

The original documents are located in Box 8, folder “Concorde Supersonic Transport” of the John Marsh Files at the Gerald R. Ford Presidential Library.

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JUN 2 1975

Russ -
Let's
make a
list of all
requests
type.

May 29, 1975

Dear Senator:

This will acknowledge receipt and thank you for your recent letter to the President concerning the reported exchange of letters between former President Nixon and the British and French leaders about the supersonic transport.

You may be assured that your letter has been passed along for consideration by the President and the appropriate members of the staff.

With kind regards,

Sincerely,

William T. Kendall
Deputy Assistant
to the President

The Honorable Hubert H. Humphrey
United States Senate
Washington, D. C. 20510

bcc: w/incoming to Philip Buchen for DIRECT REPLY
bcc: w/incoming to General Scowcroft - FYI
~~bcc: w/incoming to John Marsh - FYI~~

WTK:EF:VO:vo



5-23

JOHN SPARKMAN, ALA., CHAIRMAN
 MIKE MANSFIELD, MONT.
 FRANK CHURCH, IDAHO
 STUART SYMINGTON, MO.
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 HOWARD H. BAKER, JR., TENN.

United States Senate

COMMITTEE ON FOREIGN RELATIONS
WASHINGTON, D.C. 20510

PAT M. HOLT, CHIEF OF STAFF
ARTHUR M. KUHL, CHIEF CLERK

May 19, 1975

The President
The White House
Washington, D. C.

Dear Mr. President:

37

The Environmental Defense Fund recently informed me that the London Observer has asserted that President Nixon assured British and French leaders in writing that he would do all he could to ensure that the Concorde is not discriminated against in America. I share their concern that such a letter, if it exists, could affect the Federal Aviation Administration's ability to reach an objective decision on permitting Concorde operations in the United States.

In order to clarify the record, I urge you to comply with the Fund's request for public disclosure of the aforementioned letter. I think it would also be useful to indicate if a copy of the letter was provided to the FAA.

Thank you for your consideration in this matter.

Sincerely,

Hubert H. Humphrey
 Hubert H. Humphrey



NOV 29 1975

THE WHITE HOUSE

WASHINGTON

November 29, 1975

MEMORANDUM FOR: JACK MARSH ✓
BRENT SCOWCROFT

FROM: PHIL BUCHEN P.W.B.

SUBJECT: 1973 Correspondence Regarding
the Concorde

The Subcommittee on Aviation of the House Committee on Public Works and Transportation has verbally requested at a recent hearing that they be provided a copy of the letters sent by former President Nixon to former Prime Minister Heath and former President Pompidou in January 1973 concerning the Concorde supersonic transport. As you will recall, we have denied on several occasions requests from Congresswoman Bella Abzug for this same correspondence (copies attached at Tab A). Although not a member of the Subcommittee, Ms. Abzug is a member of the full Committee.

In brief recapitulation, we initially denied these requests on the belief that all copies were at the White House and were subject to the Court Orders limiting access to the Nixon papers. Jack Miller then refused permission for access to the Nixon papers for this purpose. However, we then learned that the text of the Nixon letter to Heath had been provided to the FAA in 1973. Our office advised that the document containing the text should remain at DOT, but we have since discovered that it was sent to Dave Elliott of the NSC. More recently, DOT turned up another copy in its files (Tab B).

John Barnum is scheduled to testify before the Subcommittee on Tuesday, and DOT has requested that we reconsider our position by Monday.



This matter has not been submitted to the President and Executive Privilege has not formally been claimed. Subject to your thoughts on this matter, I would favor having John Barnum provide to the Subcommittee the DOT copy of the document at Tab B. I believe we can distinguish this situation from one in which head-of-state correspondence has not been provided to an operating agency. Additionally, the document is not classified and the positions contained in former President Nixon's letter have been provided to Ms. Abzug, although without reference to their source.

For your information, Senator Humphrey and Congressman Wolff have previously requested that we disclose this correspondence.

I would appreciate having your views on this matter by Monday afternoon, December 1, 1975.

Attachments



A.



THE WHITE HOUSE

WASHINGTON

September 25, 1975

*Abzug,
Bella
(cong.)*

Dear Ms. Abzug:

In behalf of the President, this is in further response to your letter of August 29 requesting copies of correspondence exchanged between former President Nixon, former Prime Minister Heath and former President Pompidou concerning the Concorde supersonic air transport.

