>
<td>39.6</td>
<td>45.2</td>
</tr>
</tbody>
</table>

SOURCE: Compiled from Tables 11 and 13 above.
2. The Latin American Area

Table 16 depicts relevant traffic data for the industry's operations in Latin America. As is the case in the transatlantic area, Pan American dominates the operations in Latin America. Of the 28.1 billion seat miles provided during 1954-1963, Pan American provided over 77.0%; the carrier also flew 79.7% of the passenger revenue miles in the Latin American area during the decade. Of the three remaining carriers servicing the area, Panagra has the largest share of the market, followed by Braniff and Delta. The operations of all four carriers resulted in a combined, ten year passenger load factor of 61.1%. Pan American's load factor of 63.1% and Panagra's 59.5% were significantly higher than the load factor experienced by Braniff and Delta. The operations of the four carriers provided

<table>
<thead>
<tr>
<th>Carrier</th>
<th>Total Available Seat Miles (Millions)</th>
<th>Total Revenue Passenger Miles (Millions)</th>
<th>Total Unutilized Seat Miles (Millions)</th>
<th>Passenger Load Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Braniff</td>
<td>2,181.4</td>
<td>1,052.8</td>
<td>1,128.6</td>
<td>48.3%</td>
</tr>
<tr>
<td>Delta</td>
<td>1,073.4</td>
<td>530.6</td>
<td>542.8</td>
<td>49.4</td>
</tr>
<tr>
<td>Panagra</td>
<td>3,182.2</td>
<td>1,893.0</td>
<td>1,287.2</td>
<td>59.5</td>
</tr>
<tr>
<td>Pan American</td>
<td>21,680.0</td>
<td>13,688.9</td>
<td>7,991.1</td>
<td>63.1</td>
</tr>
<tr>
<td>Total</td>
<td>28,117.0</td>
<td>17,167.3</td>
<td>10,949.7</td>
<td>61.1%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Carrier</th>
<th>Total Available Seat Miles (Per Cent)</th>
<th>Total Revenue Passenger Miles (Per Cent)</th>
<th>Total Unutilized Seat Miles (Per Cent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Braniff</td>
<td>7.8</td>
<td>6.1</td>
<td>10.3</td>
</tr>
<tr>
<td>Delta</td>
<td>3.8</td>
<td>3.1</td>
<td>5.0</td>
</tr>
<tr>
<td>Panagra</td>
<td>11.3</td>
<td>11.0</td>
<td>11.8</td>
</tr>
<tr>
<td>Pan American</td>
<td>77.1</td>
<td>79.7</td>
<td>72.9</td>
</tr>
<tr>
<td>Total</td>
<td>100.0</td>
<td>100.0</td>
<td>100.0</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Carrier</th>
<th>Total Available Seat Miles (Per Cent)</th>
<th>Total Revenue Passenger Miles (Per Cent)</th>
<th>Total Unutilized Seat Miles (Per Cent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Braniff</td>
<td>2.0</td>
<td>1.6</td>
<td>2.4</td>
</tr>
<tr>
<td>Delta</td>
<td>1.0</td>
<td>.8</td>
<td>1.2</td>
</tr>
<tr>
<td>Panagra</td>
<td>2.9</td>
<td>2.9</td>
<td>2.8</td>
</tr>
<tr>
<td>Pan American</td>
<td>19.4</td>
<td>21.1</td>
<td>17.2</td>
</tr>
<tr>
<td>Total</td>
<td>25.3</td>
<td>26.4</td>
<td>23.6</td>
</tr>
</tbody>
</table>

Source: Compiled from Tables 4, 5, 8, and 10 above.
25.3% of the total industry capacity offered during the decade. Also, the Latin American operators generated some 23.6% of the total industry unutilized seat miles during the decade.

3. *The Transpacific Area*

Table 17 describes the transpacific operations of Northwest and Pan American. Pan American's domination of this area of operations is similar to the carrier's predominance in both the Latin American and transpacific areas. As Table 17 demonstrates, Pan American provided 74% of the seat miles offered during 1954-1963; the carrier also flew 78.3% of the revenue passenger miles. The ten year passenger load factor for the transpacific operations is the highest for any of the three geographic areas. Table 17 shows that this relatively high load factor is primarily caused by Pan American's ten year load factor of 64.9%. The transpacific operations of Northwest and Pan American comprised 21.3% of the total industry capacity for the decade, and resulted in 19.8% of the unutilized seat miles.

**TABLE 17**

**TRANSPACIFIC AREA TRAFFIC STATISTICS**

1954-1963

<table>
<thead>
<tr>
<th>Carrier</th>
<th>Total Available Seat Miles (Millions)</th>
<th>Total Revenue Passenger Miles (Millions)</th>
<th>Total Unutilized Seat Miles (Millions)</th>
<th>Passenger Load Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Northwest</td>
<td>6,164.8</td>
<td>3,164.6</td>
<td>3,000.2</td>
<td>51.3%</td>
</tr>
<tr>
<td>Pan American</td>
<td>17,582.9</td>
<td>11,403.2</td>
<td>6,179.7</td>
<td>64.9</td>
</tr>
<tr>
<td>Total</td>
<td>23,747.7</td>
<td>14,567.8</td>
<td>9,179.9</td>
<td>61.3%</td>
</tr>
</tbody>
</table>

**Relative Share of the Transpacific Market**

<table>
<thead>
<tr>
<th>Carrier</th>
<th>Total Available Seat Miles (Per Cent)</th>
<th>Total Revenue Passenger Miles (Per Cent)</th>
<th>Total Unutilized Seat Miles (Per Cent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Northwest</td>
<td>26.0</td>
<td>21.7</td>
<td>32.7</td>
</tr>
<tr>
<td>Pan American</td>
<td>74.0</td>
<td>78.3</td>
<td>67.3</td>
</tr>
<tr>
<td>Total</td>
<td>100.0</td>
<td>100.0</td>
<td>100.0</td>
</tr>
</tbody>
</table>

**Relative Share of the Total United States Industry**

<table>
<thead>
<tr>
<th>Carrier</th>
<th>Total Available Seat Miles (Per Cent)</th>
<th>Total Revenue Passenger Miles (Per Cent)</th>
<th>Total Unutilized Seat Miles (Per Cent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Northwest</td>
<td>5.5</td>
<td>4.9</td>
<td>6.5</td>
</tr>
<tr>
<td>Pan American</td>
<td>15.8</td>
<td>17.6</td>
<td>13.3</td>
</tr>
<tr>
<td>Total</td>
<td>21.3</td>
<td>22.5</td>
<td>19.8</td>
</tr>
</tbody>
</table>

Source: Compiled from Tables 7 and 12 above.
The following principal conclusions can be drawn from the data presented above.

The first conclusion is perhaps the most significant. During the 1954-1963 decade, the industry flew 64.8 billion passenger revenue miles, a truly remarkable achievement. There can be no doubt that these operations have, in addition to providing the fastest and most comfortable available means of personal transportation, provided an invaluable means of communication between the peoples of the world. The monumental accomplishments of the industry, nevertheless, have been achieved concurrent with tremendous waste. During the 1954-1963 decade, the nine carriers in the industry flew over 46 billion unutilized seat miles, an unutilized capacity equivalent to that required to fly 46 million people an average distance of 1000 miles! In addition, it has been estimated that less than 5% of the world's population has ever experienced an international flight. The present section is not the appropriate place to discuss alternative methods of occupying these unutilized seats with that 95% of the world's population which has never flown on an international commercial airliner. However, the combined facts of (1) tremendous unutilized capacity in the United States industry, and (2) an almost untapped world market for this industry's services, will be dealt with in Part V where possible solutions to the problem of overcapacity will be analyzed.

