AIR FREIGHT FORWARDER CERTIFICATION

HEARING

BEFORE THE

SUBCOMMITTEE ON TRANSPORTATION AND AERONAUTICS

OF THE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE HOUSE OF REPRESENTATIVES

NINETY-FIRST CONGRESS

SECOND SESSION

ON

H.R. 9227, H.R. 10687, and H.R. 12831

BILLS TO AMEND THE FEDERAL AVIATION ACT OF 1958 TO PROVIDE FOR THE CERTIFICATION OF AIR FREIGHT FORWARDERS

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AIR FREIGHT FORWARDER CERTIFICATION

MONDAY, JUNE 22, 1970

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TRANSPORTATION AND AERONAUTICS,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Samuel N. Friedel (chairman) presiding.

Mr. FRIEDEL. The subcommittee will be in order.

Today we are opening the hearings on H.R. 9227, H.R. 10687, and H.R. 12831, which would amend the Federal Aviation Act to provide for the certification of air freight forwarders.

The basic question before us is whether or not entry into the air forwarding business shall be unrestricted or limited to those who qualify for certificates which would be awarded upon qualification to those who meet the requirements of the legislation pending before us, and related regulations or standards which would be promulgated and issued by the Civil Aeronautics Board.

(The text of H.R. 9227, H.R. 10687, and H.R. 12831, and departmental reports thereon follow:)

[H.R. 9227 and H.R. 10687, 91st Cong., 1st Sess., introduced by Mr. Dingell on March 19, 1969, and Mr. Matsunaga on April 29, 1969, respectively, are identical as follows:]

A BILL To amend the Federal Aviation Act of 1958 to provide for the certification of air freight forwarders

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 101 of the Federal Aviation Act of 1958 is amended by redesignating paragraphs (7) through (35) as paragraphs (9) through (37), respectively, and by inserting immediately after paragraph (6) the following new paragraphs:

"(7) 'Air freight forwarder' means an air carrier holding a certificate of public convenience and necessity authorizing it to engage in domestic or international air freight forwarding, or both.

"(8) 'Air freight forwarding' means air transportation rendered pursuant to a certificate of public convenience and necessity issued to an air freight forwarder pursuant to section 401(d)(4) of this Act."

SEC. 2. Section 401(d) of the Federal Aviation Act of 1958 is amended by adding at the end thereof the following:

"(4)(A) In the case of an application for a certificate to engage in air transportation as an air freight forwarder, the Board may issue a certificate to any applicant not holding a certificate under paragraph (1), (2), or (3) of this subsection authorizing the whole or any part thereof if it finds that the applicant is fit, willing, and able properly to perform the transportation covered by the application and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder, and that such transportation is required by the public convenience and necessity; otherwise such application shall be denied. In determining whether an applicant for such a certificate is fit, willing, and able within the meaning of this paragraph, the Board shall give consideration to the conditions peculiar to air freight forwarding.

"(B) Any person who is in operation furnishing air freight forwarding services on the date of enactment of this paragraph under exemption authorization issued by the Board (i) may continue such operation for sixty days after such date, and (ii) shall, upon application therefor within such sixty days and proof of such operation only, be issued a certificate authorizing such person to engage in air freight forwarding to the same extent authorized in such exemption authorization. Pending the determination of any such application the continuance of such operation without a certificate shall be lawful. Air forwarders holding exemption authority, on the date of enactment of this paragraph, for a temporary period or for a definite term shall not be included within the provisions of this paragraph but, following the expiration of their temporary authority, shall be required to conform to the requirements of paragraph (4)(A) above, unless granted further temporary authority under the exemption powers of the Board."

SEC. 3. Section 401(e) of the Federal Aviation Act of 1958 is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting immediately after paragraph (3) the following new paragraph:

"(4) A certificate issued under this section to engage in air freight forwarding shall designate the terminal and intermediate points only insofar as the Board shall deem practicable and otherwise shall designate only the geographical area or areas within or between which service may be rendered."

[H.R. 12831, 91st Cong., 1st Sess., introduced by Mr. Adams (for himself, Mr. Friedel, Mr. Moss, Mr. Ottinger, and Mr. Tiernan) on July 15, 1969]

A BILL To amend the Federal Aviation Act of 1958 to provide for the certification of air freight forwarders

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 101 of the Federal Aviation Act of 1958 is amended by redesignating paragraphs (7) through (35) as paragraphs (9) through (37), respectively, and by inserting immediately after paragraph (6) the following new paragraphs:

"(7) 'Air freight forwarder' means an air carrier holding a certificate of public convenience and necessity authorizing it to engage in domestic or international air freight forwarding, or both.

