

18)

STATEMENT OF WILLIAM T. COLEMAN, JR., SECRETARY OF TRANSPORTATION, BEFORE THE SUBCOMMITTEE ON FUTURE FOREIGN POLICY RESEARCH AND DEVELOPMENT OF THE HOUSE COMMITTEE ON INTERNATIONAL RELATIONS AND THE SUBCOMMITTEE ON GOVERNMENT ACTIVITIES AND TRANSPORTATION OF THE HOUSE COMMITTEE ON GOVERNMENT OPERATIONS, ON THE CONCORDE, WEDNESDAY, MAY 26, 1976.

Messrs. Chairmen and Members of the Subcommittees:

Thank you for your invitation to appear today to discuss my decision permitting British Airways and Air France to conduct limited scheduled Concorde operations to and from the United States for a trial period of up to 16 months under certain precise restrictions.

I understand that one of your principal concerns in holding this hearing is the role of foreign policy considerations in the decisionmaking process concerning the Concorde, including considerations, if any, which preceded my arrival at the Department of Transportation. In order to place this matter in the proper context, I would like to outline briefly the overall framework in which I made my decision.

As I indicated in my opinion, I perceived as relevant to my decision the following six issues:

1. Whether I was compelled by either international or domestic law to permit or prohibit the landing of the Concorde and,

if I was not compelled by law to make a particular decision, what policy guidance did the law, including treaties, provide;

2. To what extent was the United States bound under international law to accept the safety determinations of France and the United Kingdom, and had the FAA determined that the Concorde was safe;

3. Whether I should have considered only the impact of the proposed six flights per day or should have assumed that, no matter how strictly limited my decision was, its ultimate effect would be a major expansion of SST operations;

4. What were the environmental impacts of the Concorde in, inter alia, the following four categories: air quality, energy impact, climatic impact and ozone reduction, and noise and vibration;

5. What benefits would accrue from Concorde operations with respect to improved international travel and communication, technological advances in aviation, and improved international relations; and

6. What accommodation would best minimize any adverse costs of Concorde operations while preserving its significant benefits, or to the extent such costs and benefits could not be confidently assessed, what accommodation would put us, without significant risk to the American people, in a position to assess them.

As you can see from this list, the task of reaching a decision required serious consideration of a variety of issues, including important questions of international law and relations. With respect to the obligations of the United States under international law, I concluded that I was not compelled by treaty or domestic law to admit the Concorde for commercial flights if I found that it would be harmful to the United States. Further, I acknowledged the obligation of the FAA with respect to accepting the certification of the British and French authorities concerning the airworthiness of the Concorde and accepted the FAA Administrator's conclusion that the Concorde could operate safely in U.S. airspace.

57. Once these issues were resolved I addressed the question whether authorization of the proposed commercial Concorde flights was contrary to the national interest or inconsistent with any Federal statute. In so doing, I dealt at some length with environmental problems of air quality, energy efficiency, stratospheric impact, and noise; commercial and technological factors; and our relationships with Great Britain and France. It was possible to reach a number of conclusions concerning these matters, although it was impossible to reconcile them completely. Obviously these considerations had

to be weighed and balanced carefully in reaching a decision.

As you know, I concluded that it would be appropriate to establish a trial period for Concorde operations and to attach specific conditions to operations during that period. I found that there was so much on both the environmental and technological sides of the equation that we did not know and could not know without observing the Concorde in actual commercial operation into the United States that a final decision at this time either to admit or to bar the Concorde would be irresponsible.

My concern about the foreign relations implications of the Concorde decision are also set out in my opinion. First, I was concerned whether a decision to ban the Concorde completely might be perceived as discriminatory because the United States could be charged with treating its own aircraft and other U.S. manufactured products more favorably than those of foreign countries with respect to regulating aircraft noise and guarding against stratospheric pollution. Second, I was concerned whether a complete and immediate ban on any commercial Concorde flight would be perceived by the British and French as the imposition of a penalty for which they were not given adequate notice. Finally, I took into account the proposition that a prohibition of Concorde operations might be

considered unfair protectionism on the grounds that the United States was unwilling to permit the British or French to enlarge their share of the international aeronautical market at the expense of the U. S. manufacturers and carriers.