The second conclusion which can be drawn from the data concerns the industry's passenger load factor. Although this load factor was 58.2% for the 1954-1963 period, since 1961, the figure has fallen significantly below the ten year average. The industry's passenger load factor between 1959-1963 was as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Load Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>1959</td>
<td>65.0%</td>
</tr>
<tr>
<td>1960</td>
<td>61.9</td>
</tr>
<tr>
<td>1961</td>
<td>54.6</td>
</tr>
<tr>
<td>1962</td>
<td>53.9</td>
</tr>
<tr>
<td>1963</td>
<td>52.6</td>
</tr>
</tbody>
</table>

An analysis of Tables 3-16 reveals that the fall in the passenger load factor between 1959-1963 is accounted for to a great extent by the transatlantic operations of Pan American and TWA. The extent to which the transatlantic operations of these two carriers have influenced the industry load factor since 1959 can be demonstrated by comparing the data above with the 1959-1963 operations of the industry exclusive of Pan American and TWA transatlantic operations. The passenger load factor for the 1959-1963 period experienced by the rest of the industry is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Load Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>1959</td>
<td>64.1%</td>
</tr>
<tr>
<td>1960</td>
<td>63.0</td>
</tr>
<tr>
<td>1961</td>
<td>59.3</td>
</tr>
</tbody>
</table>

91 These figures are compiled from Tables 2-14.
Thus, during the five year period, the industry's transatlantic operations have significantly lowered the passenger load factor for the combined operations of all nine carriers, and, as was pointed out earlier, these operations resulted in 45.2% of the unutilized seat miles flown by the industry between 1954-1963. The importance of this fact to the present study will be emphasized in Part IV, which will analyze the main causes of the industry's inadequate load factor in this area during the past decade. Some matters will be discussed in Part IV which have affected the load factor of every firm in the industry; however, emphasis will be placed on determining the causes for the increase in unutilized capacity generated by the transatlantic operations of Pan American and TWA.

The third important conclusion which can be drawn from the data is that the industry's operations since 1959 have increased the volume of unutilized capacity to an even greater extent than is indicated by the industry's decreasing passenger load factor. Because of the industry's rapid growth since 1959, the magnitude of unutilized capacity has become significantly greater each year. Table 18 demonstrates the effect of the industry's growth on the number of unutilized seat miles flown since 1954.

### Table 18

**Total Industry Unutilized Capacity**

<table>
<thead>
<tr>
<th>Year</th>
<th>Unutilized Passenger Load</th>
<th>Year</th>
<th>Unutilized Passenger Load</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Seat Miles (Millions)</td>
<td></td>
<td>Seat Miles (Millions)</td>
</tr>
<tr>
<td>1954</td>
<td>2,409.0</td>
<td>1960</td>
<td>3,590.0</td>
</tr>
<tr>
<td>1955</td>
<td>2,460.0</td>
<td>1961</td>
<td>6,513.0</td>
</tr>
<tr>
<td>1956</td>
<td>2,784.0</td>
<td>1962</td>
<td>7,806.0</td>
</tr>
<tr>
<td>1957</td>
<td>3,077.0</td>
<td>1963</td>
<td>9,599.0</td>
</tr>
<tr>
<td>1958</td>
<td>3,829.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1959</td>
<td>3,415.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>17,974.0</td>
<td></td>
<td>28,508.0</td>
</tr>
</tbody>
</table>

* Six year average for all firms.  
* Four year average for all firms.

Source: Compiled from Tables 2-14 above.

In Table 18, the 1954-1963 decade has been divided into two separate time periods, the first period showing the industry's operations between 1954-1959, and the second period illustrating operations between 1960-1963. The 1954-1959 period, in general, resulted in an increasing passenger load factor, reaching an apex of 65.0% in 1959. The 1960-1963 period witnessed a continually decreasing passenger load factor, reaching a ten year low of 52.6% in 1963.

While the passenger load factor for 1954-1959 was 62.2%, the load factor for the 1960-1963 period was 55.2%, or a decrease of 7.0%. How-
ever, due to the growth of the industry’s operations, the 28.5 billion unutilized seat miles flown during the 1960-1963 period was 58% higher than the 17.97 billion unutilized seat miles offered during the six year 1954-1959 period. Even more striking is the comparison of the unutilized seat miles provided in 1962 and 1963 with the unutilized seat miles provided in the entire 1954-1959 period. During 1962-1963, the industry flew 17.7 billion empty seat miles, just .2 billion less than the number of empty seat miles flown during the entire six year 1954-1959 era. The conclusion is obvious: as the industry grows (and every indication points to growth in the near future as rapid as that during the past decade), the passenger load factor must also increase, just to keep the number of unutilized seat miles at a constant figure.

As we have seen, the growth in overcapacity since 1960 has been the result of (1) a post-1960 fall in the industry’s passenger load factor, and (2) a tremendous expansion in the scale of the industry’s operations. It has also been demonstrated that the transatlantic operations of TWA and Pan American account for the major part of this growth in overcapacity. Therefore, in Part IV, which analyzes the chief causes of the recent growth in over-capacity, special emphasis will be placed on events during 1958-1963 which have a direct bearing on the growth of overcapacity in the transatlantic area.

IV. THE CAUSES OF UNUTILIZED CAPACITY

The three most important factors which are usually invoked to explain the rapid growth in overcapacity since 1958 are the following: 2 (1) the Board’s policy of “multiple designation” or “limited competition” on international routes; (2) the industry’s substitution of jets for piston-driven aircraft between 1958-1963; and (3) the increase in competition from foreign airlines on international routes. Each of these three factors is separately discussed below with a view to determine their relation to the industry’s ever growing volume of unutilized seat miles.

A. The CAB Policy Of Enforced Competition Among United States Carriers On International Routes

The Board’s policy of maintaining competition among United States carriers on international routes was established by 1946; and, by 1950, the present route structure, characterized by extensive competition among United States international carriers on several route segments, was essentially completed. Thus, to explain the recent growth in overcapacity, factors other than the Board’s policy of regulated competition must be analyzed. Nonetheless, some authorities frequently cite the policy of “regulated competition” as one cause of overcapacity in the industry; for this reason, this issue bears further analysis at this point.3

It will be recalled that in 1946 the Board certified additional United

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3 Ibid.
States carriers to compete with Pan American in all three geographical areas. In the Latin American case, the Board certified seven carriers to compete with Pan American in Latin America. During the same year, Northwest was certified to compete with Pan American in the Pacific Area, while TWA was certified to service the Atlantic area. The Board justified the establishment of its policy of multiple designation by two main arguments. First, the Board contended that competition among United States carriers was: "the best assurance that . . . potential economies will be achieved in operation and that they will redound to the advantage of the public [only] in the presence of actual or potential competition." Second, in anticipation of growing competition from foreign carriers, the Board argued that:

the risk that we may commit our resources to the support of extravagant and unjustified international air services is not so great as the danger that we may fail to meet the public demand for air transportation, and thereby leave gaps in the foundation of the future air pattern of the American-flag carriers through which foreign competitors will be afforded an attractive opportunity to supply the services we have failed to provide."

Therefore, (1) the belief that the traveling public would be given better service if competition were maintained among United States carriers on international routes, and (2) the belief that failure to certify additional United States carriers to service a growing international air transport market would lead to domination of the industry by foreign carriers led to the establishment of a policy which has been basically unchanged to the present time. The present task is to determine the relation between this policy and unutilized capacity flown by American carriers. To what extent, if any, has the policy of multiple designation caused overcapacity to increase significantly in the past five years?

When two United States carriers operate on identical route segments, the service each provides is very similar to that of the other. On New York to London flights, for instance, TWA and Pan American both use long-range, jet aircraft; both carriers ordinarily provide three classes of flights; both serve comparable meals and beverages; and, finally, both charge identical fares. Therefore, when a prospective passenger, for whatever reasons, chooses to fly from New York to London on an American carrier, what difference does it make to him which of the two United States carriers he patronizes? To state the question differently, is the customer's decision to fly to London, via a United States carrier, significantly altered by the fact that one, rather than two, such carriers service the route?

This question arose, in a generalized form, in a recent CAB hearing in which both Pan American and TWA, as well as the Board's Bureau of Economic Research, were asked to estimate the effect of a revised

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94 Latin American Case 863.
transatlantic route system on the United States share of the transatlantic market. Both TWA and the Bureau agreed that a new route system which, among other features, would eliminate TWA services from New York to London, would result in a Pan American retention of about 90% of TWA’s share of the New York to London traffic. In a summation answer to this argument by TWA, Examiner Keith stated that "it is obvious that an arbitrary retention factor of 90% has no reasonable validity." Agreeing with figures calculated by Pan American, he stated that Pan American’s retention of TWA customers would be closer to 50%. Keith stated that since:

U.S. citizens have not demonstrated any solid preferences for U.S. flag services over those offered by foreign competitors, it would appear that the loss of U.S. flag traffic would . . . more nearly approach Pan American’s estimate than either the Bureau’s or TWA’s.\footnote{Id. at 98.}

According to the opinion, the only way in which the United States carriers could maintain their present share of the traffic would be a continuation of the multiple designation of TWA and Pan American to fly the New York to London route.\footnote{Id. at 100.} In fact, Keith suggested further that the present number of frequencies flown by TWA and Pan American may not even be enough to serve the public’s needs. With reference to Europe’s four major traffic centers, he argued that:

it cannot be considered that the present schedules of Pan American and TWA are in excess of the U.S. traffic demands or that their proposed service for 1964 under the present route pattern is out-of-line with the indicated needs of the U.S. traveling and shipping public. In fact, it is apparent that such schedules, by themselves, are not sufficient to accommodate U.S. commerce requirements. \textit{Thus, the over-capacity prevailing today and which might be present in 1964 . . . cannot be blamed on the U.S. carriers. Nevertheless, the problem might be alleviated by reducing U.S. carrier competition below the needs of the U.S. traffic requirements.}\footnote{Id. at 101-02. (Emphasis added.)}

If this analysis is correct, then, a termination of the policy of multiple designation on the transatlantic route would (1) reduce frequencies below those necessary to service the United States public, and (2) result in a significant loss of transatlantic traffic to foreign carriers.\footnote{Id. at 101-02.} Ample data supports the argument that a termination of competition between TWA and Pan American (resulting in a \textit{sole} remaining United States carrier servicing each transatlantic area) would cause a loss of traffic to foreign carriers. Of particular importance is the fact that foreigners demonstrate a much greater loyalty to their flag carriers than do United States citizens.