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"(B) Any person who is in actual operation as an air freight forwarder at a time prior to one hundred eighty days of the date of enactment of this paragraph under exemption authorization issued by the Board (i) may continue such operation, without limitation as to the points actually served at such time, for sixty days after such date, and (ii) shall, upon application therefor within such sixty days and proof of such operation only, be issued a certificate authorizing such person to engage in air freight forwarding to the same extent authorized in the original exemption authorization without any limitation as to points to be served; and pending the determination of any such application the continuance of such operation without a certificate shall be lawful. Air forwarders holding exemption authority, on the date of enactment of this paragraph, for a temporary period or for a definite term shall not be included within the provisions of this paragraph but, following the expiration of their temporary authority, or authority for a definite term, shall be required to conform to the requirements of paragraph (4)

(A) above, unless granted further temporary authority under the exemption powers of the Board. Air forwarders not in operation within one hundred eighty days prior to the date of enactment of this paragraph shall not be included within the provisions of this paragraph but shall be required to conform to the requirements of paragraph (4)(A) above.

SEC. 3. Section 401(e) of the Federal Aviation Act of 1958 is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting immediately after paragraph (3) the following new paragraph:

"(4) A certificate issued under subsection 4(A) of section 401(d) to engage in air freight forwarding shall designate the terminal and intermediate points only insofar as the Board shall deem practicable and otherwise shall designate only the geographical area or areas within or between which service may be rendered."

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., June 23, 1970.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, 2125 Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Bureau of the Budget on H.R. 9227 and H.R. 12831, similar bills "To amend the Federal Aviation Act of 1958 to provide for the certification of air freight forwarders."

For the reasons expressed by the Civil Aeronautics Board and the Department of Transportation in their reports to you on these bills, the Bureau of the Budget is unable to recommend the enactment of H.R. 9227 or H.R. 12831.

Sincerely,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

CIVIL AERONAUTICS BOARD,
Washington, D.C., June 19, 1970.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your letter requesting a report by the Board on H.R. 9227, a bill "To amend the Federal Aviation Act of 1958 to provide for the certification of air freight forwarders."

H.R. 9227 would expressly authorize the Board to issue certificates of public convenience and necessity to air freight forwarders to engage in air transportation. Under the legislation, the Board could grant a certificate to a new applicant only if it finds, among other things, that the transportation is required by the public convenience and necessity. But most existing forwarders, who hold exemption authority for an indeterminate period, would be granted certificates upon timely application.

If enacted, H.R. 9227 would radically change the Board's present system for regulating air freight forwarders. At present, under its Federal Aviation Act § 101(3) power to relieve air carriers not directly engaged in the operation of aircraft from the provisions of the Act to the extent required by the public interest, the Board has granted a general exemption governing air freight forwarders' operations. The exemption regulation requires each air forwarder to obtain an operating authorization as a prerequisite to operation. Although each applicant for operating authorization must now demonstrate that it is capable and that its operations will not be inconsistent with the public interest, it is not required to show that there is a "need" for its services, as contemplated by H.R. 9227.

The Board's basic position on proposed legislation like H.R. 9227 is spelled out in its May 21, 1964 report to your Committee on H.R. 4181, 88th Congress, which is substantially identical to H.R. 9227. Stating that it was unable to endorse the enactment of H.R. 4181, the Board noted that (1) it had no information indicating that failure to obtain certification had hampered the development of the air freight forwarder industry, (2) it was authorized to certificate freight forwarders if the public interest required such action, and (3) it could alter regulations governing the issuance of freight forwarder authorizations to the extent required

by the public interest. Subsequently, on July 1, 1967, the Board stated in a report to your Committee on H.R. 4859, 90th Congress, which is also similar to H.R. 9227, that the Board was reconsidering its position in connection with its then current study of the air freight forwarder industry. The study, published in 1968, serves to reinforce the Board's prior assessment of the situation in the air freight forwarder industry and does not suggest that certification is needed or desirable at this time.

For these reasons, the Board adheres to the views expressed in its May 21, 1964 letter and is therefore unable to endorse enactment of H.R. 9227.

The Board has been advised by the Bureau of the Budget that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

WHITNEY GILLILLAND,
Acting Chairman.

DEPARTMENT OF TRANSPORTATION,
OFFICE OF THE SECRETARY,
Washington, D.C., June 22, 1970.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate, and Foreign Commerce,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of this Department on H.R. 9227, and H.R. 12831, similar bills, "To amend the Federal Aviation Act of 1958 to provide for the certification of air freight forwarders."