For the reasons discussed in my letter to you of August 23, I regret that we are unable to provide you with the materials you seek. Inasmuch as the expectation of representatives from other countries for confidentiality of diplomatic exchanges must be respected and can be ignored only at the risk of impairing good foreign relations, the President's constitutional responsibilities for the conduct of foreign relations are involved.

In that letter, I provided you with the position that was taken in 1973 by officials of the United States in discussions with British and French officials on regulation of the Concorde. Thus, the information material to the concerns reiterated in your letter has already been provided.

Should you have any further questions with respect to that position, I would be pleased to request officials familiar with this subject talk to you about it.

Sincerely,

Philip W. Buchen

Philip W. Buchen
Counsel to the President

The Honorable Bella Abzug
House of Representatives
Washington, D. C. 20515



BELLA S. ABZUG
20TH DISTRICT, NEW YORK

COMMITTEES:
GOVERNMENT OPERATIONS
PUBLIC WORKS

WASHINGTON OFFICE:
1506 LONGWORTH OFFICE BUILDING
WASHINGTON, D.C. 20515

DISTRICT OFFICES:
252-7TH AVENUE
NEW YORK, N.Y. 10001
725 WEST 181ST STREET
NEW YORK, N.Y. 10033
720 COLUMBUS AVENUE
NEW YORK, N.Y. 10025

Congress of the United States
House of Representatives
Washington, D.C. 20515

August 29, 1975

The Honorable Gerald R. Ford
President of the United States
The White House
Washington, D. C.

Dear Mr. President:

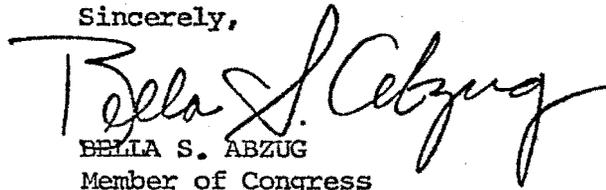
MA
I have received the response of your counsel, Mr. Philip Buchen, to my letter of August 20 requesting a copy of the letters between former President Nixon and former Prime Minister Heath, and former Premier Pompadou. Mr. Buchen's letter states that the copy of that correspondence provided to the Federal Aviation Agency is not subject to the order of the United States District Court in Nixon v. Sampson, et al. In his correspondence to me dated June 9, Mr. Buchen had stated that the letters were part of the material covered by that order, and therefore could not be released.

However, Mr. Buchen stated in his August 23 letter that The White House is still unable to respond affirmatively to my request since "the confidentiality of exchanges between heads of state" is a "cardinal principle of diplomatic intercourse."

I would submit that no such principle is embodied in our law, and that it should not be used as a method for keeping material from Congress which is necessary if we are to carry out our duties effectively. The recent release of previously confidential minutes of an inter-departmental meeting regarding the Concorde to the Environment Defense Fund, which contain evidence that executive departments have been considering waiving both environmental and mechanical requirements for the Concorde, makes it imperative that any information relating to agreements regarding the SST be made public.

I therefore ask that you comply with this request.

Sincerely,


BELLA S. ABZUG
Member of Congress

BSA:rm

THE WHITE HOUSE

WASHINGTON

August 23, 1975

Dear Mrs. Abzug:

This is in response to your letter of August 20, 1975, in which you requested copies of letters you understood former President Nixon wrote to then-Prime Minister Heath and then-President Pompidou in January 1973 concerning Administration support for the Concorde supersonic transport. I regret the delay in responding to you on this matter.

Mr. Herbert J. Miller, Jr., counsel for Mr. Nixon, has notified this office, in accordance with the Order of the United States District Court for the District of Columbia, entered October 21, 1974, as amended, in Nixon v. Sampson, et al., C.A. No. 74-1518, that he refuses to consent to your request.

At the time of my June 9 letter to you, it was our understanding that all copies of the letters in question were subject to the above-referenced Order. However, we have since been advised by the Federal Aviation Administration that a copy of this correspondence was provided to them. Although that copy of this correspondence is not within the scope of the Order, we are unable to respond affirmatively to your request for its production.

A cardinal principle of diplomatic intercourse is the confidentiality of exchanges between heads of state. The President believes that the effectiveness of American diplomacy depends in many ways on our reliability in preserving this essential principle for all such diplomatic communications with other countries.

