BEFORE THE

Civil Aeronautics Board

Petition of

AMERICAN PRESIDENT LINES, LTD.
AMERICAN SOUTH AFRICAN LINE, INC.
ATLANTIC, GULF AND WEST INDIES STEAMSHIP LINES
GRACE LINE, INC.
MATSON NAVIGATION COMPANY
MOORE-MCCORMACK LINES, INC.
OCEANIC STEAMSHIP COMPANY
SEAS SHIPPING COMPANY
UNITED STATES LINES COMPANY

DOCKET NO.

To the Civil Aeronautics Board to investigate and study the effect of competitive conditions that have arisen through the implementation of recent international air agreements, and to review and revise its policy with respect to the participation of American steamship companies in foreign and overseas air transportation.

PETITION.

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July 31, 1946.

PRESS OF BYRON S. ADAMS, WASHINGTON, D. C.

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PETITION.

American President Lines, Ltd., American South African Line, Inc., Atlantic, Gulf and West Indies Steamship Lines, Grace Line, Inc., Matson Navigation Company, Moore-McCormack Lines, Inc., Oceanic Steamship Company, Seas Shipping Company and United States Lines Company jointly present this petition to the Civil Aeronautics Board, wherein they respectfully petition the Board to conduct an investigation, under Sections 205(a), 206, and 1002(b) of the Civil Aeronautics

Act of 1938, of the effect of competitive conditions that have arisen through the implementation of recent international air agreements, and to reconsider the Board's present position that has resulted in the exclusion of American steamship companies from participation in foreign and overseas air transportation.

It is requested that the Board study particularly the effect that permitting foreign steamship interests directly or indirectly to participate in air transportation to, from, into and across the United States, and excluding American steamship companies from such air transportation, will have upon the continued successful maintenance and operation of the United States merchant marine, and the present and future needs of the foreign and domestic commerce of the United States, of the Postal Service and of the national defense. Because of the competitive conditions that are arising through the implementation of these recent international air agreements, and in view of the development and present strength of the established American air transport companies, the Board should also re-examine its previous interpretations and applications of the Act and its past theories regarding the nurturing of an infant industry, which are now inappropriate and in conflict with the Congressional intent and the national interest.

Such an investigation and study would assist the Board in more effectively carrying out the provisions of the Act and in performing its powers and duties thereunder, and would serve as a medium for the collection of information and data and the determination of questions connected with the development and regulation of civil aeronautics, and for the making of such recommendations as to additional legislation relating thereto as the Board may deem necessary.

Your Petitioners are nine American steamship companies which have been engaged for many years in foreign and overseas transportation on all of our important international trade routes. They have carried on commerce between every important city on our Atlantic, Gulf and Pacific coasts and the seaports of practically every foreign land. While their routes are diverse and their interests in foreign trade are manifold, they are joined together by the common necessity of supplementing their sea service by an air arm, to enable them to meet the fast mounting competition of foreign steamship carriers, which have been permitted, through the implementation of recent international air agreements, directly and indirectly to engage in air transportation with this country.

A number of foreign steamship companies, operating in direct competition with your Petitioners, have been afforded the opportunity of furnishing a combined sea-air service to, from, into and across the

United States; many other competitive foreign carriers will be granted the same privilege under existing international air agreements. In still other countries, where international air transportation is being controlled at the government level, the same result will be accomplished because of the realistic interest of those countries in fostering and advancing their merchant marines. In the face of this rapidly increasing foreign sea-air competition, your Petitioners will suffer serious damage to their passenger business in the immediate future, unless they are afforded an equal opportunity to engage in air transportation. In addition, as the advantages of a combined sea-air service are exploited by their foreign competitors, your Petitioners' freight business will also suffer. By the time the steamship companies will have received back, reconditioned, and put into operation their ships, the competitive advantages of the foreign operators already will have become a reality, All of this will affect adversely the strength of our merchant marine and the commerce of the United States.

As the public becomes more and more air minded, as the comfort and safety of the travelers are improved, and as the cost of air transportation goes down, it will become increasingly difficult for your Petitioners to operate in foreign and overseas commerce, unless they are permitted to furnish a combined sea-air service, whereby their passengers and fast freight can be carried by air if desired, as their foreign competitors are now permitted to operate.

Your Petitioners do not seek to acquire control of existent air carriers or to eliminate air competition. They only seek to amplify their sea service with a faster air service, to meet the increasing demands of their customers, and to engage on an equal basis with their foreign competitors.