The bills would add to section 101 of the Federal Aviation Act of 1968 (49 U.S.C. 1301) definitions of the terms "air freight forwarder" and "air freight forwarding." The bills also would amend section 401 of that Act (49 U.S.C. 1371) to provide for certification by the Civil Aeronautics Board of air freight forwarders on the basis of fitness and public convenience and necessity, but they would allow freight forwarders, presently operating under CAB exemptions authorization, to temporarily continue their operation. Finally, the bills would provide that an air freight forwarding certificate would generally designate only the geographical region or regions within or between which that service would be rendered. The Department of Transportation recommends against enactment of this legislation.

As your Committee is aware, the air freight forwarding industry has developed to its present state within a minimum degree of regulation by the Board. Under present law the Civil Aeronautics Board may issue an operating authorization to an air freight forwarder who demonstrates its capability and that its operations would not be inconsistent with the public interest. In contrast to the proposed bills, air forwarders are presently relieved from establishing that their services are "required by the public convenience and necessity," i.e., that they are needed. Since this freedom from detailed regulation results from the use of the Board's present power to exempt indirect air carriers from some or all of the regulatory requirements that might be imposed under the Federal Aviation Act, the Board remains free to change the regulatory requirements as circumstances require. By contrast, the provisions of these bills would impose specific statutory standards for entry into the air forwarding industry which could not be generally modified or flexibly administered. While similar provisions exist in other regulatory laws, notably in Parts II and IV of the Interstate Commerce Act, we are not aware of any compelling reasons for imposing similar controls in this industry. Since the air cargo industry is still in its developing stages, we believe that the liberal and enlightened regulatory philosophy presently exercised by the Board should be continued.

The Bureau of the Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report for the consideration of the Committee.

Sincerely,

JAMES A. WASHINGTON, Jr.,
General Counsel.

Mr. FRIEDEL. Our first witness this morning will be the Honorable Spark M. Matsunaga, our distinguished colleague from the State of Hawaii.

Welcome, Mr. Matsunaga. Proceed as you see fit, sir.

STATEMENT OF HON. SPARK M. MATSUNAGA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF HAWAII

Mr. MATSUNAGA. Mr. Chairman and members of the subcommittee, I thank you for this opportunity of appearing before you and expressing my views on H.R. 10687, a bill which would amend the Federal Aviation Act of 1958 to grant full certification status to the airfreight forwarding industry.

For some years, the airfreight forwarders have had to operate under letters of operating authority which are of indefinite duration. These important members of the economy's transportation family are, in effect, denied the permanence of operation afforded by a certificate.

The certificate of convenience and necessity is an instrument of the public utility concept, and one of its salient and advantageous elements is the condition of permanence of operational authority. The certificate status for members of the air forwarding industry can be made possible only through the legislative process. That is precisely what my bill and the others like it would achieve.

I believe that it is entirely proper that full recognition of these important members of the transportation industry be made through the granting of certification. Operating as common carriers, freight forwarders perform a vital service to shippers. Coming as I do from a noncontiguous State, I am especially conscious of and sensitive to problems which confront all elements of the transportation function, and to any means by which transportation service can be assisted and improved.

In a recent talk before the Washington meeting of the Freight Forwarders Institute, Interstate Commerce Commissioner John W. Bush made a helpful observation of the freight forwarder and his function and responsibility. Commissioner Bush said:

> Freight forwarding is not so easily described or pictured. Freight forwarding is a service based upon a method of doing things. It is a very important method because it results in a rather pure form of coordination, but it is not self-defining. And although forwarders are almost as old as transportation itself, the forwarding method is not yet as well understood as it ought to be. For one thing, it is a rather simple matter to imitate the forwarder method, and the industry does have its imitators. *The basic ingredient of common carrier freight forwarding is the assumption of full responsibility to the person for whom goods are geing carried in forwarder service.* (emphasis added.)

If we can accept this concept that the basic ingredient of common carrier freight forwarding is the assumption of full responsibility to the person for whom goods are being carried, we can and should acknowledge that assumption of responsibility by granting the full force of the certificate of convenience and necessity to those who serve in this capacity. Accordingly, I urge the Subcommittee to give this legislation its early favorable consideration.

Thank you very much.

Mr. FRIEDEL. Thank you, Mr. Matsunaga, for sharing your thoughts with us today. Are there any questions? If not, then thank you again, sir.

Mr. MATSUNAGA. Thank you, Mr. Chairman, it has been my pleasure.

Mr. FRIEDEL. Our next witness this morning will be the Honorable Whitney Gillilland, Vice Chairman of the Civil Aeronautics Board.

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STATEMENT OF WHITNEY GILLILLAND, VICE CHAIRMAN, CIVIL AERONAUTICS BOARD

Mr. GILLILLAND. Good morning, Mr. Chairman and members of the committee.