\footnote{Id. at 97.}
\footnote{Id. at 98.}
\footnote{Id. at 100.}
\footnote{Id. at 101-02. (Emphasis added.)}
\footnote{It should be noted here that Keith’s argument concerned the Staff proposal under which Pan American would service a “northern” transatlantic route and TWA would service a “southern” route. Keith did not address himself directly to the question of how effective would be a merger between TWA and Pan American into a single “chosen instrument” to service the transatlantic route. Nevertheless, there appears little evidence to indicate that the two carriers will, in the near future, be able to gain more than about 50% of the transatlantic market.}
The following data pertaining to transatlantic traffic adequately demonstrate this point:\footnote{\textsuperscript{102}}

<table>
<thead>
<tr>
<th>Year</th>
<th>Percent of U.S. Citizens Moving by Foreign Carriers</th>
<th>Percent of Aliens Moving by U.S. Carriers</th>
</tr>
</thead>
<tbody>
<tr>
<td>1956</td>
<td>30.7</td>
<td>40.7</td>
</tr>
<tr>
<td>1957</td>
<td>35.0</td>
<td>42.5</td>
</tr>
<tr>
<td>1958</td>
<td>37.7</td>
<td>34.6</td>
</tr>
<tr>
<td>1959</td>
<td>41.1</td>
<td>32.2</td>
</tr>
<tr>
<td>1960</td>
<td>43.3</td>
<td>29.8</td>
</tr>
<tr>
<td>1961</td>
<td>49.2</td>
<td>25.2</td>
</tr>
<tr>
<td>1962</td>
<td>52.1</td>
<td>22.5</td>
</tr>
</tbody>
</table>

As these data clearly show, foreigners are becoming progressively more inclined to patronize their own flag carriers, while, at the same time, American citizens have not shown this same inclination to fly on United States carriers. With reference to a proposal to eliminate Pan American as a competitor to TWA at Paris, Examiner Keith asked (and answered) the following question:

On the basis of . . . experience is it likely that TWA would retain 9 out of 10 Pan American passengers? Even if 100 percent of the U.S. citizens traveling on Pan American's service to Paris were retained by TWA which, of course, is not indicated by the evidence, TWA would still not retain 90 percent of Pan American's traffic, since about 25 percent is composed of aliens, most of whom, the evidence shows would turn to foreign competitors.\footnote{\textsuperscript{103}}

Part of Keith's argument was agreed to by Pan American officials appearing at the hearing. When asked his opinion of a proposed merger plan which would have eliminated TWA's morning departures from New York to London, a Pan American officer stated that:


Based on the traffic that we are currently carrying on this flight, it would seem that if we, as the sole remaining carrier, are to carry all of TWA's traffic, or anywhere \textit{[sic]} near it, we would have to operate more than one flight on this channel, right today, in order to avoid pushing a very substantial amount of traffic on to foreign carriers.\footnote{\textsuperscript{104}}

In summary, Examiner Keith stated that even though "there are frequency and capacity problems in transatlantic air transportation . . . such problems have no particular relation to whether there is a single or several U.S. carriers involved in a given market."\footnote{\textsuperscript{105}}

Can these conclusions concerning the transatlantic operations of the industry be generalized to apply to the industry's operations in Latin America and in the Pacific area? First, with regard to the Pacific area, it does not appear that a termination of competition between Pan American and Northwest would significantly affect the combined volume of

\footnote{\textsuperscript{102} Keith Decision 44.}
\footnote{\textsuperscript{103} \textit{Id.} at 98. (Emphasis added.)}
\footnote{\textsuperscript{104} \textit{Id.} at 96. Statement of the vice-president in charge of the overseas division.}
\footnote{\textsuperscript{105} \textit{Id.} at 101. (Emphasis added.)}
traffic carried by both carriers. With the exception of the interstate route between Seattle and Honolulu, the two carriers do not service any other identical city pairs. Northwest’s route apparently was never intended to duplicate Pan American’s; the main purpose of Northwest’s certification was obviously to provide regional competition to Pan American, and to make it impossible for Pan American to secure a monopoly in that area.

It might be possible, however, to certify Pan American to service the entire Pacific region, thus establishing a “chosen instrument” in that area. However, such action would probably not reduce the amount of capacity offered in the Pacific area, but would substitute Pan American’s services for present Northwest services. The arguments regarding the transatlantic area indicate that such a policy may have no effect except to channel passengers to foreign carriers operating in the Pacific area.

Although there is, compared with the Pacific area, a greater degree of route duplication among United States carriers in the Latin American area, only two firms servicing that area have experienced relatively low load factors during the past decade. Braniff’s ten year load factor of 48.3% and Delta’s ten year factor of 49.4%, have been considerably lower than the ten year load factor for the entire area of 61.1%. In the case of Braniff, this carrier’s South American route duplicates to a considerable degree the route system of Panagra. Delta’s services to San Juan are competitive with similar services of Pan American and Eastern, but the carrier’s services from New Orleans to Montego Bay, and from New Orleans to Caracas, are not in competition with other American carriers. It should be remembered, however, that the combined services of Braniff and Delta provided only 11.6% of the total available seat miles flown by the entire industry in Latin America between 1954-1963. Thus, even if stiff competition from other United States carriers were a prime cause of the low load factors experienced by Delta and Braniff, termination of their services would not significantly alter the load factor for the industry’s entire Latin American operations. Moreover, such a termination could result in a decreased portion of the Latin American market retained by United States airlines.

The above discussion indicates that a termination of the policy of “regulated competition” on international routes would probably not have a significant effect on the industry’s passenger load factor. The most substantial part of the evidence which leads to this conclusion concerns the industry’s transatlantic operations, yet it was pointed out that arguments regarding the transatlantic route system could well apply to the industry’s operations in other geographic areas. Carriers servicing the Latin American area and the Pacific area also experienced an increase in competition from foreign carriers. A termination of the operations of Braniff in South America, for instance, could lead to a loss of part of that market to foreign carriers, or to a situation whereby the needs of the travelling public were

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108 The Latin American passenger load factor for the decade was 61.1%; excluding the operations of Delta and Braniff, and assuming that all other factors remain the same, the Latin American passenger load factor for the period would have been 62.9%. 

not being met in the South American area. In any event, the major source of the industry’s overcapacity is the transatlantic operations, and most of the available evidence indicates that a reduction of competition among United States carriers in that area would not significantly alter the industry’s load factor.

In addition to the fact that the termination of regulated competition would not increase the industry’s load factor (and might even reduce it), there is another reason for which such a termination is undesirable. It is obvious that the industry’s total passenger capacity is determined by (1) the seating capacity of the aircraft used, and (2) the number of frequencies flown by the carriers. If overcapacity is viewed as being caused solely by (1), then the industry’s waste can only be decreased by using smaller aircraft; if overcapacity is caused primarily by (2), then overcapacity can only be decreased by limiting the number of frequencies flown by the industry. To explain overcapacity entirely in these terms, however, eliminates a third possible explanation, namely, that overcapacity is primarily the result of an inadequate demand for the services provided by the industry. This third possible explanation is, in fact, a fundamental assumption upon which is based the writer’s judgment that overcapacity is a serious problem resulting from the industry’s operations.

The United States international air transport industry is conceived by this writer as beneficial to the United States public, not because it renders substantial profits to its owners, but because the industry provides a remarkably efficient means of transportation and communication between Americans and citizens of foreign nations. Any solution to the problem of overcapacity brought about by a reduction of the industry’s passenger capacity, or by the use of inferior aircraft, is not consistent with the fundamental premise upon which this study is based. The only solution to the problem of waste in the industry consistent with this premise is to increase the number of passengers using international airlines, and this solution cannot be effected by a decrease in the passenger capacity offered by the industry. Any policy, such as termination of competition among American carriers on international routes, which may reduce the amount of output offered by the industry would, therefore, be undesirable as a means of eliminating overcapacity.