This is a matter of grave concern to the future of our American merchant marine, the development of our foreign and domestic commerce, the carrying of the mails, the maintenance of our national defense and our national prestige. It should be of vital interest not only to this Board, but also to the Maritime Commission, the War and Navy Departments, the Post Office Department, and the Departments of State and Commerce.

I.

REQUEST FOR OVER-ALL STUDY.

This is not a petition for the Board to consider or reconsider any of the applications that have been filed by any of your Petitioners with the Board. It is a request for a horizontal investigation and reconsideration of the question of the participation of steamship carriers in

foreign and overseas air transportation, in view of the changed world conditions and the existent danger to our national welfare, if the Board's past interpretations of the Act and theories of its application are not adjusted to conform to the overall policy of the Act in the light of present circumstances.

Seven of your Petitioners (all but American President Lines, Ltd. and United States Lines Company) have made applications for Certificates of Public Convenience and Necessity to engage on their own behalf in air transportation between designated points and along specified trade routes paralleling those they now serve by sea. In all cases in which the Board has reached decisions, the applications of American steamship companies have been denied. In no instance has the Board granted the application of any American steamship company for a Certificate of Public Convenience and Necessity, to enable it to engage in air transportation as part of its foreign or overseas service.

No decision of the Board has been based upon the square proposition that American sea carriers are precluded by law from engaging in air transportation. Always the Board's treatment of this subject has been by way of dictum, and its decisions purportedly have been based upon an exercise of administrative discretion. Because the Board has avoided a direct decision on this question, your Petitioners are handicapped in having it reviewed by a United States Court of Appeals. It would seem that your Petitioners' best course is to ask the Board to re-examine the whole question, and to appraise the adverse effect upon the national interest of its actions to date, in the light of the express underlying policy of the Act which Congress has directed it to follow.

II.

FALLACY OF BOARD'S POSITION IN FAILING OR REFUSING TO GRANT CERTIFICATES TO AMERICAN SEA CARRIERS.

No over-all consideration of the problem presented by this petition can be complete without re-examination of the Board's interpretations of the Act as applied to direct participation of American sea carriers in the foreign and overseas air transportation business. Furthermore, to give this question the attention it presently deserves, the Board must be willing to reappraise impartially the present day effect of its concepts and formulae for the development of air transportation, which have been the bases of its decisions relating to this problem.

From official pronouncements of the Board and public statements of some of its members, it would appear that the failure of the Board to permit any American steamship company to engage directly in over-

seas air transportation is the result of a misunderstanding on its part of the intent of Congress, a misapplication of a statement appearing in the decision of the United States Court of Appeals for the Second Circuit in the Pan American case, and a misinterpretation of Section 401 of the Act by the reading into that Section of the restrictive provisions of Section 408(b) in the case of applications by American steamship companies to engage directly in air transportation.

This misunderstanding and misinterpretation is particularly apparent in the Board's recent Caribbean or Latin American decision. In granting the several air routes to Caribbean, Central American and South American localities to American air carriers on the basis of competitive preference, the Board referred to the policy provisions of Section 2 of the Act for its mandate to foster and develop air transportation independently of other forms of transportation. However, in the Merchant Marine Act of 1936 Congress contemplated a connection of sea and air service, and in the Transportation Act of 1940 Congress recognized a necessary inter-relationship in the development of our various forms of transportation. Certainly Congress has never expressed an intent that sea carriers should be excluded from engaging in air transportation. There is no such provision in the Civil Aeronautics Act, and such a prohibition should not be read into that Act.

In the Caribbean or Latin American decision, the Board seeks to interpret such an intent from the Act's Declaration of Policy, and a reference to several of the Act's regulatory provisions. A reading of those sections, however, does not support such a conclusion. Under the Declaration of Policy, contained in Section 2 of the Act, the Board is instructed to consider, among other things, as being in the public interest and in accordance with the public convenience and necessity, the encouragement and development of an air transportation system properly adapted to the present and future needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense; the preservation of the inherent advantages of air transportation; and the encouragement and development of civil aeronautics.

Nothing in this Declaration of Policy would prevent the Board from granting to a sea carrier a certificate to engage in air transportation, if that sea carrier can meet the requirements of Section 401. There is nothing that precludes the Board from developing, fostering and encouraging air transportation through sea as well as through other carriers, particularly where economic necessity will compel sea carriers to furnish air service, if they are to meet an ever-increasing foreign competition. The very fact that they recognize the necessity

of supplementing their sea carriage with air service is persuasive of the fact that they will, if permitted, effectively furnish and develop such a service, and the Board, if it grants them certificates, will be fostering and encouraging air transportation as contemplated by the Act.