I have a prepared statement, Mr. Chairman, which I will read subject to your approval.

Mr. FRIEDEL. You may do so.

Mr. GILLILLAND. I appreciate this opportunity to present the Board's views on H.R. 9227, H.R. 10687 and H.R. 12831. These bills make express provision for issuance of certificates of public convenience and necessity for airfreight forwarders to engage in air transportation. We understand their purpose to be to grant grandfather certificate authority to most existing forwarders, and to require or encourage the Board to issue new forwarder certificate authority only upon proof of public convenience and necessity. In other words, the bills propose a system of licensing of airfreight forwarders in a manner similar to the present certification of direct aircarriers.

Although under present law the Board could effectuate a certificate system applicable to forwarders, the Board has never believed that it should do so. Rather, forwarder operations are governed by a general exemption regulation. This regulation is issued under the authority of section 101(3) of the Federal Aviation Act, which was express designed to permit the Board to license airfreight forwarders without the necessity for certificate proceedings. That section provides that the Board may relieve air carriers not directly engaged in the operation of aircraft from the provisions of the act to the extent required by the public interest.

The exemption regulation requires each air forwarder to obtain an operating authorization as a prerequisite to operation. Such operating authorizations are issued without hearing and with a minimum of procedural steps. They are effective for an indefinite period of time. On the other hand, although the authorizations may be suspended without hearing when required in the public interest, they may not be revoked except after notice and hearing.

In effect, the regulation provides for free entry for all qualified forwarders, other than those persons whose affiliation with other forms of transport are found to disqualify them because of conflicts of interest. In other words, a public "need" for the services does not have to be demonstrated. Under a certificate system, future applicants would have to demonstrate such "need." Thus, the certification of forwarders contemplated under the proposed legislation would radically change the Board's present system of forwarder regulation.

It might be helpful at this point to review, rather briefly, the bases for the Board's conclusion that freight forwarding operations should be authorized by way of an exemption rather than by certification. The airfreight forwarder industry came into being subsequent to World War II. With the transition of our economy to a peacetime basis, there was a realization of the need of forwarder services to fill in the void between air express and airfreight service that was being initiated. As a result, a number of applications were filed with the Board seeking authority to engage in airfreight forwarding service.

In 1948, the Board instituted an investigation for the purpose of determining whether airfreight forwarding operations should be authorized, and, if so, the type of authority that should be granted. As a result of the investigation, the Board concluded that letters of registration should be issued for a 5-year period exempting domestic airfreight forwarders from the provisions of the act so as to authorize operations by them as indirect air carriers. The Board reached a similar conclusion in 1949 with respect to international airfreight forwarders.

In both instances, the Board concluded that freight forwarding operations should be authorized by way of an exemption regulation rather than by certificate. The bases for this were the difficulties that would be encountered in attempting to fix a route pattern for freight forwarders by points or areas as required by the certification procedures, and the need for flexibility in meeting shifting transportation requirements as airfreight forwarding techniques were perfected. In still later proceedings, the Board has adhered to the view that exemption authority is the more appropriate method of authorizing operations.

Moreover, present operating authorizations are of indefinite duration. Such authorizations are designed to enhance the status of the forwarders and to facilitate their ability to obtain capital for the expansion of their operations. In other words, the form of operating authority which the Board has provided does give freight forwarders a stable form of operating authority for their protection. The method of regulation does not, however, protect them from competition since, as previously indicated, the field is open to virtually all qualified applicants.

As noted, the Board's policy with respect to granting authorizations to airfreight forwarders and international airfreight forwarders has been one of permitting maximum competition and opportunity to enter the field in order to provide for the full development of air cargo. In contrast to H.R. 9227, H.R. 10687 and H.R. 12831, the Board has not required a showing of "need" with respect to the individual forwarders, but has imposed minimal requirements consistent with protection of the public interest. The Board has, nevertheless, reserved the right to deny applicants whose operations directly or indirectly would be inconsistent with the proper development of air transportation.

Prior to July 1, 1967, the Board consistently stated in reports to your committee that it was unable to endorse legislation providing for the certification of airfreight forwarders. The Board noted in such reports that it had no information indicating that failure to obtain certification had hampered the development of either airfreight forwarders or international airfreight forwarders. The Board also noted that it was authorized to certificate freight forwarders if the public interest required such action. Further, the Board indicated that it could alter regulations governing the issuance of freight forwarder authorizations to the extent required by the public interest.