It was and remains my conviction that international considerations, although not determinative, were nonetheless important and worthy of careful analysis and judgment. Because there are other important considerations as well -- especially serious questions of environmental impact -- it was apparent to me that the only way to address these diverse issues was to deal with them in an open and fair process that explained in some detail how each consideration was weighed and evaluated. Although there are many occasions where confidentiality in diplomatic negotiations is in the national interest, I thought that the international considerations affecting a commercial venture such as the Concorde could be discussed openly and on the record. For that reason, I asked the Secretary of State to submit his views in writing for the record, I released the Nixon-Heath and Nixon-Pompidou communications, and I conducted open hearings during which foreign relations considerations were discussed.

As I indicated in my opinion, my decision was based entirely on my review of the environmental impact statement concerning the application of the French and British, my all-day hearing on January 5, 1976, and my subsequent review of the transcript and other written materials submitted for the record. With respect to any possible commitment or agreement, my opinion states that the United Kingdom's Minister of State for the Department of Industry and France's Director of Air Transport each testified at the public hearing that there was no expressed or implied commitment that the United States was obliged to permit the Concorde to land in the United States. It states further that no one brought to my attention any such expressed or implied agreement. In short, my opinion was based on the record I had before me and upon a careful review and weighing of the environmental, technological and international laws, facts, and arguments that were a part of that record.

In the spirit of that open review, I have made available to the Subcommittees and to the public additional documents that were found in Department files relating for the most part to events that preceded my arrival. These documents contain references to interagency discussions and alternatives considered. Except with respect to documents relating to events during my tenure, I

was not aware of their existence until our search was completed. Although some of these documents were not covered by Chairman Wolff's request, we provided them anyway since they relate to concerns expressed by his Subcommittee. We also arranged to have some of these documents declassified so that they could be made public. Since they are primarily of historical interest at this point, we did not believe there was any useful purpose in retaining their national security classification. I hope the Subcommittees will recognize (1) that some of these documents go beyond what was requested and (2) that I made the information available freely and with maximum cooperation.

Your invitation to testify stated you would like to examine future implications of commercial supersonic aircraft for U. S. foreign policy. At this point, we are faced with a great deal of uncertainty respecting the environmental and technological, as well as the international implications, of SST operations. This fact, of course, led me to conclude that a demonstration period was appropriate for the Concorde. I would like to suggest that we take this opportunity to observe carefully both the positive and negative consequences of the limited trial and then assess much more intelligently the appropriate role of commercial supersonic flights to and from the United States. I do not want to speculate

about those implications at this early stage. My opinion made clear that the question of continuation of permission for the six flights beyond the 16th month will be addressed without any presumption either way being created by my decision of February 4.

I am pleased to be able to report four developments since I last appeared before Mr. Randall's Subcommittee.

First, as you know, the Federal Aviation Administration has instituted a High Altitude Pollution Program (HAPP) to collect and analyze data on the effects of aircraft emissions on the stratosphere. On May 5, in Paris, the United States government concluded an agreement with Great Britain and the Republic of France to establish a joint ozone monitoring system. We believe such cooperation will be useful in obtaining information on which all parties agree as the basis for future regulation of stratospheric flights.

Second, on May 18, the FAA announced that its Dulles monitoring systems were in place. The FAA will monitor airport air quality and noise levels and NASA will monitor the effects of Concorde noise vibration. The sophisticated system was developed in cooperation with NASA and EPA and local governments in New York and Virginia. It will ensure that the Concorde is given the closest scrutiny in aviation history as it begins its demonstration.



Third, on May 19, the U.S. Court of Appeals in Washington unanimously upheld my February 4 decision to permit the Concorde demonstration. Various parties had challenged the decision on the grounds that the EIS was allegedly inadequate and that the documents provided to Chairman Wolff showed that my decision was somehow preordained because of our government's dealings with Britain and France regarding the Concorde in 1972 and 1973. The Court rejected these arguments. I was particularly gratified that a decision which might normally be expected to take six weeks was made unanimously and only three hours following the conclusion of argument. The Chief Justice on May 22 denied a stay.

Finally, the demonstration began this Monday with the arrival of the first scheduled flights from London and Paris. I hope it will provide us with the information needed to reach the ultimate decision on the application for permanent service to and from the U. S.

The fact that we have not arbitrarily banned the Concorde altogether, without the benefit of an opportunity to prove itself, does contribute to the continuing strength of the international aviation structure. It is an expression of international cooperation and good will between the United States and two of our closest allies

with whom we share a substantial cultural heritage. It will help assure our allies that we seek to act without discrimination and fairly and equitably in our economic relations with them. It will be an important reaffirmation of the mutual reciprocity that has enabled the United States to benefit so substantially from the export of its aeronautical products for the past 30 years.

That completes my prepared testimony. I shall be happy to try to answer any questions you may have.