Other sections cited by the Board to show a general Congressional intent to preclude carriers other than air from the international air transportation field no more support this conception than does the general Declaration of policy. The disclosure of stock ownerships by officers and directors under Section 407 of the Act, and the requirement under Section 409 for Board approval of any interlocking relationships between officers, directors or controlling stockholders of an air carrier, and officers, directors or controlling stockholders of any common carrier or any person engaged in any phase of aeronautics, while appropriate in themselves for the disclosure and prevention of any improper relationships or practices, do not in any sense preclude the Board from considering and granting the application of a sea carrier for a certificate to engage directly in air transportation. Indeed, the provisions cited would seem to indicate that the Board, under proper circumstances, should grant such certificates to steamship applicants.

So also, it is respectfully submitted that the Act does not support the Board's reasoning in regard to Section 408(b), which has led to the unfortunate conclusion that sea carrier applicants for certificates to engage in air transportation on their own behalf are under legal restrictions to which other air applicants are not subject.

In reaching this conclusion, your Petitioners feel that the Board has completely misconstrued and misapplied the dictum of the United States Court of Appeals in the Pan American case. What the Court meant must be considered in the light of previous decisions of the Interstate Commerce Commission under the Motor Carriers Act, after which this Act was modelled, the corresponding sections of which are almost identical. If a rail carrier applies for authorization to establish a motor vehicle service in a territory already adequately served, the Commission could deny such authorization on the ground that it would constitute a wasteful duplication of service, or it could impose administrative restrictions on the certificate granted. This should correspondingly be the test of public convenience and necessity in the Board's consideration of applications under Section 401.

There is nothing in the Civil Aeronautics Act or in any other Congressional enactment or declaration of policy which would deprive steamship carriers of the right to engage in overseas air transportation on an equal basis with any other applicant. Where a steamship

company applies under Section 401 for a certificate of public convenience and necessity to engage directly in overseas air transportation, the only issues before the Board should be (1) whether the applicant is fit, willing, and able to perform the service properly, and (2) whether the public convenience and necessity require such service. The second proviso in Section 408(b) has no application to such cases.

The Board, however, has gone far beyond the Court's suggestion, and has indicated that a carrier other than an air carrier, even where it applies in its own behalf, will not be granted a certificate of public necessity and convenience under Section 401 unless it can meet the requirements of Section 408(b). The Board has stated that there is no sound basis for distinguishing between an application by a carrier other than air in its own behalf, and an application to engage in air transportation through a subsidiary, and that in considering an application filed by a carrier other than air under Section 401, it will not construe the public convenience and necessity as requiring the issuance of a certificate to such a carrier unless the evidence indicates that the provisions of Section 408(b) can be met.

We respectfully submit that the distinction between engaging in the air transportation business through a subsidiary and engaging in it directly is made by the Act itself. Section 408, with its restrictive provisions regarding consolidations, mergers and acquisitions of control, applies only to cases involving such combinations, with their tendencies toward restraint of competition, monopoly and remote control. Indeed, if the Board has granted approval to such a combination, exemption is given from the normal prohibitions of the anti-trust laws, which justifies the unusually restrictive provisions of this Section. No such restraint or rigidity is apparent in regard to applications under Section 401. Where no combination, merger or acquisition of control is involved, which would necessitate qualification under Section 408(b), and a steamship applicant in its own name submits to the jurisdiction of, and control by, the Board, Congress did not subject the steamship applicant to any greater restrictions than any other air applicant.

Despite obvious Congressional intent as to the equality of applicants, the Board in its pronouncements to date would appear to eliminate sea carriers, *per se,* from ever obtaining a certificate to engage in foreign or overseas air transportation. Although its decisions purportedly have been based on an exercise of administrative discretion, the Board seems to have carried its doctrine of controlled competition to the extent of protecting existing air carriers to the exclusion of steamship applicants, even where it is recognized that the public would receive superior all-round service from the sea carrier applicant. Noth-

ing could be more misconceived. Like any other air applicant, steamship carriers, applying on their own behalf to supplement their sea service by air carriage, should be permitted to do so, if they can meet the requirements of Section 401. They should be afforded at least equal treatment with all other air applicants.

III.

MONOPOLISTIC EFFECT OF BOARD'S ALLOCATION OF OVERSEAS AIR ROUTES TO ESTABLISHED AIR CARRIERS.