On July 1, 1967, the Board stated in a report to your committee on legislation similar to the pending bills that it was reconsidering its position in connection with its then current study of the airfreight forwarder industry. This study, which was published in 1968, serves to reinforce the Board's prior assessment of the situation in the air

freight forwarder industry. As indicated by the study, and subsequent data, there has been a growth both in the number of forwarders and in the amount of freight handled by them. In contrast to 11 companies authorized to engage in airfreight forwarding as of June 30, 1949, there are now 197 authorized forwarders. Thirty-seven of these hold domestic authority, 35 hold international authority, and 125 hold both domestic and international authority.

The combined domestic and international forwarders' revenue from airfreight forwarding has increased from $22 million in 1957 to $298.3 million in 1968. In terms of traffic, the forwarders consolidated 416,651 tons in 1968 as compared with 66,000 in 1957. The industry's contribution to airfreight development has also increased dramatically since 1961. The percentage of airline tonnage generated by airfreight forwarders increased from 17.8 percent in 1961 to 26.21 percent in 1968. Gross airfreight forwarding revenues have increased 13.5 times, total assets invested in the industry have almost tripled, and net profits from domestic operations have increased more than 150 percent. Both domestic and international shipments handled by airfreight forwarders have increased more than 300 percent.

We believe that the foregoing data indicate that the Board's past policy has served the industry well, and should not be precipitously changed. Specifically, we are not persuaded, in light of this record, that existing forwarders require the protection against competition afforded by a certification system. Nevertheless, as I previously noted, the act is sufficiently flexible to permit the Board to issue certificates to the freight forwarders if such action appears to be in the public interest. In short, the Board believes that regulation and development of the airfreight forwarder industry will continue best to be served by regulation through the Board's exemption powers rather than by the certificate proceedings contemplated in the proposed legislation.

It is true that most existing forwarders holding exemption authority for an indeterminate period would be granted grandfather certificates upon timely application under the provisions of the bills. Nevertheless, the issuance of certificates to either existing or future forwarders would require formal adjudicatory proceedings similar to those involved in authorizing direct air carrier services. But most important, a certification system would conflict with the Board's policy of free entry into the field. The Board considers that its free entry policy is necessary for the full development of air cargo.

For these reasons, the Board does not believe that certification in the airfeight forwarding industry is needed or is desirable at this time. The Board does not, therefore, endorse enactment of any of these bills.

Mr. FRIEDEL. Thank you, Judge, for your very fine statement.

As I understand it, since 1948 or 1949, you just granted licenses to operate as freight forwarders because of particular need. You also cite in your statement how the industry has grown and is only in its infancy right now.

Wouldn't it be better if freight forwarders were certificated? Not to avoid competition, but so they would have more security in what they are doing considering their big investment, they could probably raise more capital and provide better equipment and service if this was done.

I think from your figures, it does show that the industry is growing and it should be protected.

Mr. GILLILLAND. There are two ways, undoubtedly, of looking at it. There isn't any doubt that the airfreight forwarders perform a most valuable public service. We have viewed it as important that the industry expand into and exploit new markets, and exercise resourcefulness in promoting airfreight. I suppose that under a certification system, under the security of a certification system, it is conceivable that some forwarders might be more able to do that; that is, they might be more financially secure.

On the other hand with a relaxation of competition, their motivation to do it might be somewhat impaired. Competition is a pretty good driving force. Protection tends to impair it.

Of course, we have this certification system and a careful licensing system of that sort that is used as far as the direct air carriers are concerned. That is true. But as to most businesses, even where licensing is imposed, entry is not restricted. I think generally that when you impose restricted entry on an industry it does tend to impair competition and lower the incentive to expand.

There are some other things here, too. Among them the difficulty, whatever the present statutory authorizations may be in this regard, or what they might become under legislation, in defining the scope of a certificate —if one were to be granted—in a way that would not bring about some limitation on the incentive of the carrier to expand.

Undoubtedly, such a requirement would create a considerable burden on the carriers, on the persons who wished to enter the field, in the way of long, drawn out certification proceedings, which would contested, I suppose in many instances.

Mr. FRIEDEL. You did mention in your statement that there would be a grandfather's clause for the 197 that are authorized today. I gather from your statement that you would require some amendment if we can pass this bill.

Mr. GILLILLAND. I am not sure about that. Of course, we think we have considerable authority to proceed by certification now, if we thought that were the appropriate thing to do; that is, if we thought that it would facilitate the development of air transportation.

I think if we should reach the conclusion that certification were the appropriate move, we then would give the adequacy of the present statute a little closer scrutiny, as to whether or not further legislation would be required in order to do it in the best way. We don't advocate that now at all. We just don't think certification is proper in this particular industry.

Mr. FRIEDEL. With 197 companies, right now I imagine you can show there is competition, and the public is being served, but they want protection, too. That is what I gather the bill does.