However, we have sought information concerning the government's position in 1973 on the Concorde. I have been advised that the following points were made at that time by officials of the United States during consultations with the British and French regarding the regulation of the Concorde:

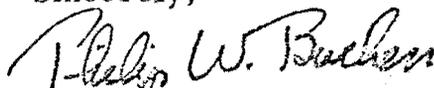


1. Regulation of the Concorde is an important issue, both from a domestic and international viewpoint.
2. Concorde would be treated fairly and judged on its merits.
3. A draft fleet noise rule [then being considered but never promulgated] would not apply to Concorde.
4. The U.S. would work with the British and French to ascertain whether an SST noise standard could be developed that would meet our domestic requirements without undercutting Concorde.
5. Many aspects of aircraft regulation are outside the jurisdiction of the Executive Branch, and even the extent of Federal authority in this area is limited.
6. The Administration is committed to free commerce and non-discriminatory regulations.
7. The Concorde would be treated equitably, but it does raise new environmental and societal questions.

I have again requested that the appropriate officials contact you with respect to the present views of the Administration on the treatment of the Concorde.

Your inquiry is appreciated.

Sincerely,



Philip W. Buchen
Counsel to the President

The Honorable Bella S. Abzug
House of Representatives
Washington, D. C. 20515



Congress of the United States
House of Representatives
Washington, D.C. 20515

WASHINGTON, D.C. 20515
DISTRICT OFFICES:
252-7TH AVENUE
NEW YORK, N.Y. 10031
725 WEST 101ST STREET
NEW YORK, N.Y. 10033
720 COLUMBUS AVENUE
NEW YORK, N.Y. 10025

August 20, 1975

The Honorable Gerald R. Ford
President of the United States
The White House
Washington, D.C.

Dear Mr. President:

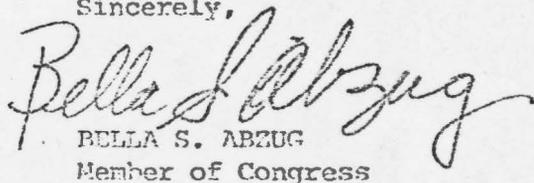
I am writing in reference to the letter sent to me by Mr. Phillip Buchen on June 9, 1975. In the letter, Mr. Buchen responded to my request of May 15, 1975 for copies of letters I understand President Nixon wrote to the British and French Prime Ministers, indicating Administration support for permitting the Concorde SST to operate into the United States.

Mr. Buchen stated in his letter that he would refer the matter to Mr. Herbert J. Miller, Counsel to Mr. Nixon, since he or Mr. Nixon would have to consent to any production or use of this material, as it is subject to the Order of the United States District Court for the District of Columbia, in Nixon v. Sampson, et al. In addition, Mr. Buchen assured me he would advise me of Mr. Miller's position and request that the appropriate administration official contact me directly concerning the present views of the Administration on the treatment of the Concord.

I have not received any further correspondence on this matter either from the White House or from any other Administration officials. It is particularly important that this information be submitted to me at this time, since the Government Activities and Transportation Subcommittee of which I am the only New York City member, has initiated oversight hearings on the FAA certification of the Concorde SST for operation at JFK Airport in New York City and Dulles Airport near Washington, D.C. These hearings will be continued in September.

I therefore now restate my earlier request, and ask that you submit copies of Mr. Nixon's letters to me by August 31, 1975, to allow time to review them in preparation for the continuing Subcommittee hearings. I also request that you carry out your agreement to advise me of Mr. Miller's position and to have the appropriate officials inform me of the present views of the Administration on the Concorde.

Sincerely,


BELLA S. ABZUG
Member of Congress



LE8

June 9, 1975

Dear Mrs. Abzug:

On behalf of the President, this is in response to your letter of May 15, 1975, in which you request copies of letters you believe were written by former President Nixon on January 19, 1973, to then-Prime Minister Heath and then-President Pompidou. You indicate that these letters deal with White House support for the Anglo-French Concorde supersonic transport.

The President has not addressed the question of the status to be given such correspondence insofar as his Administration is concerned. However, these letters, if they do exist, are part of the "Presidential materials of the Nixon Administration," presently in the custody of either the White House or the General Services Administration. These materials are subject to the Order of the United States District Court for the District of Columbia, entered October 21, 1974, as amended, in Nixon v. Sampson, et al., Civil Action No. 74-1518. This Order enjoins the disclosure, transfer, or disposal of these materials, and effectively requires that President Nixon or his agent consent to any production or use of such materials for the limited purposes specified in the Order. Accordingly, we have referred your request to Mr. Herbert J. Miller, Jr., Counsel to Mr. Nixon, for his consideration.

We will advise you of the position taken by Mr. Miller. In addition, I have requested that the appropriate officials contact you directly concerning the present views of the Administration on the treatment of the Concorde.