In recent decisions involving the allocation of North Atlantic, Caribbean and Hawaiian routes, the Board has in each instance divided the territory to be served among, and awarded the several foreign and overseas air routes to, established air carriers. In so doing, it has excluded all other forms of air competition from the particular routes, except that afforded by foreign carriers, thus extending a monopoly that this small group of air carriers has long enjoyed in the domestic field into foreign and overseas air commerce. It is submitted that this policy will serve to defeat the underlying purposes of the Act—the development, encouragement and fostering of air transportation, properly adapted to the present and future needs of our foreign and domestic commerce, of the Postal Service, and of our national defense.

The extent to which the Board has carried its predilection to favor existing air carriers is best portrayed in the recent Hawaiian decision, wherein the Board recognized the needs for another air service between San Francisco and Hawaii, and admitted that Matson was in the best position to give all-round service to the traveling and shipping public on this important route, but said that, because of Matson's superior facilities and qualifications, to permit it to engage in air transportation would be unfair competition with Pan American, the existing air carrier. No reasoning could be more directly adverse to the public interest, which the Board is under a mandate to promote. To ignore the public interest, in order to protect an existing air carrier, extends the Board's concept of controlled competition to an absurdity. If the Board is really concerned over the potential competitive situation that might result from granting Matson's application, it could impose appropriate conditions, controlling the flights and service, and thereby insure the maintenance of fair competition.

If the established air carriers are to be granted control over every possible air route, both domestic and foreign, for which a certificate is sought, there will be no possibility of any other American

carrier entering the field and engaging in effective competition with them, and this small group of established air carriers will be enabled to absorb much of the passenger, and even some of the freight business which has been fostered and developed by our sea carriers since the first days of our country. It would seem only fair that our steamship companies should be permitted to avail themselves of this latest form of transportation and to furnish a combined sea-air service, in order to compete, at least on equal terms, with these established air carriers for this foreign and overseas commerce. Indeed, it is the belief of your Petitioners that, if they are permitted to operate by air as well as by sea, they will be able to extend and develop the foreign commerce of the United States because of being able to furnish such a combined service.

In justification of extending domestic air lines into foreign commerce, the Board has said that air transportation is still in the development stage, and that it is necessary to foster and develop our American air carriers. It is respectfully suggested that a study of the current financial statements of the few established American airlines that dominate the air transportation field will reveal that they are no longer the infant companies that the Board assumes them to be, that the necessity for their protection has passed, and that they are now quite able to fend for themselves on foreign and overseas routes in any kind of normal competition. They are actually stronger than the steamship companies with which they will compete, and certainly are more flexible with respect to the use of their capital.

The Board has suggested that a larger investment by sea carriers in ships than in planes would lessen their ardor for developing air transportation along their international trade routes. Competition from other carriers now serving those routes already has precluded such a possibility. In addition, a number of their foreign competitors already have the advantage of a combined sea-air service. It is unreasonable to assume that American sea carriers would not foster and develop their air arm to an extent sufficient to meet this foreign competition.

Paradoxical as it may seem, in view of the Board's reasoning that American sea carriers should be precluded from extending their services into the air, it should be observed that there is nothing in the Act to prevent an air carrier from augmenting its air transportation service by surface carriage, nor has the Board ever reasoned that an air carrier could not buy ships and operate them along its routes together with its planes, thus gaining the advantage of a combined sea-air service, which is exactly what your Petitioners are seeking in order

to meet the competition of the same combined sea-air service from foreign competitors.

IV.

PUBLIC ADVANTAGES OF SEA-AIR SERVICE.

The steamship carriers are only seeking to use an additional facility —aircraft—to provide an improved transportation service. They are not seeking to acquire control of air transportation. Neither are they seeking to absorb existing air transportation facilities, in order to eliminate competition. They seek better to serve traffic they have been handling for years, and which they have done much to build by furnishing regular, adequate and dependable service along established routes.

If steamship companies are permitted to expand their existent services into the air, they will be able to develop and expand the foreign and overseas commerce of the United States in trade areas where they are already well known and with which they are thoroughly familiar, by furnishing a combined passenger-freight service by air and sea which so far our foreign competitors alone have been able to offer. Dealing with a single company, a shipper will be able to send his freight by ship and go himself by plane to the point of destination to make the necessary business arrangements in regard to the transaction, with a resulting greater efficiency and vast saving in executive time. In booking his passenger transportation, the steamship company will be able to attract and retain his interest, and to induce him to use American ships for the shipping of the heavier freight.

By the use of common facilities and agents, the sea carriers will be able to build up a combined sea-air service which will stimulate our foreign and overseas commerce, both passenger and freight, far beyond any possibility of such an extension by sea and air service operating independently. If American steamship companies are denied the right to extend their services into the air, the advantages of affording a combined sea-air transportation service will go exclusively to our foreign competitors, which may result in a substantial loss of passengers and cargo now carried in American bottoms and also a substantial loss of business that would normally gravitate to American markets.

