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*approved
11/23*

THE WHITE HOUSE
WASHINGTON

November 22, 1976

MR PRESIDENT:

Cuban Request for Approval of Overflight
for Scheduled Airline Service

Messrs. Buchen, Marsh and Cannon all concur in General Scowcroft's recommendation on the above subject. OMB has no objection.

Jim Cannon further commented as follows: "Concur with General Scowcroft's recommendation to permit overflights since Cuba has previously granted our commercial carriers such rights. "

Jim Connor

THE WHITE HOUSE


WASHINGTON

5677

CONFIDENTIAL/GDSACTION

November 18, 1976

MEMORANDUM FOR: THE PRESIDENT

FROM: BRENT SCOWCROFT 

SUBJECT: Cuban Request for Approval of Overflight
for Scheduled Airline Service

As you are aware, we have received a number of requests from the Cubans, dating back to March of this year, for overflight approval of a regularly scheduled Havana-to-Montreal air service. The request is based on reciprocity under the International Air Services Transit Agreement to which both the US and Cuba are parties. Under this agreement, contracting states are bound to accord to one another the right of overflight of scheduled air services without prior permission. Present US airline overflights of Cuba are numerous and commercially significant.

On September 14 the State Department received another note from the Cubans on this matter through the Swiss Embassy (Tab A). The note differs from previous communications in that it requests overflight approval for three round-trip flights per week, rather than two.

Should the Cubans wish to do so, they could use this matter to embarrass us, for example, by publicizing it as a breach of an international agreement by the United States. They could also withdraw overflight approval for the numerous daily US commercial flights currently utilizing their existing approval. It probably is fear of this latter possibility that moved both the US Air Transport Association and Eastern Airlines to write to the State Department earlier in the year urging that the US Government grant the requested overflight approval (Tab B).

There is a possibility, although I consider it remote, that some groups in the US may consider the granting of such approval to

CONFIDENTIAL/GDS

KR 5/18/96

"signal a change" in our Cuba policy. Should such a notion arise, I believe that careful handling, based on a clear statement of our obligations under the International Air Services Transit Agreement, can prevent this from becoming an issue.

RECOMMENDATION:

That you authorize the State Department to inform the Cubans, through the Swiss diplomatic channel, of our approval of their request for commercially scheduled overflights between Havana and Montreal on the schedule set out in their note of September 14 through an appropriate corridor.

Approve _____ Disapprove _____

~~CONFIDENTIAL~~
DEPARTMENT OF STATE
DIVISION OF LANGUAGE SERVICES

(TRANSLATION)

LS NO. 58476
MM/BP
Spanish

821.1(-) - JA/rr
H-4410
ad: H-4267

MESSAGE FROM THE SWISS EMBASSY IN CUBA

Subject: Cuban Air Service Havana-Montreal

Embassy received the attached message from Havana.

September 14, 1976

We have just received Minrex Note No. 1400 of September 9, 1976

Quote:

... and has the honor to request that the Department of State at Washington be informed of the following:

Taking into consideration that both the Republic of Cuba and the United States of America are Contracting Parties of the International Air Services Transit Agreement, and also taking into account that under the said Agreement United States airlines overfly Cuban territory, the Ministry requested by note No. 387 of March 17, 1976 exercise of the right to cross the territory of the United States of America without landing in order to operate scheduled air services between the Republic of Cuba and Canada pursuant to the air transport agreement concluded between the two countries. The Ministry of Foreign Affairs again requests

DECLASSIFIED

E.O. 13526 (as amended) SEC 3.3

State Dept Guidelines

By NO NARA, Date 9/7/2012

~~CONFIDENTIAL~~



~~CONFIDENTIAL~~

2

the appropriate permission for Consolidada Cubana de Aviación to overfly United States territory in the operation of its scheduled air services between Cuba and Canada.

The proposed schedule for the said flights is as follows:

DC-8 aircraft, series 43, registration Nos. CU T 1200 and CU T 1201, between Havana (HAV) and Canada (YMX, Mirabel Airport). Itinerary, beginning on October 15, 1976 (local time):

1. Flight 480 Depart HAV 5:00 p.m. Friday
Arrive YMX 9:00 p.m. Friday

Flight 481 Depart YMX 10:00 a.m. Saturday
Arrive HAV 2:00 p.m. Saturday
2. Flight 480 Depart HAV 5:00 p.m. Saturday
Arrive YMX 9:00 p.m. Saturday

Flight 481 Depart YMX 10:00 a.m. Sunday
Arrive HAV 2:00 p.m. Sunday
3. Flight 480 Depart HAV 5:00 p.m. Sunday
Arrive YMX 9:00 p.m. Sunday

Flight 481 Depart YMX 10:00 a.m. Tuesday
Arrive HAV 2:00 p.m. Tuesday

The frequency of three flights weekly will be repeated during this period.