Arguments which advocate a decrease in the industry’s capacity, for whatever reason, are probably academic anyway. Most observers anticipate that the international air transport industry is at the threshold of a period of sustained and unprecedented growth. In order to service this growing passenger market, the world’s international air carriers surely will provide a continually growing volume of passenger capacity. Therefore, any solution to the problem of overcapacity which is aimed at reducing the size of the aircraft used, or by reducing the number of frequencies flown (or both), is not consistent with the facts of the industry’s future scale of production. Any solution to this problem must be in terms of inducing (or enabling) more people to use the international airlines.
Previous discussion has indicated that due to tremendous recent growth in the industry's operations, overcapacity flown by the industry since 1959 comprises over 65% of the unutilized seat miles offered during the past decade. The present analysis shows that recent capacity problems, at least as the problems are caused by transatlantic operations, have "no particular relation" to the Board's policy of enforcing competition on international routes, a policy which was established in 1946. Thus, the main causes of this recent growth are events which have taken place since 1958. The following sections undertake to analyze these events.

**B. The Effect Of The Introduction And Use Of Jet Aircraft On Unutilized Capacity**

An increasing dependence on jet aircraft during the past six years, more than any other factor, has caused the industry's passenger load factors to decrease steadily since 1958. While the Board's policy of regulated competition on international routes has had, at the most, a nominal effect on passenger load factors, the adverse effect on load factors which has been caused by the introduction of jet aircraft is easily demonstrated.

The international carriers have, over the years, discovered that the traveling public prefers certain hours during the day in which to travel, and, in order to meet this demand, it is incumbent upon the carriers to provide a schedule of frequencies most convenient to the public. Therefore, as the carriers began to introduce jet aircraft in 1958, it was necessary that schedules which had proved most popular in the past be maintained essentially at pre-jet times and frequencies. The effect of jet aircraft on passenger load factors would probably have been insignificant had the seating capacity of the jets been similar to the seating capacity of piston-driven aircraft. Just prior to the introduction of jets, the carriers primarily used aircraft such as the Douglas DC-7, an aircraft with a seating capacity of 68 first-class passengers or 89 coach passengers. However, in 1958, Pan American introduced jets to the industry by using a Boeing 707-120 on a New York to London flight; this Boeing plane had a seating capacity of 96 first-class passengers or 160 coach passengers. However, in 1958, Pan American introduced jets to the industry by using a Boeing 707-120 on a New York to London flight; this Boeing plane had a seating capacity of 96 first-class passengers or 160 coach passengers.

As Table 19 demonstrates, the relationship between the industry's use of jets and the average seating capacity on international flights is a very close one. In fact, in the absence of any other variables which could explain the increased seating capacity of the industry's fleet, these data clearly show that the larger seating capacity has been a direct result of the substitution of jet aircraft for piston-driven aircraft since 1958. Table 19 also shows that by 1964, the transition to jet aircraft had increased the average seating capacity of the industry's fleet to 118.7 seats per aircraft.

For our purposes, the most important result of the industry's predominant reliance on jets is the added capacity of the larger, faster jets, and the effect of this added capacity on the industry's passenger load factor. It is apparent that had this growth in capacity been accompanied by (1) a similar growth in passenger revenue miles flown, or (2) a very
TABLE 19
THE EFFECT OF JET AIRCRAFT ON THE AVERAGE SEATING CAPACITY
OF PLANES FLOWN BY THE INTERNATIONAL AIR TRANSPORT INDUSTRY*
1958-1962

<table>
<thead>
<tr>
<th>Year</th>
<th>Average Available Seats Per Aircraft</th>
<th>Percent of Total Passenger Revenue Miles Flown by Jets</th>
</tr>
</thead>
<tbody>
<tr>
<td>1958</td>
<td>63.7</td>
<td>5.7</td>
</tr>
<tr>
<td>1959</td>
<td>67.5</td>
<td>28.9</td>
</tr>
<tr>
<td>1960</td>
<td>89.9</td>
<td>66.4</td>
</tr>
<tr>
<td>1961</td>
<td>108.7</td>
<td>85.5</td>
</tr>
<tr>
<td>1962</td>
<td>118.7</td>
<td>92.2</td>
</tr>
</tbody>
</table>

* Scheduled services of all United States international and territorial carriers.


large decrease in the frequencies flown by the industry, the industry's load factor since 1959 would not have fallen so drastically. The data in Part III, however, showed that the growth in the number of passengers carried during the post-1959 period was much smaller than the growth in passenger capacity. Table 2 above included the following figures for the entire nine firm industry:

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Available Seat Miles (Millions)</th>
<th>Total Revenue Passenger Miles (Millions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1959</td>
<td>9,374.5</td>
<td>6,339.5</td>
</tr>
<tr>
<td>1960</td>
<td>12,060.0</td>
<td>7,469.8</td>
</tr>
<tr>
<td>1961</td>
<td>14,350.4</td>
<td>7,836.6</td>
</tr>
<tr>
<td>1962</td>
<td>16,931.9</td>
<td>9,126.4</td>
</tr>
<tr>
<td>1963</td>
<td>20,271.5</td>
<td>10,672.6</td>
</tr>
</tbody>
</table>

Whereas the total available seat miles flown between 1959 and 1963 increased from 9.4 billion to 20.3 billion, the passenger revenue miles flown during the period increased only from 6.3 billion to 10.7 billion. Obviously, a much larger growth in demand would have been necessary to absorb the increased capacity resulting from the industry's use of jet aircraft.

On the basis of the data presented above, it is not possible to determine the precise extent to which the industry's use of jet aircraft has affected passenger load factors. Nonetheless, it is quite apparent that the industry's assimilation and use of jets between 1958-1964, because of the larger seating capacity of the jets, had a significant adverse effect on the ability of the industry to maintain pre-jet passenger load factors.

The entire international air transport industry had 227,776 departures in 1959, and only 201,209 departures in 1962. Therefore, even though there was a 10% decrease in the number of frequencies during the period, total available seat miles flown increased over 100%. In order to offset the increased capacity caused by jets, the industry would have had to reduce frequencies to a much greater extent.

\[107\] The entire international air transport industry had 227,776 departures in 1959, and only 201,209 departures in 1962. Therefore, even though there was a 10% decrease in the number of frequencies during the period, total available seat miles flown increased over 100%. In order to offset the increased capacity caused by jets, the industry would have had to reduce frequencies to a much greater extent.
C. The Effect On Unutilized Capacity Of Competition From Foreign Airlines

Earlier discussion revealed that events between 1940-1946 established a framework for future development of the international air transport industry, a framework in which a growing number of nations would be demanding an ever increasing share of the world air transport market. At the 1944 International Civil Aviation Conference at Chicago, there existed a consensus among the world's nations that the development of international air transport routes would have to be consistent with the concept of "air sovereignty," a legal condition allowing each nation to control any commercial aviation rights pertaining to its own skies. The condition of air sovereignty has made it possible for almost every nation in the world to demand (and receive) reciprocal commercial aviation rights to service international air transport markets.

One important result of this proliferation of international carriers has been, of course, a significant increase in the competition to which United States carriers are subjected on international routes, and the attending decrease in the proportion of international air transport passengers transported by United States carriers. Because in recent years foreign competition has been a much more important factor in the transatlantic area than in any other geographical area, the discussion below emphasizes the industry's transatlantic operations.

Table 20 demonstrates that the diminishing share of the transatlantic traffic flown by United States carriers has not resulted in an absolute diminution in the number of transatlantic passengers carried by TWA and Pan American. In fact, this number has increased from 225,297 in 1954 to a 1962 level of 725,337. Nonetheless, the number of transatlantic passengers carried by foreign carriers increased from 230,851 in 1954

<table>
<thead>
<tr>
<th>Year</th>
<th>Foreign Carriers</th>
<th>United States Carriers</th>
<th>Total</th>
<th>United States Percent of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1954</td>
<td>230,851</td>
<td>255,297</td>
<td>486,148</td>
<td>52.8</td>
</tr>
<tr>
<td>1955</td>
<td>270,179</td>
<td>314,326</td>
<td>584,505</td>
<td>53.8</td>
</tr>
<tr>
<td>1956</td>
<td>328,892</td>
<td>362,702</td>
<td>691,594</td>
<td>52.4</td>
</tr>
<tr>
<td>1957</td>
<td>438,936</td>
<td>412,415</td>
<td>851,351</td>
<td>48.4</td>
</tr>
<tr>
<td>1958</td>
<td>616,893</td>
<td>438,575</td>
<td>1,055,468</td>
<td>41.6</td>
</tr>
<tr>
<td>1959</td>
<td>720,714</td>
<td>481,174</td>
<td>1,201,888</td>
<td>40.0</td>
</tr>
<tr>
<td>1960</td>
<td>923,264</td>
<td>611,076</td>
<td>1,534,340</td>
<td>39.8</td>
</tr>
<tr>
<td>1961</td>
<td>1,043,072</td>
<td>611,232</td>
<td>1,654,304</td>
<td>36.9</td>
</tr>
<tr>
<td>1962</td>
<td>1,247,017</td>
<td>725,337</td>
<td>1,972,354</td>
<td>36.8</td>
</tr>
</tbody>
</table>

Source: Transatlantic Route Renewal Case, CAB Docket No. 13577 (9 July 1964) (examiner's recommended decision).

