DEPARTMENT OF TRANSPORTATION

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The Department of Transportation has sent to Congress proposed legislation to provide for the regulation of rates, fares and charges in foreign air transportation between the U.S. and foreign nations.

The proposed bill, the Foreign Air Transportation Regulatory Act of 1971, would amend the Federal Aviation Act of 1958 to empower the Civil Aeronautics Board to suspend and reject rates in foreign air transportation when found to be unreasonably high or unreasonably low and detrimental to the commerce of the United States.

The bill also would provide the CAB with retaliatory powers against a foreign carrier if its government refused to permit U.S. carriers to offer services at rates properly filed under the Act.

"The timing of the submission of this proposed legislation is strongly influenced by the failure to date of member carriers of the International Air Transport Association to agree on rates and fares to be offered for the 1972 season on the North Atlantic," Secretary of Transportation John A. Volpe said.

"This disagreement has resulted in some foreign carriers filing with the CAB fare proposals that are so low as to raise the question that they may impair the services provided by all carriers in the North Atlantic market.

"Consumers will be poorly served," Secretary Volpe said, "if the principal effect of marketplace manipulations is to produce fares so low today as to cause deterioration tomorrow in quality and quantity of North Atlantic air travel service.

"The critical situation developing among North Atlantic air carriers threatens U.S. commerce," the Secretary said. "Under existing rates U.S. carriers continue to experience losses in providing foreign air transportation services because the recent introduction of wide-bodied aircraft has depressed load factors and intensified competition for scheduled services.

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The basic provisions of the bill are:

1. To give the CAB power to suspend and reject rates in foreign air transportation when found to be unreasonably high or unreasonably low and detrimental to the commerce of the United States.

2. To provide the CAB with retaliatory powers in situations where a foreign government may refuse to permit U.S. carriers to offer air services at rates properly filed under the Act.

3. To require that CAB decisions affecting foreign rates be submitted to the President for approval, disapproval or stay. Absent presidential disapproval or stay, the CAB decisions would become effective.

In transmitting the Foreign Air Transportation Act of 1971 to the leaders of Congress, Secretary Volpe stated:

"In view of the critical situation which has developed on the North Atlantic, the Department respectfully urges that this proposed bill be given immediate attention by Congress. The situation is serious. The U.S. carriers continue to experience losses in providing foreign air transportation services. Our analysis of a number of tariffs that recently have been proposed for the North Atlantic for the 1972 season indicate that the situation could easily worsen rather than improve. Since the existing institutional mechanisms do not appear to be working satisfactorily, it is singularly important that the U.S. Congress act at this time to provide the Board with additional authority."

The bill provides for retaliatory power in the CAB to suspend the effectiveness of a foreign carrier's tariff, and provides the Board may order carriers to charge rates which have been agreed upon in negotiations conducted under bilateral agreements. This provision would be operative whenever a foreign government refused to permit the charging of a rate properly filed by a U.S. carrier.

The proposed bill provides the CAB with an economic standard for determining the reasonableness of rates in foreign air transportation. That yardstick on the high side is that any rate should not be excessively above its fully allocated cost of operations, including reasonable profit, taking into account rules, regulations or practices affecting such rates. On the low side, rates should be compensatory; at or above the variable cost of providing the specific transportation service.

The bill provides additional guidelines to be used by the CAB in determining whether foreign air fares are detrimental to U.S. commerce. These are the need to avoid substantial impairment of scheduled and charter services, the effect of proposed rates on the movement of traffic and the ability of carriers to provide adequate and efficient service, and the need in the public interest of such transportation.

"The economic standard and guidelines will provide the CAB with sufficient flexibility to address existing and future foreign air rate problems," Secretary Volpe said.

The bill limits to a period of no longer than one year the CAB's powers to suspend rates, fares and charges in foreign air transportation, pending hearing and decision. If the proceeding has not been concluded within the suspension period, or the appropriate negotiation between the U.S. and foreign government involved have not been successfully concluded, the rate goes into effect. The bill also would authorize the CAB to limit the effectiveness of a tariff to one year in order to provide flexibility and to allow for changing circumstances.

The responsibility for national security and foreign affairs requires that the President review decisions of the CAB affecting international air rates. Consistent with this responsibility, the bill provides that the President may approve, disapprove or stay the Board's decision within ten days. Such executive review was recommended in the Statement of International Air Transportation Policy, approved by the President on June 22, 1970.

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