Our sea carriers face a real necessity for paralleling their sea routes with an air service, in order to meet a growing demand from, and to give added service to, old customers and potential cargo shippers. If American steamship companies cannot supply this combined sea-air service, it is probable that many shippers will go to foreign competi-

tors and valuable contacts and business will be lost to American commerce. Decades of experience have demonstrated that the successful solicitation of freight business is to a large extent dependent upon the securing of potential shippers as passengers, by offering them the best possible transportation service and travel accommodations. The steamship company that can furnish all the advantages of a combined sea-air service will be able to secure the potential shipper as a passenger, and as a consequence, to attract and retain his interest in the placing of his cargo shipments. The Board should study this experience and should not continue to underestimate the value of a combined sea-air service as a producer and controller of business.

In the Latin American and Hawaiian decisions, the Board took the position that the advantages of such a combined sea-air service could be achieved by cooperative arrangements between sea and air carriers operating under independent managements. However, all efforts to date have failed to produce a satisfactory cooperative arrangement between sea and air carriers. Experience has demonstrated that the air carriers are only interested in a cooperative enterprise to the extent of utilizing and exploiting to their own advantage the foreign facilities of the sea carriers, without any compensating advantage to the sea carriers. Naturally, an air carrier with a foreign or overseas route will avoid, so far as possible, surrendering passengers or freight to a competitive sea carrier. Furthermore, under separate managements, all the advantages of a combined sea-air service cannot be developed.

American steamship companies have extensive terminal facilities and large organizations in foreign countries, with personnel trained to handle and nurture our foreign trade. They have stimulated tourist travel, and have provided every service and accomodation for American tourists traveling in foreign lands, as well as for foreigners traveling in this country. Through the vast network of organizations that the sea carriers already have built up in foreign countries, there exist not only valuable agencies that will afford advantages for our own citizens traveling in, or shipping products to, distant lands, but also effective soliciting organizations that will attract air traffic from a wider area than our established air carriers can hope to serve, all of which will enhance the general welfare of our country and will promote the needs of our foreign and domestic commerce.

While steamships will continue to carry a heavy burden of our international commerce, it is generally recognized that a substantial portion of the traffic heretofore moving by water will be diverted to air. Improvement in the construction and operation of aircraft will make that medium of transportation increasingly better adapted to

certain classes of traffic. It is estimated that at least 50% of the passenger traffic will soon be carried by air; so also most of the mails and certain classes of light high-class freight will be carried by air, which will increase as service is improved and costs are brought down. The steamship companies are exceptionally well qualified to render this service in their particular trade areas. Their long experience in overseas and foreign transportation, their knowledge of the terrain, people, laws and customs of the foreign countries they serve, their trained personnel and established facilities should all be utilized in developing our international air commerce. Since these facilities are already in existence, air service could be started promptly, without confusion and delay.

If steamship companies are permitted to engage in air transportation as part of their regular service, a more efficient service will result, and substantial economies and reductions in cost can be effected, which will stimulate and increase air transportation and will react to the public benefit. Under one management, the usual overhead expenses, such as the salaries of officers, executives and supervisory personnel, accounting, legal, advertising, soliciting passengers and freight, and other general expenses, could be spread between the two services, lessening the cost of each. The same executive offices, terminal facilities, personnel for handling of baggage and mail and for furnishing special services to passengers, such as passports, compliance with customs and immigration regulations, money exchange and credit, hotel accommodations, etc., already established by the steamship companies, would not have to be duplicated. Impressive savings should also result from the pooling of purchases for sea and air carrier operations.

It is in the organizations behind the ships and planes that the greatest economies can be effected, by eliminating unnecessary and wasteful duplication of accommodations and services, and by spreading the necessary fixed charges between the two branches of their overseas operations. This will react to the public good, by correspondingly reducing flight cost and by minimizing the necessity for government aid in the form of heavy subsidies.

Thus, the public convenience and necessity and the needs of our foreign and overseas commerce would be best served by granting to steamship companies permission to engage in overseas air transportation as part of their regular service.

V.

SERIOUS EFFECT OF FOREIGN COMPETITION ON CONTINUED OPERATION OF OUR SEA CARRIERS AND ON OUR FOREIGN AND OVERSEAS COMMERCE.

Under recent international air agreements, carriers of more than fifty foreign nations will be eligible to engage in air commerce to, from, into and across the United States, its territories and possessions. None will be restricted from developing a combined sea-air service over the trade routes now being served by American steamship operators.