See infra II D-6.

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to 1.25 million in 1962, a growth during the period of 550%! Increased foreign competition has caused a decrease in the share of the market carried by United States carriers from 53.8% in 1955 to an all-time low of 36.8% in 1962.

The proportion of total traffic carried by United States carriers in foreign markets, other than the transatlantic area, has also declined during the past decade. Table 21 shows that the decreasing share of international air transport carried by American carriers has not been confined to the transatlantic area. In 1946, United States airlines transported almost 90% of the passengers traveling between this country and foreign nations. However, since that year, this figure has steadily fallen, reaching an all time low of 49.6% in 1961, and rising slightly to 50.0% in 1962.

### TABLE 21
Air Passengers Traveling Between the United States and the Rest of the World
1946-1962

<table>
<thead>
<tr>
<th>Year</th>
<th>U.S. Flag Carriers</th>
<th>Foreign Carriers</th>
<th>United States Percent of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1946</td>
<td>466</td>
<td>72</td>
<td>86.6</td>
</tr>
<tr>
<td>1947</td>
<td>721</td>
<td>152</td>
<td>82.6</td>
</tr>
<tr>
<td>1948</td>
<td>713</td>
<td>230</td>
<td>75.6</td>
</tr>
<tr>
<td>1949</td>
<td>791</td>
<td>267</td>
<td>74.8</td>
</tr>
<tr>
<td>1950</td>
<td>818</td>
<td>277</td>
<td>74.7</td>
</tr>
<tr>
<td>1951</td>
<td>946</td>
<td>389</td>
<td>70.9</td>
</tr>
<tr>
<td>1952</td>
<td>1,041</td>
<td>488</td>
<td>68.1</td>
</tr>
<tr>
<td>1953</td>
<td>1,151</td>
<td>563</td>
<td>67.2</td>
</tr>
<tr>
<td>1954</td>
<td>1,230</td>
<td>623</td>
<td>66.4</td>
</tr>
<tr>
<td>1955</td>
<td>1,308</td>
<td>698</td>
<td>68.4</td>
</tr>
<tr>
<td>1956</td>
<td>1,763</td>
<td>879</td>
<td>66.7</td>
</tr>
<tr>
<td>1957</td>
<td>1,911</td>
<td>1,142</td>
<td>62.6</td>
</tr>
<tr>
<td>1958</td>
<td>2,053</td>
<td>1,349</td>
<td>60.3</td>
</tr>
<tr>
<td>1959</td>
<td>2,358</td>
<td>1,706</td>
<td>58.0</td>
</tr>
<tr>
<td>1960</td>
<td>2,505</td>
<td>2,071</td>
<td>54.7</td>
</tr>
<tr>
<td>1961</td>
<td>2,458</td>
<td>2,496</td>
<td>49.6</td>
</tr>
<tr>
<td>1962</td>
<td>2,679</td>
<td>2,684</td>
<td>50.0</td>
</tr>
</tbody>
</table>

It is not possible on the basis of the data in Tables 20 and 21 to argue that the diminished United States share of international traffic has been a major cause of falling passenger load factors. It was clearly established in earlier discussion that the main cause of the industry's increased overcapacity since 1958 has been the transition to jet aircraft. It can be argued, however, that the existence of foreign competition has been a partial determinant of the recent growth in overcapacity flown by the industry. Had Pan American and TWA maintained their 1954 share of the transatlantic market (52.5%) through 1963, passenger load factors for the two carriers would certainly have been higher during the 1954-1963 period. If the two carriers had maintained this 1954 share, they would have probably carried an additional 275,000 transatlantic passengers in 1962 alone. And, it is likely that 275,000 additional transatlantic passengers in 1962 might have improved the load factors experienced in the area by Pan American and TWA (as well as the passenger load factor for the industry's total operations). In fact, due to the existence of extensive unutilized capacity during 1962 in the industry's transatlantic operations, the two carriers could have transported an extra 275,000 passengers without increasing capacity at all.

Between 1961 and 1962, Pan American and TWA increased total capacity in the transatlantic area from 1,171,077 seats to 1,434,766 seats, an increase of 22%. However, during the same period, the share of the transatlantic market carried by Pan American and TWA fell from 36.9% in 1961 to 36.8% in 1962. Even though the absolute number of passengers flown by the two carriers increased from 611,232 in 1961 to 725,337 in 1962, this growth was not sufficient to absorb the increased capacity. Naturally, one result of the failure of the passenger market to absorb fully the industry's increased capacity on the transatlantic route in 1962, was a lower passenger load factor for the combined operations of TWA and Pan American in that area.

D. Summary

The discussion above has shown that: (1) The most direct cause of the recent growth in overcapacity in the United States industry has been the transition to jets between 1958-1963. Data presented in the chapter showed that this transition increased the industry's passenger capacity much faster than the new available seat miles could be absorbed by a growing passenger market; (2) A diminishing share of the world international air transport market maintained by the United States industry may also have adversely affected the industry's load factors; and (3) The maintenance of competition between American carriers on foreign routes probably has not been a significant determinant of the industry's load factors.

This analysis of the causes of increased overcapacity in the industry since 1958 does not automatically uncover any solution to the problems of overcapacity. The transition to jet aircraft would have been a necessary
step on the part of the United States industry irrespective of what was happening to the industry's passenger load factor. In 1955, BOAC flew a pure-jet commercial flight from London to New York; and, soon after, most other foreign carriers began to transform their fleets from prop to jet aircraft. It would have been impossible for the United States industry to have retained a competitive position with these foreign carriers with a non-jet fleet. Moreover, the increased foreign competition on international routes is an understandable outgrowth of the legal framework within which the international air transport industry operates. This country's ability to expand its own international route systems has necessitated the certification of a growing number of foreign carriers to compete with the United States carriers. Thus, the problem of overcapacity has been caused primarily by recent advancements in aviation technology, on the one hand, and by the legal and institutional framework of international aviation, on the other hand. Solutions to the problem of overcapacity, however, cannot be in the form of a revocation of aviation technology, or the termination of foreign competition. Either of these two actions would destroy the competitive position of the United States industry in international air transport.

The preceding comments, of course, raise a number of vital questions: What, if anything, can be done by the United States Government, or by the United States international air transport industry to utilize more completely the capacity generated on international routes? To what extent are multilateral, intergovernmental agreements possible which could bring about a greater capacity utilization by the entire world air transport industry? Finally, is greater capacity utilization possible only in terms of some form of internationalization of the entire world industry, a proposition which is politically impossible and which can be discussed in principle only? Such answers that exist to these questions are the subject of the following part of this study.

V. RECOMMENDATIONS AND CONCLUSIONS

Because the United States industry is part of a larger world operation, it is necessary to analyze solutions to the problem of overcapacity at two different levels. First, the United States industry can be considered as a separate operation, the most important economic aspects of which are regulated by the CAB. By defining the industry in this way, we can ask the following question: Is the CAB endowed with sufficient power to bring about higher capacity utilization by the United States international air transport industry, irrespective of the wishes of foreign governments who regulate their own carriers?

Alternatively, the world international air transport industry can be considered as a single operation, over which no individual government has a significant amount of control. In this case, the Board is assumed as incapable of unilaterally affecting capacity utilization, and thus we must consider multilateral action as the only means of eliminating over-
capacity. The fact that the United States industry can be viewed as either (1) a separate undertaking, or (2) a part of a larger world operation, is reflected in the analysis below.

The main purpose of the initial section is to discuss possible unilateral measures which might be taken by the CAB to bring about fuller capacity utilization for the United States international air transport industry. The second section is concerned with more revolutionary, and perhaps more idealistic, methods of eliminating waste resulting from international air transport operations. The discussion in this second section assumes that the CAB is not capable of implementing a unilateral policy which would reduce the amount of overcapacity generated by United States carriers.