Mr. Adams?

Mr. ADAMS. Thank you, Mr. Chairman.

I notice on page 2 of your statement you refer to the fact that you have free entry and you allow just about everyone in except those who might have a conflict of interest in obatining an authorization or a license.

Is it true, as I understand it, that some of the major motor carriers, at least two of the major railroads and a major bus line have applied for licenses to go into the air freight forwarding business?

Mr. GILLILLAND. Yes, it is, Mr. Adams. We have granted temporary authority to some long-haul motor carriers. They have it now.

Mr. ADAMS. That is the same kind of authority that the people who are in the business have. Is that correct?

Mr. GILLILLAND. Yes, in general. But it is limited in term. We tend to regard this as experimental. The license is granted to these carriers for 5 years duration rather than indefinite as the other carriers have. Their reporting requirements are more severe in order to let us monitor what their actual behavior is, whether or not they do in fact promote airfreight as distinguished from surface freight.

But, fundamentally, the authority is similar.

Mr. ADAMS. What about the major railroads and the bus lines? Have they been granted authority yet? I understand they have applications pending.

Mr. GILLILLAND. I think we have some applications pending. I don't believe any authority has been granted to them.

Mr. ADAMS. The thing that worries me about it, and the reason we have these bills before us, is that as your testimony shows the industry has grown from approximately 11 companies to over 197 which means you are now getting into the situation we had with direct air carriers which led to certification with some very small operators getting into the field at some point you have to begin to stabilize these before a very serious crisis occurs.

It seems to me that this is the usual certification situation where the Board reaches out and says, "Well, now, after a number of years, let's try to stabilize this industry as we have done with air carriers."

Don't you think you have reached that point with this industry?

Mr. GILLILLAND. No; conceivably we might sometime. We have right now a good deal of uncertainty concerning the authority of the Board and the Interstate Commerce Commission with regard to pickup and delivery of freight in areas approximate to the great air terminals in this country.

That is the way most airfreight moves, through a limited number of large markets.

The advantage, of course, of airfreight is just one, and that is speed. So, the importance of the connecting service with trucks at these freight air terminals is great, very great. I don't know that the problem is particularly critical as far as the immediately adjacent shippers and the consignees are concerned, that is, people within a very few miles of these great air terminals.

But it is as to outlying communities and smaller cities that may be 50, 75, or 150, or 200 miles away from the terminals.

What I am going to say at this point may be a little bit dangerous. I have some conflict in my own views about it. But I don't think that airfreight always lends itself well to connecting services, at the great air terminals, with the smaller air carriers. The schedules don't always mesh very well. Sometimes they do, of course. This depends on happenstance, more or less.

Onward movement is ordinarly best facilitated by connection by truck. As I say, we have some uncertainties as to our areas of authority in this field and the ICC does likewise.

I think after these uncertainties get settled down, if they ever do, that we might have another look at this thing. But right now, I believe it is of maximum importance to maintain the greatest motivation that can be for good truck services to the outlying communities.

Industry tends to move out there. It is a good thing for many reasons. It tends, I think, to relieve the congestion of the great cities. As these smaller communities grow, they provide better places for people to raise children and raise families.

There are two ways of looking at this, of course: Under a restricted policy of entry that might enhance the financial status of the existing forwarders, they could be in a better position to finance expansion. But on the other hand, they might lose their motivation to do so considerably; that is, if they already had a good thing in the markets that could be served conveniently and profitably, customers that could be served conveniently and properly that were approximate to the airport, they might be perfectly content to continue to do that. They could see a good return and not then be as bold and venturesome to reach out and expand the services to the outlying markets as they are under the policy we now follow; or as the entrepreneur who might want to start in this kind of business in an outlying market and thought he saw a chance for entry.

Mr. ADAMS. Don't we have some real problem right now in the major hubs with the protection and expedition of freight through them? I am thinking particularly of Kennedy Airport. This committee has had testimony from a number of different people concerning the industry and the conditions in the connecting link. I don't know whether the ICC doesn't have jurisdiction or you don't have jurisdiction, but conditions of movement of freight once it gets off of the airplane in the major New York airport has been chaotic to the point where an embargo has been put on by some in private industry who say they won't ship in there because they have lost too many goods. I understand that happened with furs in New York.

These connecting links are what we are trying to look at.

Mr. GILLILLAND. There has been a lot of trouble with furs. I don't know whether that has been completely eliminated or not. There has been a great deal of pilferage around Kennedy in the movements of air freight back and forth to the airport.

Mr. ADAMS. Airfreight not only involves speed, but it also involves the more high cost goods. In the past you have been able to depend upon airfreight getting them there quickly, and if they are fairly light weight and were very expensive, you could depend upon these goods being both expedited and protected.