Already the Board has granted permits to airlines of nine foreign nations to engage in air transportation to, from, into and across this country: United Kingdom, Canada, Mexico, Cuba, Sweden, Denmark, Netherlands, France, and Columbia. Additional applications are pending from airlines of eight foreign nations: El Salvador, Mexico, Brazil, Netherlands, Norway, Venezuela, Peru, and Cuba. Bilateral air transport agreements have been entered into with seventeen foreign nations: Belgium, Canada, Columbia, Czechoslovakia, Denmark, Egypt, France, Greece, Iceland, Ireland, Norway, Portugal, Spain, Sweden, Switzerland, Turkey and United Kingdom. Eleven additional nations have signed and accepted the International Air Transport Agreement: Afghanistan, China, Dominican Republic, El Salvador, Ethiopia, Honduras, Liberia, Netherlands, Nicaragua, Paraguay, and Venezuela. It appears to be the view of the Department of State and of the Board that the United States is obligated to grant additional permits to the air carriers of these additional nations. In addition, the United States has agreed to grant the five freedoms of the air to the airlines of seventeen additional nations that are members of the Provisional International Civil Aviation Organization, with those of two more nations presently being negotiated, all of which will therefore have the right to sign and accept the International Air Transport Agreement. On the basis of reciprocity, which has been recognized by the Board, the airlines of five additional foreign nations have the right to receive permits to engage in air transportation with the United States.

Although the airlines of some of the smaller countries may never seek air transportation permits, some of the larger countries, and those in most direct competition with us, have been granted two or more permits. Air France has been granted permits on routes serving Boston, New York, Washington and Chicago, and has applied for a route to Mexico City via New York, as provided in its bilateral agreement. When permits are issued to air carriers of the United Kingdom, as provided in the Bermuda agreement, British airlines will serve New

York, Chicago, Detroit, Philadelphia, Washington, Baltimore, Boston, New Orleans, Miami, Palm Beach, and San Francisco, thus tapping the most valuable sources of American commerce. This penetration of our important trade areas is far more serious competition than the award of a dozen permits to the airlines of smaller nations on less important routes. Theoretically, British citizens would reciprocate by using American airlines in transport between the United Kingdom and this country, but it appears that the British Government, since the execution of the Bermuda agreement, has imposed economic regulations which have the practical effect of requiring their citizens to ride British planes.

Insofar as American shipping interests are concerned, this foreign air competition is even more serious because of the fact that a number of these foreign airlines which have received or are about to receive permits to operate to, from, into and across the United States are either owned or controlled by competitive foreign shipping interests, or they are government owned or controlled airlines of traditionally maritime nations—England, France, Canada, Australia, New Zealand and Holland—so that any international air service will result in ultimate benefit to their merchant marines, thus creating a sea-air team at the government level. Airlines which have or will soon be granted permits in which foreign shipping interests have a substantial ownership or control are those of Sweden, Denmark and Norway. In all of these countries, as well as in France, Holland and the British Empire, the maritime interests are traditionally predominant, and they have continued so in the setting up of their international organizations for air transport. They have recognized the importance of combining their international air and sea carriage, in the interest of a continued successful operation of their merchant marines and an economical and efficient development and expansion of their air transportation.

In the face of this concerted effort on the part of foreign nations to build an effective sea-air partnership to meet the future's international trade requirements, it will become increasingly difficult for our American steamship companies to meet this foreign competition.

Unquestionably foreign operational costs are lower than ours. We have felt that we could compete by having superior equipment and operating personnel. However, foreign airlines are buying the best and most efficient long-range aircraft equipment obtainable, much of it from this country. At the same time, foreign countries are training their aviators in skill and efficiency; several of them before the war demonstrated their ability to operate in a highly safe, skillful and efficient manner. The Scandinavian nations are forming a pooling ar-

rangement for their trans-Atlantic services, to eliminate wastful competition and to achieve maximum economies.

The Board should consider carefully the adverse effect of its foreign and overseas decisions on our merchant marine, our commerce, our national prestige and our security. Our merchant marine should be given an opportunity to meet its foreign competitors at least on equal terms. The Board should grant to American steamship companies the same privileges that are available to foreign sea carriers. American steamship companies, if they are not permitted to furnish a combined sea-air service, will be at a serious disadvantage with their foreign competitors that have an air arm. The result will be a substantial loss of passenger business, and also, by reason of the loss of American prestige and the inability of steamship operators to give complete service, a diversion of freight business that normally would be carried under the American flag.