Sincerely,

Phillip W. Buchen
Counsel to the President

The Honorable Bella S. Abzug
House of Representatives
Washington, D.C. 20515

bcc: Vern Loen
General Scowcroft
Mike Duval
Herbert J. Miller, Jr.



PWB:BNR:st

BELLA S. ABZUG
20TH DISTRICT, NEW YORK

COMMITTEES:
GOVERNMENT OPERATIONS
PUBLIC WORKS

Congress of the United States
House of Representatives
Washington, D.C. 20515

May 15, 1975

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WASHINGTON, D.C. 20515

DISTRICT OFFICES:
252-7TH AVENUE
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723 WEST 181ST STREET
NEW YORK, N.Y. 10033

720 COLUMBUS AVENUE
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The Honorable Gerald R. Ford
President of the United States
The White House
Washington, D. C.

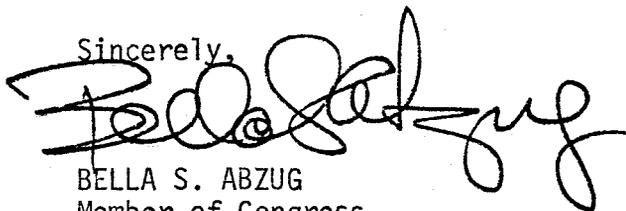
Dear Mr. President:

As a member of the House Public Works and Transportation Subcommittee, and a Representative from New York City, I have a vital interest in the decision regarding the introduction of the supersonic transport into regular service. I am opposed to permitting these aircraft into regular service, and hope that the decision by the FAA is based upon unbiased considerations.

It is my understanding, however, that on January 19, 1973, former President Nixon wrote to the British and French Prime Ministers indicating that he would do all he could to insure that the Anglo-French Concorde supersonic transport be treated "equitably in the United States." I am concerned that the Administration has therefore already made its decision on the SST, and that the results of the formal proceedings and tests which have been undertaken as part of the decision-making process will not be the determining factor in deciding the issue.

I therefore request that your office make available to me a copy of this letter. I also wish to know whether the position stated in the letter regarding the treatment of the Concorde continues to be that of the Administration.

Sincerely,



BELLA S. ABZUG
Member of Congress

BSA:csc

B.





DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

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PAGE 01 STATE 013369

72
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INR-09 RSC-01 FAA-00 P-03 PRS-01 INRE-00 /084 R

DRAFTED BY EB/OA/AVP:CHDUDLEY:DW
1/23/73 EXT. 29462
APPROVED BY S/S - MR. BARNES
EB/OA/AVP:MR. SILBERSTEIN
EB/TT - MR. MEADOWS
EUR/NE - MR. BECELIA (SUB)
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INFO AMEMBASSY PARIS

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SUBJ: CIVAIR - CONCORDE: PRESIDENTS REPLY TO HEATH LETTER

1. FOR EMBASSY'S INFORMATION, FOLLOWING IS TEXT, AS RECEIVED FROM WHITE HOUSE, OF PRESIDENT NIXON'S REPLY OF JAN. 19, 1973 TO PRIME MINISTER HEATH'S LETTER OF DEC. 11, 1972 CONCERNING THE CONCORDE:

"DEAR MR. PRIME MINISTER:

I WELCOME YOUR RECENT LETTER CONCERNING THE PROBLEMS WHICH THE CONCORDE MAY FACE IN CONFORMING TO PROPOSED FEDERAL REGULATIONS ON EXCESSIVE AIRCRAFT NOISE. THIS IS, AS WE BOTH RECOGNIZE, AN ISSUE OF MAJOR IMPORTANCE WITH BOTH DOMESTIC AND INTERNATIONAL RAMIFICATIONS.

I CAN ASSURE YOU THAT MY ADMINISTRATION WILL MAKE EVERY

LIMITED OFFICIAL USE

HDQS. INFO. COPY

- IA-1
- N
- IA-100
- IA-130
- GC-10
- SE-1
- IA-200
- IA-4
- FS-1
- PA-1
- GC-30
- FS-50
- AT-430

REGION INFO. COPY

- EU-1
- IFO-NY-1
- PC-1F
- SO-1F
- SW-1
- WE-1F

17ST-1

ANS-10

NPL-1

IA Form 1770-1 (4-72)

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**DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION**