A. The CAB And Overcapacity: Possible Unilateral Action

It was pointed out earlier that the CAB is charged with achieving a number of intentionally vague and broad goals in air transport. Among other such goals, the Board is charged with the "maintenance of sound economic conditions in the industry"; with the development of an air-transportation system "properly adapted to the present and future needs of the foreign and domestic commerce of the United States"; and, additionally, the Board must regulate air transportation in such a manner as to "recognize and preserve the inherent advantages of such transportation." While it may very well be true that the Board has, in the past, tacitly defined the "best" air transportation system as one in which the owners of the carriers receive the highest profits, this definition does not necessarily follow from the Federal Aviation Act of 1958. A more complete utilization of international air transport is also an objective which is consistent with the broad aims of the act.

The United States international air transport industry is believed by all observers to be at the dawn of an unparalleled period of growth; thus the "supply" of services provided by the industry is expected to steadily increase during the foreseeable future. In order to increase capacity utilization, therefore, it is necessary that a continually growing number of passengers patronize United States international carriers. Stated differently, if this increased supply of air transport services is not absorbed by a continually increasing number of customers, the problem of overcapacity will become both relatively and absolutely more severe. The question to be answered in the present discussion, therefore, is the following one: What can the Board do to enable the United States industry to absorb a larger and larger proportion of this growing capacity?

Broadly speaking, there are two ways in which consumers can be induced to increase their purchases of a particular product. First, consumers will buy more of a particular product if, for some reason or the other, their "tastes" for that product undergo a change. And, such changes as occur in "consumer demand" are primarily determined by (1) consumer income, (2) the availability and prices of substitutes for the product, and (3) a host of lesser factors. Obviously, the Board has no control over
the incomes of Americans or aliens who fly on United States carriers, and insofar as the ocean liner industry is concerned (the only available substitute for most international air transport services), the Board has absolutely no power over the kind of services provided by the ocean liners, nor the prices these liners charge. Thus, except to the extent that the Board indirectly promotes international air transport (through promotional speeches, etc.), its control over consumer demand for international air transport services is limited, if not entirely negligible.

It is ordinarily assumed that a second way to increase the purchases of most products is by lowering their price. The extent to which consumers purchase more of a product at a lower price (in the vernacular of economists, an increase in purchases of a commodity following a reduction of its price is a "change in the quantity demanded" rather than a "change in demand" for that product), however, is determined by the "price elasticity of demand" of that product. Therefore, (1) if it could be assumed that the demand for the services of the United States international air transport industry is "price elastic," and, (2) if it could be assumed that the Board has power to bring about lower international fares, then it could be concluded that the Board has the power to affect the industry's passenger load factors.

But, unfortunately, with respect to assumption (1) above, it is not possible to determine statistically whether the demand for international air transport services is or is not elastic. The number of passengers utilizing the services of United States carriers has grown continually for almost fifty years, and this growth has occurred during periods of price stability, during periods following rate increases, and during periods following rate reductions. Whether this growing passenger market has been caused by the increased popularity of air transport, by the increased wealth of the western nations, or by the gradual diminution of international air transport rates which has occurred since 1945, cannot be determined.10

Nonetheless, the Board and most of the American international carriers have demonstrated many times in the recent past that they favor rate reductions in most international markets.11 This advocacy of lower rates has always been based upon the tacit assumption that there exists a tremendous untapped market for cheap international air transport services. In the language of the economist, the tacit assumption made by the Board and by the industry is that the demand for international air transport

10 Recently, one writer, by using "demand curve analysis," has attempted to determine the effect of fare reductions on the demand for North Atlantic air transport services. The conclusion to this study is as follows:

"[1] It is estimated that the current IATA fare reductions [1 April 1961] will stimulate substantial traffic growth in the North Atlantic market until about 1966. The growth rate after 1966 may decline sharply to about five to six per cent if no further fare reductions are made, but should continue at a much higher rate if further reductions can be made.


OVERCAPACITY IN AIR TRANSPORT

services is elastic and that a reduction in prices will be accompanied by an increased use of these services.

In regard to assumption (2) above, the Board’s power over rates in the international air transport industry is a limited one. Earlier discussion has demonstrated that most international air transport fares are established, in the first instance, by the International Air Transport Association. And, as has also been pointed out, the bilateral air transport agreements—to which the United States has become a party—ordinarily contain provisions for the establishment of rates in the event that the IATA machinery fails to establish rates in particular market areas. In our earlier discussion, however, the emphasis was placed upon explaining the Board’s power over international rates according to the letter of international aviation law. It is necessary here to discuss more extensively the character of the Board’s de facto power over international air transport rates.

It will be recalled that the Board’s power over international rates is confined to the establishment of either maximum or minimum rates (or both) of services to and from the United States, and that the Board is denied the power to establish exact rates for these services. The Board’s power in this area is further limited by its relationship to IATA, on the one hand, and by the terms of the bilateral agreements on the other. Thus, any policy of establishing lower rates on international routes (in this context, with the hope of increasing passenger load factors for American carriers) must be consistent with these legal arrangements with the carriers of foreign nations, and the governments of these same nations.

In the most recent statement of this country’s international air transport policy, with which the Board fully concurred, the Government explicitly stated that it supports a perpetuation of both IATA and the framework of bilateral agreements which have shaped international air transport since 1946. The best evidence that the Board cannot unilaterally pursue a particular rate policy is the recent “Chandler Affair” in 1962-1963. It will be recalled that in this incident, the Board’s attempt to lower rates on the transatlantic route very nearly resulted in the confiscation of American commercial aircraft by foreign governments. Thus, as long as the conditions of international air transport are determined primarily by (1) rates fixed by the IATA, and (2) by the stipulations of bilateral air transport agreements, it is unlikely that the Board will be able to pursue unilaterally a policy of rate reductions on international routes.

Lucile Sheppard Keyes, a member of the Editorial Advisory Board of the Journal of Air Law and Commerce and a long-time observer of air transport, has argued that:

Given the attitudes of other governments whose interests are involved, it is unquestionable that no immediate real improvement in the present arrangements governing rates—or in those governing other important economic variables such as routes and capacity—can be expected, at least without the exercise of high-level diplomatic pressures to “persuade” other nations to go
along, a strategy which is presumably unacceptable to our government and also probably not in the national interest broadly conceived. It seems obvious that an agency of the United States government, or of any single government, cannot be expected unilaterally to control international air fares as it can the prices charged for transportation within national boundaries. International rates directly involve the interests of more than one nation because carriers of more than one flag are generally competing on any important route and because passengers and shippers are similarly of more than one nationality. Such rates are subject to influence by more than one nation because international carriage cannot exist physically without the assent of at least two nations.

Earlier discussion indicated that the prevailing opinion among the managers of most European airlines is that a general lowering of transatlantic rates is not in their best interests. Thus, throughout the past twenty years, Pan American and, in some instances, the CAB, have continually fought European resistance to lower rates for transatlantic air transport services. In explaining the role of Pan American as the chief advocate of lower transatlantic rates, Mrs. Keyes has pointed out that:

A far more plausible explanation for Pan Am's leadership in price reductions is to be found in its management's belief in the long-run profitability of low fares and expanded markets, plus the lower cost level which this management has apparently been able to achieve as compared with the European carriers—something which may be inferred from the United States carrier's ability to operate profitably at the same fare levels at which many European airlines have recently been making large losses. . . . Though superiority in quantity and quality of equipment has often been cited as a reason for Pan Am's ability to profit from reduced fares, it seems evident that this superiority has itself been the result of an expansionist policy, rather than the other way around.

The preceding discussion demonstrates that it is unlikely that the Board, of its own initiative, can increase the number of passengers who patronize United States international air transport carriers. First, it is clear that the Board's power to influence the demand for air transport services is severely limited, simply because consumer demand for international air transport services is determined primarily by factors over which the Board has no control. Secondly, it is equally clear that, because of the insistence on the part of several European governments that international air transport rates be maintained at a relatively high level (particularly on the transatlantic route), the Board is virtually powerless to produce the lower rate which could act to increase the passenger load factors for American carriers. And, since the Board cannot bring about lower rates, it is academic, at least in this context, to assert that the

\[\text{\textsuperscript{112}}\text{Id. at 174. (Emphasis added.) In this article, Mrs. Keyes discusses the effect on the Board's power over international rates in the event the Board is empowered to fix exact rates on international flights. She concludes that "it may be doubted that the existence or even the exercise of . . . [the power to fix exact rates] would ultimately bring about international rates greatly different from what they would be without it." Id. at 188.}\]

\[\text{\textsuperscript{113}}\text{Id. at 184.}\]

\[\text{\textsuperscript{114}}\text{Id. at 176.}\]
demand for the services of American carriers is probably elastic to changes in price.