The most suitable route to be followed by the aircraft, apart from meteorological conditions or provisions of air transit authorizations in the United States of America, would be that set forth below:

Via ANY/1 UVR R/8 ZOLA A13 ZBU AR2 HAH J79 JFK J37 ALB J75 PLB-HL 567.

Distance: 1,554 NM (nautical miles). Approximate flight time: 4 hours ramp to ramp between HAV/YMX.

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~~CONFIDENTIAL~~

In the hope of receiving replies to this request at the earliest opportunity from the Department of State at Washington, the Ministry of Foreign Affairs avails itself of this opportunity ...

Unquote.

~~CONFIDENTIAL~~



May 21, 1976

Mr. Michael H. Styles
Director, Office of Aviation
Department of State
Washington, D.C. 20520

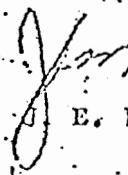
Dear Mike:

Reference is made to Don Comlish's letter of May 19 relative to the overflights situation as it applies to the United States and Cuba.

As you were advised by previous correspondence, loss of Eastern's ability to overfly Cuba would impact on this airline to the extent that we would be obliged to absorb an average of \$100,000 monthly in additional operational costs plus an undetermined loss of revenue because of reduced utilization of aircraft.

We urge, in the strongest possible terms, that our government not take any action which would jeopardize our position in this regard.

Sincerely,



E. Reinke

cc: Mr. Donald C. Comlish

~~CONFIDENTIAL~~
Air Transport Association

OF AMERICA

1709 New York Avenue, N.W.
Washington, D. C. 20005
Phone (202) 872-4000

RONALD C. COMLISH
Vice President
International Affairs

Determined to be Administrative Marking
Date 5/18/88 By KR

May 19, 1976

ATA ~~CONFIDENTIAL~~

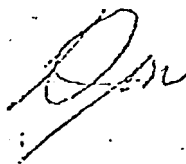
Mr. Michael H. Styles
Director, Office of Aviation
Department of State
Washington, D. C. 20520

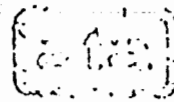
Dear Mike:

This is in further reference to my letters of April 16 and May 14, 1976, concerning the request for rights to overfly United States territory by Cubana Airlines on routes between Havana and Canada.

I now understand that the Cuban request has been extended to include overflight rights on a route between Havana and Vancouver for effectiveness May 25, 1976. In view of the fact that several U. S. scheduled airlines presently enjoy overflight rights through Cuban airspace on various routes within and over the Caribbean, and because these Cuban granted rights may be in jeopardy if the United States refuses reciprocal rights to Cubana Airlines, the U. S. flag airline members of this Association respectfully urge the U. S. Government to grant the rights sought in behalf of Cubana Airlines.

Sincerely,





1177 FIVE THIRTIETH STREET

Washington, D. C. 20005

Phone (202) 372-4000

DONALD C. COMLISH
Vice President
International Affairs

May 14, 1976

Mr. Michael H. Styles
Director, Office of Aviation
Department of State
Washington, D. C. 20520

Dear Mike:

As you will recall, I wrote to you on April 16, 1976 and gave you the statistics involving the services of U. S. carriers having routes which pass through Cuban airspace. That letter was sent because we understood that the Cubans have requested the right for Cubana Airlines to overfly United States territory on routes between Havana and Canada and we wanted the Government to have a more complete picture in considering the Cuban request. Cuban flights at present are being routinely channeled over international waters through the Miami, New York and Boston Air Traffic Control Centers.

We are deeply concerned that the Cuban government could decide to take retaliatory action if their request is unduly delayed or rejected. Actions against our commercial airlines by Cuba would be totally inconsistent with international treaties which the U. S. and Cuba have ratified. Article I, Section 1 of the International Air Services Transit Agreement provides, in pertinent part:

"Each contracting State grants to the other contracting States the following freedoms of the air in respect of scheduled international air services:

- (1) The privilege to fly across its territory without landing . . ."

Article 4 of the Convention on International Civil Aviation, the so-called "Chicago Convention" provides:

"Each contracting State agrees not to use civil aviation for any purpose inconsistent with the aims of this convention."