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**HDQS.
INFO.
COPY**

IA-1

IA-100

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GC-10

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**REGION
INFO.
COPY**

EU-1

IFO-NY-1

PC-1F

SO-1F

SW-1

WE-1F

LIMITED OFFICIAL USE

PAGE 02 STATE 013369

EFFORT TO SEE THAT THE CONCORDE IS TREATED FAIRLY IN ALL ASPECTS OF UNITED STATES GOVERNMENTAL REGULATION, SO THAT IT CAN COMPETE FOR SALES IN THIS COUNTRY ON ITS MERITS. AS A CONSEQUENCE OF THIS POLICY, THE FEDERAL AVIATION ADMINISTRATION WILL ISSUE ITS PROPOSED FLEET NOISE RULE IN A FORM WHICH WILL MAKE IT INAPPLICABLE TO THE CONCORDE.

will be made over to the state air corp S-1

I HAVE ALSO DIRECTED OFFICIALS OF MY ADMINISTRATION TO CONTINUE TO WORK WITH REPRESENTATIVES OF THE BRITISH AND FRENCH GOVERNMENTS IN ORDER TO DETERMINE WHETHER A UNITED STATES SUPERSONIC AIRCRAFT NOISE STANDARD CAN BE DEVELOPED THAT WILL MEET OUR DOMESTIC REQUIREMENTS WITHOUT DAMAGING THE PROSPECTS OF THE CONCORDE.

YOU HAVE NOTED, MR. PRIME MINISTER, THAT MANY ASPECTS OF THE REGULATION OF CIVIL AVIATION ARE IN THIS COUNTRY OUTSIDE THE JURISDICTION OF THE EXECUTIVE BRANCH OF OUR FEDERAL GOVERNMENT. YOU MUST ALSO KNOW THAT THE FEDERAL GOVERNMENT'S POWER TO INFLUENCE THESE ASPECTS, PARTICULARLY WITH REGARD TO STATE AND LOCAL JURISDICTIONS, IS LIMITED. ON THE OTHER HAND, MY ADMINISTRATION IS COMMITTED TO PRINCIPLES OF NON-INTERFERENCE WITH FREE AND PRIVATE COMMERCE AND NON-DISCRIMINATORY FORMULATION AND APPLICATION OF FEDERAL REGULATIONS. WE WILL ACT IN KEEPING WITH THESE PRINCIPLES TO ASSURE EQUITABLE TREATMENT FOR THE CONCORDE, BEARING IN MIND THAT IT, LIKE ALL SUPERSONIC AIRCRAFT, RAISES UNPRECEDENTED PROBLEMS OF ENVIRONMENTAL AND SOCIAL COSTS.

WITH WARM PERSONAL REGARDS, "

2. REPLY DELIVERED UK EMBASSY WASHINGTON JAN. 22. COPIES BOTH LETTERS AIRPOUCHED EMBASSY.

EXEMPT ROGERS



IA Form 1770-1 (4-72)

THE WHITE HOUSE

WASHINGTON

December 5, 1975

MEMORANDUM FOR: JACK MARSH ✓
BRENT SCOWCROFT

FROM: PHIL BUCHEN P.W.B.

SUBJECT: 1973 Concorde Correspondence

Russell Train, Administrator of EPA, is scheduled to appear before the Subcommittee on Government Activities and Transportation of the House Government Operations Committee on Tuesday, December 9, at 9:30 a.m. to testify on the Concorde and "improper efforts to influence landing rights." Bella Abzug is a member of the Subcommittee.

Although EPA has not been requested to bring with them a copy of the letter from former President Nixon to then Prime Minister Heath, EPA has in its files the same Department of State telegram containing the text of Mr. Nixon's reply which I brought to your attention last week. While Train will not take the letter with him to the hearing, unless Executive privilege is invoked it is his belief that he is required to respond to any questions concerning the contents of the letters.

Accordingly, a decision on how this matter is to be handled is required prior to his testimony.

Discuss with
Phil at 8:30 Mon.

m



THE WHITE HOUSE

WASHINGTON

December 9, 1975

MEMORANDUM FOR: JACK MARSH ✓
BRENT SCOWCROFT

FROM: PHIL BUCHEN P.

SUBJECT: 1973 Presidential Correspondence
Regarding Concorde

Russell Train testified this morning before the Subcommittee on Government Activities and Transportation of the House Government Operations Committee regarding Congressional concerns that there had been undue pressure from the White House to allow the Concorde to land in the United States. Train testified that the only action taken by EPA in that regard was to delay the release of noise regulations for several months during the previous Administration, in order to prevent the British and French from cancelling the program and blaming the U.S. for the cancellation.