As a result of these inroads on our foreign and overseas commerce and the loss of a substantial amount of business to our foreign competitors, it may be necessary in the years to come to discontinue some of the services now furnished by American sea carriers on foreign and overseas routes. To this extent, the prestige and influence of the United States throughout the world will suffer, by reason of the withdrawal of American shipping lines from places of importance. The maintenance and expansion of our merchant marine will correspondingly suffer.

If this is allowed to happen, our merchant marine may be unable to meet the demands of a future national emergency, including the transportation of troops and supplies and the furnishing of facilities for their loading and unloading in foreign ports. The denial of a combined sea-air service may result in the hauling down of the American flag in many parts of the world.

VI.

NECESSITY FOR LIBERALIZING TREATMENT AFFORDED AMERICAN SEA-AIR APPLICANTS TO CONFORM TO TREATMENT AFFORDED THEIR FOREIGN COMPETITORS.

The Board has not been nearly so stringent in its requirements for the obtaining of permits under Section 402 by foreign carriers qualifying under international air agreements as it has been in regard to applications by American carriers filed under Section 401. Foreign applicants have not been required to prove their case as have American applicants. All that is required is that the foreign applicant come in under an international air agreement, and the permit is granted as a

matter of course. No attempt is made to prove that the proposed international air transportation will be in the public interest, or that the foreign air carrier is fit, willing and able to perform the service, although the statutory requirements under Section 402 are practically identical with the requirements under Section 401.

Without questioning the wisdom of, or the necessity for, these international air agreements, which after all are a matter of diplomatic discretion which the Act quite properly reposes in the President, it is the contention of your Petitioners that the Board should exercise its utmost authority and discretion under the Act by granting to American carriers the same privileges that are being afforded to foreign lines coming in under the international agreements. Since foreign sea carriers are being permitted to extend their services into the air and to carry their commerce into the United States, so also our American steamship companies should be permitted to afford their customers all the advantages of a combined sea-air service. The Board should consider the effect its over-all policy will have on the present and future needs of the foreign and domestic commerce of the United States, the Postal Service and the national defense. Foreign applicants should not be more favorably treated than American applicants.

VII.

JOINT RESPONSIBILITY OF THE CIVIL AERONAUTICS BOARD AND OTHER DEPARTMENTS OF THE GOVERNMENT TO FOSTER AND PROTECT A TRANSPORTATION SYSTEM TO MEET THE NEEDS OF OUR FOREIGN AND DOMESTIC COMMERCE AND OF OUR NATIONAL DEFENSE.

The Board, under the Declaration of Policy contained in Section 2 of the Act, is instructed to consider, among other things, as being in the public interest and in accordance with the public convenience and necessity, the encouragement and development of an air transportation system properly adapted to the present and future needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense.

Under the Merchant Marine Act of 1936, the Maritime Commission similarly is charged with the responsibility of fostering, developing and maintaining an adequate American merchant marine, sufficient to carry a fair proportion of our international trade and to serve as an auxiliary to our fleet and armed forces in time of war.

The Post Office Department is interested in developing and maintaining a fast, efficient and economical mail service. The State Depart-

ment and the Department of Commerce, as a part of their responsibility for maintaining our national prestige abroad and for developing our commercial relations with foreign countries, have a real interest in maintaining an American merchant marine as a vital part of that prestige and that commerce. Even more important is the interest of the War and Navy Departments in the national defense, in regard to which our auxiliary fleet is such a necessary part.

In the recent world conflict, the American merchant marine performed valiant service in the transportation of troops and supplies. If we had not had a rapidly expanding merchant marine available for war service at the outbreak of our national emergency, our fleet and armed forces would have been unable to transport our troops or to supply our armed forces and those of our allies.

Shipyards, having begun the construction of new vessels under the Merchant Marine Act, were in readiness for the heavy load that was placed upon them during the war. The importance of fostering an adequate merchant marine, both from the standpoint of developing our foreign and overseas commerce and from the standpoint of our national defense, cannot be over-emphasized.

The Maritime Commission has long been aware of the necessity of supplementing our surface carriage with air transportation, if our merchant marine is to remain strong in the post-war years, because of the increasing public interest in a faster air service and the necessity of meeting foreign competition in this field. Indeed, the Merchant Marine Act itself authorized and directed the Maritime Commission to study and to cooperate with vessel owners in devising means whereby aircraft might be used in connection with, or in lieu of, vessels in trans-oceanic service.