Mr. GILLILLAND. That is true.

Mr. ADAMS. Right now this seems to be a severe problem. If there are 197 companies operating, and there are 22 major hubs in the country, and you indicate that most of this traffic goes between these major hubs, there must be an awful lot of people stepping on one another in those major terminals.

Mr. GILLILLAND. There aren't that many in any of the major terminals. I have in mind 30 or so operating in and out of Kennedy and a few of those handling most of the business. But I think these trucks are able to move from their own terminals outside of the airport directly to the plane in many instances. I think that is the way they work.

I don't believe that the number of freight forwarders involved will be significant in that regard.

Mr. ADAMS. We have agreed with the board in the past that when one of these new industries starts you basically want a free entry

situation, to last for a number of years so that everybody that wants to get into the field does and you begin to pretty well cover the country.

But at some point, you arrive at a situation where if you don't go in and regulate it, because you got everything else around it regulated, you get either the giants in the other fields of transportation coming in and taking over, which was what my first question was about, or you have reached our optimum point on the number of people who come in by free entry, and from then on you just have people who really can't compete against the established operators, coming in on a short-term basis and then getting out with considerable losses to the shippers that are involved and so on.

I am trying to get from you some idea of the board about how much bigger this ought to be, and if you think it should be bigger with new people coming in, whether you are going to keep out the buslines and the railroads and the major truckers from having authority.

Mr. GILLILLAND. You understand that the license, the exemption that we grant to the air freight forwarders does not limit their area of operations.

Mr. ADAMS. They are areawide throughout the United States.

Mr. GILLILLAND. This is true.

Mr. ADAMS. That seems to be all right, doesn't it?

Mr. GILLILLAND. I think so but that emphasizes the problem of limited entry.

Mr. ADAMS. We are not talking about the certification route. We are looking at regulations on: are you financially capable of shipping things so the shipper is protected, are you financially capable of protecting your goods as they move in and out of the terminals, do you have a conflict of interest of wanting to carry some other kinds of freight, in other words, another business where you are using airfreight as an adjunct?

That is the sort of thing that, as I understand it, we are trying to look at, and not to set up necessarily a point-to-point regulation system. I don't think that has been recommended by anyone.

So, you wouldn't have to take apart the system you have now. You would simply be able to keep better track of your 197 companies that are there.

Mr. GILLILLAND. I think that if we had a policy of limited entry, that whether or not the board defined the authority by specific markets or not, we would tend to get into that sort of situation. Once a carrier had developed a system that it thought of as a good thing it would tend to lose its motivation to expand into other markets and to give smaller markets the same kind of service.

Why should they, if they already have a profitable operation underway?

So long as you have reasonably unlimited entry, that is for the fellow, the new man looking for a chance to get into the business to make some money, and who may or may not do it, and successful businesses, lots of them, are founded on failures of others, the policy would constantly tend to bring more and more markets in with service.

I don't know that any pilferage that exists now related to the number of carriers in any particular way, or that the larger forwarders have been more free from that kind of trouble. At least hijacking. It has affected all carriers moving in and out of the New York markets.

Mr. ADAMS. How far out of the terminals can or does your jurisdiction go with regard to authorizing airfreight forwarder to send trucks and pick up materials and consolidate them and bring them in and place them on airplanes?

I can see where you are probably in pretty direct, I won't say conflict, but you have got a dual jurisdiction with both the railroad freight forwarders, the motor carriers and maybe even ports. How do you do that?

Mr. GILLILLAND. Transportation by truck that is, under the statute, "incidental" to air transportation is exempt from Interstate Commerce regulation. It is in determining what that "incidental" is that the trouble comes about. For a great many years, the Board has used a 25 mile radius as a rule of thumb and has accepted tariffs for air transportation that included pick up and delivery services within that 25 mile radius.

It became apparent some years ago that this was not very realistic. The Interstate Commerce Commission has the statutory authority to determine this; that is, when licensing by them is required. But we tried to work out an accommodation that brought in the realities a little better and that would extend the pick up and delivery zones where there was a showing of normal flow of pick up and delivery services over greater distances.

I suppose in a dozen, maybe 20 instances, the Board has authorized tariffs at greater distances, in some instances as far as 75 miles. And the Interstate Commerce Commission in all instances up to the present has recognized the services as incidental to air transportation.

There is some uncertainty about it, though, that is presently coming into focus.

The ICC licenses motor carriers to perform motor transportation of freight that is transported by air. It is between carriers of that type and the motor trucks, that are used by the airfreight forwarders and by the direct air carriers for pick up and delivery where the conflict arises.