The Subcommittee did request that Train provide them with President Nixon's letter to then Prime Minister Heath on the Concorde, and questioned his failure to bring it although he knew the Committee would have wanted to review it as a matter within the scope of its inquiry. Train responded that the matter of providing the letter to the Committee was being studied by the White House and that Secretary Coleman would have an answer on December 12. Train responded in favor of release when asked for his opinion. He also misspoke (and contradicted his prior testimony) by saying he understood that Secretary Coleman would provide the letter to the Committee.

Chairman Rundle indicated that he will go to the full committee and subpoena this letter if it is not otherwise provided. Jack Brooks is Chairman of the full committee and would probably support such an effort. Bella Abzug read into the record

portions of my letter of August 23 (attached) which she described as a summary of the Nixon letter. Although that is correct, we have never advised her of that fact.

Attachment



THE WHITE HOUSE

WASHINGTON

August 23, 1975

Dear Mrs. Abzug:

This is in response to your letter of August 20, 1975, in which you requested copies of letters you understood former President Nixon wrote to then-Prime Minister Heath and then-President Pompidou in January 1973 concerning Administration support for the Concorde supersonic transport. I regret the delay in responding to you on this matter.

Mr. Herbert J. Miller, Jr., counsel for Mr. Nixon, has notified this office, in accordance with the Order of the United States District Court for the District of Columbia, entered October 21, 1974, as amended, in Nixon v. Sampson, et al., C.A. No. 74-1518, that he refuses to consent to your request.

At the time of my June 9 letter to you, it was our understanding that all copies of the letters in question were subject to the above-referenced Order. However, we have since been advised by the Federal Aviation Administration that a copy of this correspondence was provided to them. Although that copy of this correspondence is not within the scope of the Order, we are unable to respond affirmatively to your request for its production.

A cardinal principle of diplomatic intercourse is the confidentiality of exchanges between heads of state. The President believes that the effectiveness of American diplomacy depends in many ways on our reliability in preserving this essential principle for all such diplomatic communications with other countries.

However, we have sought information concerning the government's position in 1973 on the Concorde. I have been advised that the following points were made at that time by officials of the United States during consultations with the British and French regarding the regulation of the Concorde:

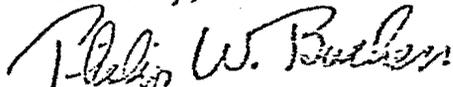


1. Regulation of the Concorde is an important issue, both from a domestic and international viewpoint.
2. Concorde would be treated fairly and judged on its merits.
3. A draft fleet noise rule [then being considered but never promulgated] would not apply to Concorde.
4. The U.S. would work with the British and French to ascertain whether an SST noise standard could be developed that would meet our domestic requirements without undercutting Concorde.
5. Many aspects of aircraft regulation are outside the jurisdiction of the Executive Branch, and even the extent of Federal authority in this area is limited.
6. The Administration is committed to free commerce and non-discriminatory regulations.
7. The Concorde would be treated equitably, but it does raise new environmental and societal questions.

I have again requested that the appropriate officials contact you with respect to the present views of the Administration on the treatment of the Concorde.

Your inquiry is appreciated.

Sincerely,



Philip W. Buchen
Counsel to the President

The Honorable Bella S. Abzug
House of Representatives
Washington, D. C. 20515





MAR 3 1976

OFFICE OF THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

ASSISTANT SECRETARY

March 2, 1976

*Max
Friedersdorf*

Des

[Signature]
*sent to Max
3/5*

MEMORANDUM FOR JACK MARSH
MAX FRIEDERSDORF

FROM: Roger W. Hooker, Jr.

SUBJECT: Senate Efforts to Ban the Concorde SST

At least one amendment to ban the Concorde SST under the sponsorship of Lowell Weicker will be offered to S. 3015, the Airport and Airway Development Act Amendments of 1976 (ADAP), when it reaches the Senate floor in the next week or so. (Glenn Beall may also offer such an amendment but it is not expected to fare as well as Weicker's version.)

Initial soundings would indicate the vote to be too close to call at this point. Senators Cannon and Stevens are managing the pro-Concorde forces and should have a fairly accurate whip count as we get closer to floor consideration but you may remember that an amendment to the DOT appropriations bill by Senator Bayh last year to ban the Concorde, for example, failed by a narrow 46 to 44 margin.

The House ADAP bill, which passed prior to Secretary Coleman's decision, contains a 6 month ban on Concorde operations at JFK.