May 14, 1976

The Preamble of that Convention most eloquently sets forth its underlying purpose:

"WHEREAS the future development of international civil aviation can greatly help to create and preserve friendship and understanding among the nations and peoples of the world, yet its abuse can become a threat to the general security; and

WHEREAS it is desirable to avoid friction and to promote that cooperation between nations and peoples upon which the peace of the world depends;

THEREFORE, the undersigned governments have agreed on certain principles and arrangements in order that international civil aviation may be developed in a safe and orderly manner and that international air transport services may be established on the basis of equality of opportunity and operated soundly and economically;

Have accordingly concluded this Convention to that end."

Article 5 of the Chicago Convention provides:

"Each contracting State agrees that all aircraft of the other contracting States, being aircraft not engaged in scheduled international air services shall have the right, subject to the observance of the terms of this Convention, to make flights into or in transit non-stop across territory and to make stops for non-traffic purposes without the necessity of obtaining prior permission"

Thus, both scheduled and non-scheduled international air services, under these treaties, are expected to be allowed to operate in the manner which is currently permitted by the Cuban government over Cuba.

In addition to the international obligations involved, the U. S. Statement on International Air Transportation Policy issued by the White House in June, 1970, provides that ". . . [w]e should continue to adopt all practicable measures to facilitate international air movement and to prevent unnecessary delays to aircraft, crews, passengers, baggage and cargo." The policy continues by stating ". . . [a]ny measures taken by other nations which are unreasonable or discriminatory and which hamper or impede the international operations of U. S. international air operations should be

Mr. Michael H. Styles

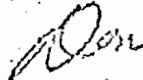
Page 3

May 14, 1976

strenuously opposed " Thus, the U. S. policy is clear that if the Cubans were to take action against U. S. commercial air operations, we could expect our government to vigorously oppose any restrictions contemplated or implemented.

The privileges that U. S. air carriers receive from the Cuban authorities to operate over the mainland of Cuba and through Cuban-controlled airspace are extremely valuable and important to U. S. air commerce. I hope these points will be taken into account in the consideration of this important matter.

Sincerely,

A handwritten signature in cursive script, appearing to be "Don".

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: November 18, 1976

Time:

FOR ACTION:

cc (for information):

- ✓ Phil Buchen
- ✓ Jim Lynn
- ✓ Jack Marsh
- Jim Cannon

FROM THE STAFF SECRETARY

DUE: Date: Friday, November 19, 1976 Time: C.O.B.

SUBJECT:

Brent Scowcroft memo, 11/18/76 re Cuban Request for Approval of Overflight for Scheduled Airline Service.

ACTION REQUESTED:

- | | |
|---|--|
| <input type="checkbox"/> For Necessary Action | <input checked="" type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks |

REMARKS:

*Buchen - concur in NSC recommendation
OMB - no objection*

Marsh - approves

CONFIDENTIAL ATTACHMENT

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jim Connor
For the President

THE WHITE HOUSE
WASHINGTON

OMB has no objection
to Cuban overflight proposal.

per Ogilvie

11/19
3:25

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: November 18, 1976

Time:

FOR ACTION:

cc (for information):

Phil Buchen
Jim Lynn
Jack Marsh
Jim Cannon

FROM THE STAFF SECRETARY

DUE: Date: Friday, November 19, 1976 Time: C.O.B.

SUBJECT:

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Cuban Request for Approval of Overflight
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ACTION REQUESTED:

- | | |
|---|--|
| <input type="checkbox"/> For Necessary Action | <input checked="" type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks |

REMARKS:

CONFIDENTIAL ATTACHMENT

Concur in NSC Recommendation

[Signature] 11/19

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

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Jim Connor
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: November 18, 1976

Time:

FOR ACTION:

cc (for information):

Phil Buchen
Jim Lynn
Jack Marsh
Jim Cannon

FROM THE STAFF SECRETARY

DUE: Date: Friday, November 19, 1976 Time: C.O.B.

SUBJECT:

Brent Scowcroft memo, 11/18/76 re
Cuban Request for Approval of Overflight
for Scheduled Airline Service.

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

OK Moore
11/22/76

CONFIDENTIAL ATTACHMENT

Concur with General Scowcroft's recommendation to permit overflights, since Cuba has previously granted our commercial carriers such rights.

Jim Connor
11/22/76
at 2:00pm

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jim Connor
For the President