Thus, it appears that there is no unilateral policy which the Board could implement that would bring about lower rates and higher load factors for the United States international air transport carriers. It should be pointed out, however, that the previous discussion has been based upon the assumption that the Board currently favors a gradual reduction of international air transport rates. It is true that as late as 1963, the Board provided good evidence that it favored lower fares, particularly on the transatlantic route. Nonetheless, the last two years have been the most profitable in the history of the United States international air transport industry; and, the immediate future promises an even greater growth in all phases of the industry's operations. In short, it is indeed possible that the Board's inclination to alter the status quo will become weaker as the pecuniary position of the carriers becomes stronger.

The main conclusion that can be drawn from the previous discussion is that no single governmental aeronautical authority can unilaterally bring about a change in international air transport rates. Though our discussion has been concerned specifically with the CAB's power over international rates, it is apparent that the same limitation of power affects every foreign aeronautical authority. This inability of individual aeronautical authorities significantly to affect international air transport rates will prevail for as long as the existing framework of international air transport rate making continues to exist. One can conclude, therefore, that multilateral action is the only present possible means of bringing about a significantly higher capacity utilization in international air transport.

B. The ICAO And Overcapacity: Possible Multilateral Action

The resistance of foreign governments (particularly European governments) to a lower rate structure for international air transport services is evidence that these governments evaluate their own air transport systems by standards such that overcapacity is not considered a serious problem. Individual foreign governments may and often do support a flag carrier for a number of different reasons: in many cases, flag carriers are maintained for prestige value alone; in other cases, flag carriers are maintained because of their importance in foreign commerce, in tourism, etc. A young African nation, for instance, may support a flag carrier for no reason other than the fact that other nations might look upon the carrier as evidence of an emergence from industrial backwardness. To the extent that governments use international air transport as a vehicle for creating a good "world image," or as a means of exercising political power, un-

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118 The increasing pecuniary success of the United States international air transport industry can be demonstrated by the following data (for the entire nine firm industry):

<table>
<thead>
<tr>
<th>Year</th>
<th>Net Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>1962</td>
<td>$28,765,000</td>
</tr>
<tr>
<td>1963</td>
<td>$60,236,000</td>
</tr>
<tr>
<td>1964*</td>
<td>$84,432,000</td>
</tr>
</tbody>
</table>

* 1964 data are for the twelve months ending 30 Sept. 1964.
utilized capacity which is flown on international routes will not appear to
be a significant problem. Previous discussion has clearly demonstrated
that the CAB finds it more convenient to maintain "good" relations with
foreign governments than to pursue vigorously the kind of rate structure
which could help eliminate overcapacity flown by American carriers.

The argument that capacity utilization is not a primary criterion em-
ployed by means of which governments evaluate international air trans-
port should not be interpreted to mean that foreign airlines have been
enjoying a greater capacity utilization than United States carriers. In
fact, available data very clearly demonstrate that the entire world in-
ternational air transport industry has, in recent years, been flying a rapidly
growing volume of unutilized capacity on international routes. Table 22
adequately demonstrates that the problem of overcapacity is not one con-
fined to operations of the United States industry alone. One outstanding
feature of the data in Table 22 is that there has been a continual down-
ward trend in load factors for international operations in the European
area (which would include the transatlantic operations of Pan American
and TWA), and for the combined international operations of the world
air transport industry. The data also show that the most precipitous drop
in these load factors has occurred since 1960. The experience of the world
industry has been very similar to that of the United States industry in the
sense that overcapacity has become an increasingly severe international
problem in recent years.

### Table 22

<table>
<thead>
<tr>
<th>Year</th>
<th>World Operations</th>
<th>European Operations</th>
</tr>
</thead>
<tbody>
<tr>
<td>1951</td>
<td>60.3%</td>
<td>64.9%</td>
</tr>
<tr>
<td>1952</td>
<td>62.8</td>
<td>62.4</td>
</tr>
<tr>
<td>1953</td>
<td>61.9</td>
<td>58.3</td>
</tr>
<tr>
<td>1954</td>
<td>58.2</td>
<td>58.0</td>
</tr>
<tr>
<td>1955</td>
<td>61.2</td>
<td>60.6</td>
</tr>
<tr>
<td>1956</td>
<td>61.4</td>
<td>61.5</td>
</tr>
<tr>
<td>1957</td>
<td>64.2</td>
<td>63.9</td>
</tr>
<tr>
<td>1958</td>
<td>56.0</td>
<td>56.4</td>
</tr>
<tr>
<td>1959</td>
<td>59.7</td>
<td>57.9</td>
</tr>
<tr>
<td>1960</td>
<td>61.9</td>
<td>61.5</td>
</tr>
<tr>
<td>1961</td>
<td>53.1</td>
<td>57.7</td>
</tr>
<tr>
<td>1962</td>
<td>52.6</td>
<td>52.0</td>
</tr>
<tr>
<td>1963</td>
<td>50.0</td>
<td>48.1</td>
</tr>
</tbody>
</table>

* These figures represent passenger load factors for the second quarter of each year.

The fact that foreign carriers have also been generating a growing volume of unutilized capacity on international routes does not necessarily mean, however, that foreign governments will become more inclined to agree to rate reductions in order to solve that problem. During 1963, the world air transport industry made gross profits of $358.8 million. This figure was more than three times higher than profits received in any previous year, and followed a $97 million profit in 1962 and a $118 million loss in 1961. These profit figures reveal that to a considerable extent, many foreign governments are faced by the same dilemma as that faced by the CAB; their international carriers are receiving the highest profits in their history while at the same time they are generating an ever growing magnitude of unutilized capacity. During 1963, BOAC and BEA (Britain's two government owned airlines) made profits of more than $40 million; it is not difficult to understand why the British government would be reluctant to pursue any significantly different policy regarding international rates in 1964. It is probably true that foreign aeronautical authorities will be increasingly less inclined to worry about overcapacity during a period when most foreign carriers are experiencing their most profitable years in history.

It should be noted, however, that whatever attitudes are currently maintained by foreign governments regarding international air transport, these attitudes are not unchangeable. As Mrs. Keyes pointed out (in spite of her belief that any immediate change in these attitudes is not likely), several factors may eventually lead to a less restrictive environment for international air transport operations. Specifically, she listed the following four factors:

First, it is evidently not only United States interests which may be injured when reductions in international rates and fares are delayed and diminished. For example, the real value of the United States tourist trade to major European nations is very great indeed; any significant curtailment of this traffic is a heavy price for them to pay for the maintenance of high-cost airline service under the national flag.

Second, most if not all major international air services have become capable of self-support under efficient operation. . . . Because of technological progress, this reason for restraint is now disappearing, though it may reappear at any time if unwise governmental decisions as to routes, equipment, and the like force airlines to operate at a loss. . . . Where a satisfactory supply of commercial air transportation is available on a self-sufficient basis, it is no longer reasonable for any nation to justify the subsidization of its flag carrier on grounds of the “needs of commerce.”

116 Among those carriers operating at a loss in 1963 were: Air France (a loss of $4.4 million in spite of a direct subsidy of $19.2 million); Sabena (a loss of $1 million and an indirect subsidy of $5.5 million); and Lufthansa (a loss of $8.8 million and indirect subsidy of $.45 million). These losses may help explain why the three carriers so persistently resist lower international fares. See 107 ICAO DIGEST OF STATISTICS 27, 34 (1964).

117 During the past few years, France, Italy, Belgium, and Germany have been considering a plan to combine the operations of their flag carriers in order to reduce competition, reduce costs, and streamline their combined operations. Recently, the development of “Air Union” (the proposed new airline) has been delayed by entrance into the Union of carriers from the Netherlands and Luxembourg. Apparently, the main reasons for this result from the knotty problem of profit sharing among the merging carriers. See Keyes, supra note 111, at 191 n.60.
Third, the technology of warfare has changed to such an extent that it is also no longer possible to rationalize governmental maintenance of a flag carrier as a means of partial support for equipment needed for military use.

Fourth, it is perhaps worth suggesting that the prestige value of a national flag carrier is not what it used to be, because of general public familiarity with long-distance air transportation under many flags for a period of years.¹¹⁸

Let us assume, then, that in some long run period, the prevailing sentiment regarding international air transport will evolve to a point at which nations are willing to discuss a less restrictive international air transport framework. In such an event, what can be offered in the way of suggestions to solve the problem of overcapacity? A modest proposal is outlined below.