Success of any amendment to ban the Concorde offered by either Weicker or Beall could:

1. Nullify Coleman's recent decision to allow a 16 month demonstration of the Concorde under controlled conditions.
2. Damage relations with the British and French.
3. Further jeopardize executive approval of the ADAP bill. (The likely minimum \$450 million airport construction funding level for FY 76 exceeds the President's request by \$100 million)



Page Two
Memo to J.Marsh & M.Friedersdorf
March 2, 1976

and we face an uphill struggle to achieve user charge financing of the costs of maintenance of air transportation systems -- a matter of considerable concern to this Department as well as OMB. The President may decide to veto the bill on these grounds alone, but an amendment to ban the Concorde could further muddy the waters and require him to take a position on the merits of U.S. Concorde operations in a veto message.)

Following are four options, not necessarily mutually exclusive, that I believe should be considered to defeat any amendment to ban the Concorde. My own recommendation is also included.

Option A

A Presidential letter (see attached draft) to Senators Mansfield and Scott, with copies to other appropriate members, setting forth his opposition to such an amendment. You will note the proposed letter would have him not so much defend the merits of the decision as support the process by which it was arrived at and allude to the foreign policy implications of a reversal at this time.

One risk in this approach would be the President's association with a possible losing vote, although, by the same token, there may be a benefit in his being associated with a victory. Also, if the amendment was to be defeated without the aid of a letter the President might escape ever having to take a public position on this emotionally charged issue.

Option B

A similar letter from Secretary Coleman to Senators Magnuson and Pearson.



Page Three
Memo to J.Marsh & M.Friedersdorf
March 2, 1976

The difficulties with this approach are:

1. The members of the Senate already know where Coleman stands on the issues.
2. It would inevitably be perceived as self-serving.
3. It would force Coleman to assert several arguments, including those relating to the effects on our relations with the French and British, that might be construed as outside his jurisdiction as Secretary of Transportation. Furthermore, having rendered this decision in a quasi-judicial capacity, the Secretary feels somewhat constrained in being the principal advocate of the Concorde.
4. It would have little impact.

Option C

Letters from Secretary of State Kissinger, Secretary of Commerce Richardson and possibly Attorney General Levi setting forth their positions respectively against an amendment to ban the Concorde. Respectively, they presumably would argue on the basis of possible international relations repercussions, the need for possible technological breakthroughs in supersonic aviation which would stimulate the aerospace industry, and the proper role of executive decision-making in the context of separation of powers.

The advantage in this approach is the use of new but non-Presidential voices in the debate, advocating appropriate clientele positions. Possible disadvantages include raising the specter of further SSTs by Secretary Richardson when Coleman's decision is clearly an interim one, and a strengthening of an anti-Kissinger mood. As you are undoubtedly aware, there has been media and Congressional comment, critically phrased, to the effect that Secretary Kissinger unduly influenced Coleman's decision.



Option D

Do nothing -- with possible exception of calling a key Senator or two (Senator Pearson comes immediately to mind) -- until the ADAP bill arrives for signature and then decide whether it should be vetoed on the basis of budget issues as well as a possible anti-Concorde amendment.

This would postpone the President's taking a public position for several weeks, perhaps indefinitely, but it may result in strengthening anti-Concorde sentiment that could manifest itself in some other form if ADAP is vetoed.

Recommendation

I recommend Option A for the following reasons:

1. The President is obviously the best person to articulate a position that crosses Cabinet lines.
2. By asserting his position in the manner suggested he will not be endorsing Coleman's decision so much on the merits as supporting the process by which it was made. In addition, he would raise the question of fairness in foreign affairs as that issue assumes new dimensions after Coleman's decision.
3. This option would permit the President to seize the initiative on the issue in statesmanlike terms rather than face the prospect of having to react to some set of circumstances, such as in a veto message, where the parameters of debate are already limited.
4. By asserting his position now rather than later the President could not be accused of misleading the Congress.



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Memo to J.Marsh & M.Friedersdorf

March 2, 1976

In any event, a final decision on sending such a letter would not need to be made until we have a firmer whip count.



Roger W. Hooker, Jr.

Attachment



Identical letter to Senator Scott

Dear Senator Mansfield:

I want to share with you and the Senate my views on any amendment to the Airport and Airways Development Act Amendments of 1976 that would have the effect of emasculating, if not reversing, Secretary of Transportation Coleman's decision to permit the Concorde SST limited operating rights at two United States airports under certain carefully constructed restrictions. I strongly oppose enactment of any such measure.

