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## INTERNATIONAL AIR TRANSPORTATION FAIR COMPETITIVE PRACTICES

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APRIL 8, 1987.—Committed to the Committee of the Whole House on the State of the  
Union and ordered to be printed

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Mr. HOWARD, from the Committee on Public Works and  
Transportation, submitted the following

### R E P O R T

[To accompany H.R. 1972]

The Committee on Public Works and Transportation, to whom was referred the bill (H.R. 1972) to amend the International Air Transportation Fair Competitive Practices Act of 1974, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The reported bill is designed to improve the ability of the government of the United States to respond to discriminatory actions by foreign governments and airlines against United States airlines.

The bill amends the International Fair Competitive Practices Act of 1974 which provides a mechanism for United States airlines to file complaints against discriminatory practices by foreign governments or foreign airlines.

Under the current law, any United States air carrier may file a complaint of discrimination with the Secretary of Transportation. If the Secretary finds the complaint valid, the Secretary may take remedial actions, including revoking foreign air carrier certificates to operate to the United States. Current law requires the Secretary to decide within 180 days whether to take action on a complaint.

Since 1979, United States airlines have filed only 16 complaints with the Department of Transportation. The Committee's oversight of the United States Government's international aviation policy indicates that discriminatory practices by foreign governments and airlines are far more prevalent than the record of 16 complaints in seven years would indicate. The Committee believes that the complaint process would be more widely utilized if it was made faster and more effective.

To improve the complaint process, the reported bill makes three changes in existing law.

First, the 180-day period for the Department of Transportation to take action would be reduced to 90 days. The purpose of this is to reduce the period of time a United States airline is exposed to retaliatory action before the United States Government takes action. The Committee believes that the 180-day period in current law is longer than is needed in most cases and that this relatively long deadline has discouraged United States airlines from filing complaints. However, we recognize that in some complex cases the Department of Transportation may need more than 90 days. The bill would permit the Department of Transportation to take the full 180 days in cases of unusual complexity. It is expected that the Department of Transportation will immediately notify the Committee when it decides to extend the initial 90 day period and that the Department of Transportation will also advise the Committee of the reasons for any such extension.

The second change to existing law would require the Department of Transportation to solicit the views of the United States Trade Representative and the Department of Commerce before taking action on a complaint. Under current law, the Department of Transportation is only required to obtain the views of the Department of State. The Committee believes the expertise of Commerce and the Trade Representative would be very useful to the Department of Transportation as it determines how best to proceed. However, we emphasize that the bill is not intended to expand the jurisdiction of the Commerce Department or the United States Trade Representative in bilateral aviation negotiations. These negotiations should continue to be conducted by the Departments of Transportation and State.

In addition, the bill is not intended to change the traditional practice of maintaining a strict separation between air transport issues and the broader trade issues that concern the Commerce Department and the United States Trade Representative.

The third change in existing law would strengthen the Congress' ability to monitor DOT's handling of complaints against foreign governments and airlines. The bill would require the Secretary of Transportation to report to the House Committee on Public Works and Transportation and the Senate Committee on Commerce, Science, and Technology on the action taken on each complaint. The report would be due 30 days after action is taken on a complaint.

#### SECTION-BY-SECTION ANALYSIS

*Section 1.*—Amends Section 2(b)(2) of the International Air Transportation Fair Competitive Practices Act to change the deadline of 180 days for the Secretary of Transportation to take action on a complaint to a new deadline of 90 days. The amendment to the section further provides that the Secretary may extend the 90-day period for a period to not exceed an additional 90 days if the Secretary finds that (a) negotiations with the foreign government have progressed to a point that a satisfactory resolution of the complaint appears imminent; (b) no United States air carrier has been subject to economic injury by the foreign government or an instru-

mentality of the foreign government (including a foreign air carrier) as a result of the filing of the complaint; and (c) the public interest requires additional time before the taking of action with respect to the complaint.

*Section 2.*—Requires the Secretary of Transportation to solicit the views of the Department of Commerce and the Office of the United States Trade Representative (in addition to the views of the Department of State which must be solicited under existing law) before taking action on a complaint.

*Section 3.*—Imposes a new requirement that not later than 30 days after taking action on a complaint the Secretary of Transportation must report to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on actions taken with respect to the complaint.

#### COMMITTEE ACTION AND VOTE

With respect to clause 2(1)(2) (A) and (B) of rule XI of the Rules of the House of Representatives, the Committee, with a majority present, favorably reported by voice vote, H.R. 1972 on April 8, 1987.

#### OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the committee reports that the Subcommittee on Investigations and Oversight held hearings on a review of U.S. international aviation policy July 28, 29, and 30, August 4, October 20, December 9 and 10, 1981; April 21 and May 18, 1982 (Committee Publication No. 97-88), and in August 1983, the Subcommittee issued a Report entitled "Improvement Needed in the Implementation of United States International Aviation Policy." The Subcommittee also held a hearing on the Difficulties in Implementing United States-Korea Aviation Bilateral Agreements (Committee Publication No. 98-89) on May 30, 1984; a hearing on United States-Japan Aviation Negotiations (not yet published) on March 13, 1986; and a hearing on United States International Air Cargo Policy on September 11, 1986 (not yet published).

With respect to clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the committee has not received a report from the Committee on Government Operations pertaining to this subject matter.

#### CONGRESSIONAL BUDGET ACT REQUIREMENTS

With respect to clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives, and in compliance with section 308(a) of the Congressional Budget Act of 1974, the committee reports that H.R. 1972 does not provide any new budget authority or new or increased tax expenditures.

With respect to clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, because of the urgency of this matter and the absence of any budget or tax effects, the committee has not

received a report from the Congressional Budget Office under section 403 of the Congressional Budget Act.

#### INFLATIONARY IMPACT ANALYSIS

With respect to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the committee reports that there should be no inflationary impact on prices and costs in the operation of the national economy by enactment of H.R. 1972.

#### COST ESTIMATE OF LEGISLATION

With respect to clause 7(A)(1) of rule XIII of the Rules of the House of Representatives, the committee reports that H.R. 1972 authorizes no funding and that there should be no costs incurred by enactment of the bill

With respect to clause 7(A)(2) of rule XIII of the Rules of the House of Representatives, the committee reports that no cost estimate of H.R. 1972 was submitted to the committee by a government agency.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

#### INTERNATIONAL AIR TRANSPORTATION FAIR COMPETITIVE PRACTICES ACT OF 1974

##### DISCRIMINATORY AND UNFAIR COMPETITIVE PRACTICES

SEC. 2. (a) \* \* \*

(b)(1) \* \* \*

(2) Any United States air carrier or any agency of the Government of the United States may file a complaint under this section with the Secretary of Transportation. The Secretary shall approve, deny, dismiss, set such complaint for hearing or investigation, or institute other proceedings proposing remedial action within 60 days after receipt of the complaint. The Secretary may extend the period for taking such action for an additional period or periods of up to 30 days each if the Secretary concludes that it is likely that the complaint can be satisfactorily resolved through negotiations with the foreign government or instrumentality during such additional period, [but in no event may the aggregate period for taking action under this subsection exceed 180 days] *but the aggregate period for taking action under this subsection may not exceed 90 days from receipt of the complaint. However, if on the last day of such 90-day period, the Secretary finds that—*

*(A) negotiations with the foreign government have progressed to a point that a satisfactory resolution of the complaint appears imminent;*

*(B) no United States air carrier has been subject to economic injury by the foreign government or an instrumentality of the*

*foreign government (including a foreign air carrier) as a result of the filing of the complaint; and*

*(C) public interest requires additional time before the taking of action with respect to the complaint;*

*the Secretary may extend such 90-day period for not to exceed an additional 90 days. [In considering any complaint, or in any proceedings under its own initiative, under this subsection the Secretary shall (A) solicit the views of the Department of State and (B) provide any affected air carrier or foreign air carrier with reasonable notice and such opportunity to file written evidence and argument as is consistent with acting on the complaint within the time limits set forth in this subsection.]*

*(3) In considering any complaint, or in any proceedings under its own initiative, under this subsection, the Secretary shall—*

*(A) solicit the views of the Department of State, the Department of Commerce, and the Office of the United States Trade Representative; and*

*(B) provide any affected air carrier or foreign air carrier with reasonable notice and such opportunity to file written evidence and argument as is consistent with acting on the complaint within the time limits set forth in this subsection.*

**[(3)]** *(4) Any action proposed by the Secretary pursuant to this section shall be transmitted to the President pursuant to section 802 of the Federal Aviation Act of 1958 (49 U.S.C. 1461).*

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*(e) Not later than the 30th day after taking action with respect to a complaint under this section, the Secretary of Transportation shall report to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on actions that have been taken under this section with respect to such complaint, unless such complaint is withdrawn before such 30th day.*