Sea-air service should be encouraged and developed, both by this Board, charged with the responsibility for air transportation, and by the Maritime Commission, charged with the responsibility of fostering our merchant marine. That these two important agencies should work at cross purposes was not the intent of Congress. Congress did not intend that either of these agencies should consider its own particular phase of our over-all transportation system in a completely independent manner. The Board will have failed to discharge its full responsibilities if it insists upon the development and control of an air transport monopoly, wholly independent of, uncoordinated with, and to the disadvantage of, our merchant marine. Clearly it was intended that all responsible agencies should together work out a joint sea-air policy, with the paramount public interest of our foreign and domestic commerce and our national defense always in mind.

In an investigation and study such as is suggested by this petition, the views of the Maritime Commission should be solicited and should be given the most serious consideration by the Board in formulating our overseas transportation policy. The State, War, Navy, Post Office and Commerce Departments also should be invited to express their views upon the desirability and necessity of sea-air service, designed to foster and protect an adequate merchant marine and an air fleet, both so important to our national prestige, commerce and defense.

* * * * *

WHEREFORE, Your Petitioners pray the Civil Aeronautics Board:

I. That the Board conduct an investigation and study of the whole question of the participation by American steamship companies in foreign and overseas air transportation, and more specifically:

(1) To inquire into the effect of all recent international air agreements on our overseas and foreign air transportation.

(2) To inquire into the effect that the participation by foreign airlines qualifying under international air agreements to engage in air traffic to, from, into and across the United States will have upon the continued successful operation of our merchant marine, the development of our commerce, and the maintenance of our national defense.

(3) To re-examine the Board's policy, which has led it to require American steamship companies applying under Section 401 of the Act for certificates of public convenience and necessity to engage directly in air transportation to comply with the restrictive provisions of Section 408(b), whereas such requirements are not imposed upon foreign steamship company applicants or domestic air carrier applicants.

(4) To consider the potentially greater benefit to the public and to our national welfare that would be promoted by a combined sea-air service operated by established American steamship companies.

(5) To inquire into and recognize the inherent right of our American steamship companies to have an equal opportunity to participate in the world commerce which they have originated, developed and served throughout our history, by the establishment of air services.

II. That the Board hold a public hearing on the subject of this petition.

III. That, if it is deemed advisable or necessary prior to affirmative action on this petition, the Board permit your Petitioners to present oral argument in support of this petition.

IV. That your Petitioners and other interested parties be permitted to appear at said hearing, present evidence, file briefs and make oral argument.

V. That the State, War, Navy, Post Office and Commerce Departments, the Maritime Commission, and other interested Government agencies be invited to express their views at said hearing.

VI. That the Board give a clear pronouncement as to the position of sea carrier applicants under the Act, and particularly find that American steamship applicants, seeking to engage in overseas and foreign air transportation on their own behalf, are under no legal restrictions not imposed on other applicants; that a certification of a qualified American steamship company, as in the case of any other applicant, may be considered to serve the public convenience and necessity and to be in the public interest and not to restrain competition; and that the granting of a certificate in foreign and overseas air commerce to a properly qualified American steamship applicant would be in conformity with the promotional and competitive objectives of the Act.

Respectfully submitted,

AMERICAN PRESIDENT LINES, LTD., By HENRY F. GRADY,
President.

AMERICAN SOUTH AFRICAN LINE, INC., By JAMES A. FARRELL, JR.,
President.

ATLANTIC, GULF AND WEST INDIES STEAMSHIP LINES, By A. G. PLETT,
Vice President.

GRACE LINE, INC., By R. R. ADAMS,
President.

MATSON NAVIGATION COMPANY, By FRAZER A. BAILEY,
President.

MOORE-MCCORMACK LINES, INC., By ALBERT V. MOORE,
President.

OCEANIC STEAMSHIP COMPANY, By JOHN W. SPEYER,
President.

SEAS SHIPPING COMPANY, By C. C. PENDLETON,
Executive Vice President.

UNITED STATES LINE COMPANY, By JOHN M. FRANKLIN,
President.
Petitioners.

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VERIFICATION.

DISTRICT OF COLUMBIA, SS:

Robert E. Kline, Jr., being duly sworn, deposes and says that he is Counsel for the Petitioners in the foregoing Petition; that he has read and is familiar with the contents thereof; that he is familiar with the facts therein set forth, and that to the best of his information and belief, every statement contained therein is true.

ROBERT E. KLINE, JR.

Subscribed and sworn to before me, a Notary Public in and for the District of Columbia, this 27th day of July, 1946.

CHARLES P. BURHANS,
Notary Public.

SEAL.

Notary Public.
Commission expires March 31, 1949.