In Part II of this study, the Chicago Conference of 1944 was discussed at some length. At this Conference, it will be recalled, the delegates from fifty-four nations agreed to a basic framework for the future development of international air transport. As a basic part of this framework, the delegates created the Provisional International Civil Aviation Organization (PICAO). PICAO was established as an international governmental organization through which delegations from each of the world's governments could meet and discuss the various aspects of international civil aviation. The International Civil Aviation Organization (ICAO), which succeeded PICAO in 1947, has played a prominent role in the clarification of aviation law, in the standardization of international air transport carriage, and in the collection and dissemination of aviation technology. Since 1947, ICAO has, of course, increased the scale of its operations as the number of carriers joining the organization has increased each year.¹¹⁹

Since 1950, ICAO has been associated with the United Nations as one of the "Specialized Agencies" which operate in close association with the Economic and Social Commission of the United Nations. Most recent activity resulting from this association has been in the area of technical assistance to the underdeveloped nations.¹²⁰ However, except for the provision of technical assistance to underdeveloped nations, and its continuous role of clarifying international aviation law, ICAO remains powerless to affect the strictly economic aspects of international air transport. Walter Binaghi, President of the ICAO Council, readily admits the lack of ICAO power in the area of air transport economic regulation:

[I]n non-technical matters, we cannot claim to have achieved . . . much progress [since 1944]. But the reason is similar to the one which prevented the Chicago Conference from accomplishing more, namely that it has not been the wish of the majority of States to tackle the problems of air transport economics by plurilateral or multilateral solutions.¹²¹

¹¹⁸ Id. at 191.
¹¹⁹ ICAO Bull., Jan. 1965, p. 4. This issue of the Bulletin contains an excellent brief review of the activities of the ICAO during the past twenty years.
¹²⁰ As an example of this kind of technical assistance, in 1963 ICAO began a study of air transport in Africa in collaboration with the Secretariat of the United Nations Economic Commission for Africa (ECA). Since 1950, ICAO has provided technical assistance to seventy-five nations. See ICAO ANN. REP. OF THE COUNCIL TO THE ASSEMBLY FOR 1963, at 52 (1964).
¹²¹ ICAO Bull., supra note 119, at 5.
(Thus the impotence of ICAO to affect the air transport operations of international carriers is the result of the same framework which renders the CAB powerless to lower rates on international routes; and, both ICAO and the Board will remain essentially powerless in this area for as long as bilateral, intergovernmental air transport agreements shape the character of international air transport.)

The main legislative body of ICAO is the Assembly, comprised of delegations from 107 governments, and which, since 1955, has convened at least every three years. The Assembly has the power to elect a Council, which is the second governing body of ICAO. The Council is composed of representatives from twenty-one states, and the duties of the Council include, among others, the submission of an annual report to the United Nations and the determination of the Agenda for each Assembly meeting. These Assembly meetings are designed such that outsiders, including (1) members of other Specialized Agencies of the United Nations, and (2) the general public, are allowed to attend any or all of the proceedings. Members of other Specialized Agencies who attend an ICAO Assembly meeting are called “observers,” and their attendance and participation in Assembly meetings is actively solicited by ICAO. The presence of these observers makes possible an important exchange of ideas and information between ICAO and other international agencies. ICAO’s relationship to the public takes two forms. Schenkman described these two forms as:

a passive one which found its expression in opening its deliberations to the public, and an active one realized by a Public Information Program intended to supply the general public with information on the work and activities of ICAO.125

The organizational framework of ICAO, as outlined above, indicates that ICAO could provide a most valuable forum for intergovernmental discussion of the problem of overcapacity. Because of ICAO’s relationship to the United Nations and to other international governmental agencies, and because of the public’s accessibility to meetings of the Assembly, ICAO is the logical choice among existing international organizations for a forum on overcapacity. Therefore, it is recommended here that ICAO, in the very near future, host an international conference on the problems of overcapacity resulting from international air transport operations. Such a conference could be held during ICAO’s tri-annual Assembly meeting, or could result from a special conference called by the ICAO Council. While it cannot be hoped that such a conference would result in any immediate solution to the problem of overcapacity, perhaps a more extensive public awareness of the magnitude of overcapacity would act to redirect the whole process by which international air transport is evaluated, a process which has sacrificed capacity utilization on the altar of private pecuniary success and individual nationalisms. Any such “re-

125 SCHENKMAN, INTERNATIONAL CIVIL AVIATION ORGANIZATION 198. This work is the best available on the organization and functions of the ICAO, and this section borrows heavily from it.
direction" as might take place, however, cannot be expected to be a revolutionary one; the present framework of international air transport has remained substantially unchanged for over twenty years, and suggestions for a "new look" at the operations of the industry will be taken as absurd by some, and as outright dangerous by others. Nonetheless, no harm to the existing framework of international air transport can come from discussion, and an ICAO Assembly meeting is probably the best available forum in which such a discussion could take place.

It is true that the time that would elapse between a discussion of overcapacity and the actual implementation of measures to eliminate overcapacity might be very great indeed. Nevertheless, an ICAO conference on overcapacity could act as an important "first-step" in inducing governments to take a different view towards the role of the international air transport industry in the modern world. Without such a first-step, the future holds little prospect for a workable solution to the problem of overcapacity.

C. Conclusions

The writer quite readily admits that no solution to the problem of overcapacity seems possible in the near future. The elimination of overcapacity seems possible only to the extent that there occurs in the future, a "significant change in the attitudes of the governments of the world." To the extent that change in these attitudes can occur, such change will probably come, not from the initiative of governments, but from pressure on these governments by a more "enlightened world citizenry." Gunnar Myrdal states this view as follows:

My own personal experiences in ten years of multilateral intergovernmental negotiations convince me that it is unwise to underestimate . . . technical difficulties and the very laborious and time-consuming staff work that is required to reach results. But the difficulties could be overcome—if the will to reach a compromise were present.

It is also my experience, however, that most of the time this will is lacking, even when there is a clear convergence of all the separate national interests to reach agreement. While in every country there are organizations, political parties, and pressure groups to defend special interests, there are nowhere powerful organizations to defend a country's part in the general interest of international cooperation. The special interest groups are left free to harp on the nationalistic emotions that can always be evoked. As a result, the legislatures, governments, and administrations usually tend to act in a much more narrowly nationalistic fashion than would correspond to the attitudes of the enlightened sections of the general public. And so the negotiators in the international councils become conditioned to fight fiercely for the national penny, while losing the commonly desirable pound. . . .

For this there is only one remedy: a more enlightened citizenry. What must be recognized as—up to now—a relative failure of practically all attempts at organized international economic cooperation should be thought over carefully, not with a view to discouraging sustained efforts, but rather to guiding them more wisely.123

123 Myrdal, Beyond the Welfare State 286 (1960).
Other writers agree with Myrdal that the basic foundation necessary for international economic cooperation must be a basic change in national attitudes. Norman Pounds and William Parker, writing about the problems involved in establishing the European Coal and Steel Community, contend that:

if the political and economic atmosphere in Western Europe over the next forty years resembles that of the last forty years, the European Coal and Steel Community (along with most other things in the area) will disappear. No international organization of single industries can master violent fluctuations in aggregate demand, nor can it override the political passions that can split an economic area along national boundaries. The survival of the Community depends less upon what it can accomplish than upon what it can inspire. 124

As the previous discussion demonstrates, the prospects for a solution to the problem of overcapacity are indeed dim. Nonetheless, it is not necessary that this study be concluded on such a pessimistic note. Considerable evidence has been provided to show that the great majority of persons concerned with international air transport, including the owners of the airlines, the governments controlling them, and a considerable number of lawyers, economists, and other interested observers, have neglected to include capacity utilization as an important criterion upon which to judge the industry’s operational effectiveness. And, because this aspect of the industry’s operations has escaped the notice of those most directly concerned, the tremendous recent increase in overcapacity flown has been either ignored, or considered as a worthy sacrifice for maintaining the status quo in the international air transport industry.

It is hoped, therefore, that this study can provide the basis for a new appraisal of the United States industry and, even more important, for a new appraisal of the world international air transport industry. The fact that a ready remedy to the problem which has been so laboriously analyzed has not been provided does not detract from the value of the alternative framework for evaluating international air transport which has been suggested here. The value of this study, in the words of Pounds and Parker, depends “less upon what it has accomplished” in terms of offering solutions to the problem of overcapacity, than “upon what it can inspire” in the way of efforts toward a solution to that problem.

124 Pounds & Parker, Coal and Steel in Western Europe 252 (1957).