As you know, I assiduously avoided any attempt to influence Secretary Coleman's decision. In fact, I was advised of his decision only minutes before the Secretary himself announced it to the American people. However, I have every confidence that it was carefully and impartially decided. The Secretary had immediate access to the most relevant expertise upon which to form a judgment. In addition, he obviously gathered all the evidence, weighed the competing considerations and reached a sensible conclusion based on the facts.

The decision was to approve limited demonstration, for a provisional period of up to 16 months, of a maximum of two daily, scheduled commercial Concorde flights by both British Airways and Air France into JFK Airport and one such flight by each carrier into Dulles Airport. Permission for the flights can be revoked at any time upon four months' notice or immediately in the event of an emergency deemed harmful to the health, welfare, or safety of the American people.

In choosing this controlled procedure, the Secretary quite obviously attempted to weigh, with great care, the costs and benefits involved. In fact, he made only a preliminary assessment of the evidence and probabilities, not an ultimate resolution of the difficult issues: Under the terms of the decision itself, a final decision will not be made until after the 16 month demonstration and trial period during which data relating, inter alia, to community and consumer response, environmental impact, fuel efficiency, the development of international standards for stratospheric flight and the attractiveness of capital investment in cleaner, quieter and more fuel efficient SST technology will be accumulated and analyzed.



Under the circumstances, I am concerned that Congressional action at this time would be a vote of no confidence in the open and deliberate process which led to this interim decision. The Secretary has explicitly acted in accordance with Congressional mandates, applicable statutes, treaties and international agreements, and only after a year-long process which included circulation of a draft and revised environmental impact statements, public hearings in the affected areas, and analysis of continuing research and thousands of pages of comment. Additional steps not required by law, including release of the environmental impact statement in advance of the decision and a special day-long hearing in Washington at which Secretary Coleman personally presided and heard the views of experts and interested parties on more than twenty specified topics, were taken to ensure that the difficult question would be decided objectively and on the basis of an open record.

A clear indication of the candor of the process is reflected in the fact that spokesmen from various agencies of the federal government participated in the open debate and articulated differing points of view. Moreover, both opponents and proponents of the Concorde have praised Secretary Coleman's fairness. A reversal by Congress of the Secretary's carefully considered 61-page decision so soon after it has been announced would not only render useless the substantial effort already expended but would also undermine a celebrated example of open executive decision-making that has contributed much to the restoration of public confidence in government. Withdrawal of Congressional support of this process would be unfortunate.

In addition, I believe, consistent with our traditional separation of powers, this issue is particularly suited to administrative rather than legislative determination at this time because of the complex and technical nature of the issues under consideration, the uncertain predictions and often contradictory scientific evidence, the difficulty of ascertaining facts in an emotionally charged atmosphere fraught with misinformation, and the special expertise of the Department of Transportation respecting matters of safety, aviation technology and aircraft noise.

Finally, a Congressional reversal of the Secretary's decision would be a serious setback to the efforts that have been made to persuade the British and French that whatever the outcome, they were being treated fairly. On a difficult issue of this nature, I believe the British and French as well as the American people have the right to expect that a decision will be based on a full and impartial hearing in which all parties have an opportunity to state their case, present relevant evidence, and have their views weighed on the merits. Careful and fair consideration is the reason interested parties, however reluctantly, come to accept a final



judgment. A Congressional reversal (particularly by floor amendment to an airport construction bill) on the heels of Secretary Coleman's decision and without the benefit of the full hearing process would negate our allies' apparent conviction, even prior to the decision, that they were not being dealt with arbitrarily. It would be particularly unfortunate for the Senate to dispose so precipitously of a matter that has such important potential ramifications in connection with our international relations and foreign trade.

I know there are members of the Senate who do not entirely agree with the action taken by the Secretary of Transportation. I understand this disagreement and appreciate the heated emotion that this issue generates in certain quarters. But I believe the Senate should endorse rather than discourage the concept of deliberate openness in decision-making and should permit us to gather the additional facts the demonstration will produce so that our ultimate decision can be informed and responsible.

Therefore, for each of the foregoing reasons -- the importance of open decision-making, the appropriateness of administrative determination of such a multi-faceted and technical question, and the need for fair treatment in international relations -- I hope that Congress will not act precipitously, but will await the results of the demonstration specified in the Secretary's decision.

With warm regard,

Sincerely,

cc: Senator Magnuson
Senator Pearson
Senator Cannon
Senator Stevens