Mr. ADAMS. I was going to say it seems to me it is who gets there first with the bill of lading in these cases. In other words, if a motor carrier drives up to your front door and puts on a bill of lading and guaranatees delivery within 3 days and he takes it down and delivers it and makes an arrangement with the airline and on a joint tariff basis carries it by air and it gets to the other end, why then it is motor carrier.

If an airfreight forwarder goes down and gets it, it is air freight. This is what bothers me about not having a certifying procedure that is going to keep or establish some kind of position between the two.

Otherwise, I don't know what the difference in joint rates between motor carriage and air carriage out of these major terminals is. But it would seem to me if you had major motor carriers coming in here they would run the airfreight forwarders out of business pretty fast.

Mr. GILLILLAND. I don't think the question of whether the carriers held certificates from us—that is, the airfreight forwarders—or whether they operate by exemption would affect the thing that we are talking about except in the degree that it might lessen the incentive of the airfreight forwarders to expand and to serve the lesser markets, which I think they should do.

The way we tend to look at it is we have a duty now under the statute to promote air transportation. That is written right into our statute. But we don't think that this necessarily means that air transportation is best promoted by doing it at the expense of the other forms of transportation. This is an instance where this is true. As far as airfreight is concerned, it won't move by aircraft from origin to destination. This doesn't occur.

It has to move at both ends by some other means, usually by truck. Some of it might conceivably move by rail or somebody might pick it up and have it in his hand. But there has to be this complementary means as far as aircargo is concerned at both ends.

Just what motor transportation incidental to air transportation is, I don't know. But I am quite sure of this: That nobody ships by airfreight except to get speed. That is the reason he does it. So that to my mind, the air transportation would always be the dominant form when it takes place in the chain. Otherwise, it won't occur. If speed is not important the cargo will move by truck or by rail all the way through. It is the dominant form and fundamentally any movement by truck before or after is incidental to air transportation.

This is perhaps a personal view, but I believe it is correct and that the important thing is to have the connecting service occur quickly, that is, a truck picks up the air shipment at the time the plane arrives and takes it on to the customer. The airfreight forwarders to this magnificantly. They do a splendid job just that way and they do a good job of picking up the freight and delivering it to the aircarrier for transportation.

They are a most important link in the sequence. We don't want anything to occur that is going to interrupt the smoothness of operation that now exists. But we do think that the industry ought to be in a position where there will be maximum expansion and the fluid, if it is a fluid, of motivation will continue to flow out and fill up all the areas where there is a potential.

I want to make it clear that we certainly have no hostility to the airfreight forwarders. It is quite the contrary.

We think they are a vital unit in this sequence.

Mr. FRIEDEL. Thank you very much, Judge Gillilland. I hope we come to some conclusion on this bill.

We have four witnesses from the Air Freight Forwarders Association of America, Mr. Louis P. Haffer, executive vice president and counsel. Mr. James F. McCrohan, president of the association and president of Novo Air Freight; Mr. M. G. Montgomery, first vice president, west of the association and president of WTC Air Freight; and Mr. Martin Shulman, first vice president, east of the association and president of Shulman Air Freight.

You may proceed.

STATEMENT OF LOUIS P. HAFFER, EXECUTIVE VICE PRESIDENT AND COUNSEL; ACCOMPANIED BY JAMES F. McCROHAN, PRESIDENT; M. G. MONTGOMERY, FIRST VICE PRESIDENT, WEST; AND MARTIN SHULMAN, FIRST VICE PRESIDENT, EAST; AIR FREIGHT FORWARDERS ASSOCIATION OF AMERICA

Mr. HAFFER. Mr. Chairman, Congressman Adams, the members of the airfreight forwarding industry are grateful for this opportunity

to appear before you in support of H.R. 12831. The other two bills which are being heard today are somewhat similar. There are minor changes, H.R. 12831 being the latest version of the bill.

Therefore we are appearing in support of that particular bill Mr. Chairman.

I have a written statement here which I am going to summarize. I would like with your consent to have my prepared statement included in the record.

Mr. FRIEDEL. Your full statement will be included in the record following your oral presentation, Mr. Haffer.

I appreciate your summarizing it, because some of them are very lengthy.

Mr. HAFFER. I have only one or two comments on the Board position to express here today. I believe most of the reasons advanced by the Board will be taken care of in the testimony of the witnesses. But I have only one brief comment upon the prepared statement of the Board to the effect that the Board believes that its policy of free entry should not be changed "precipitously."

Of course, Mr. Chairman, you and Mr. Adams are aware that we have been under exemption for 23 years. To me that statement is like a man who after 23 years of courting a woman, upon being pressed by her for the security of marriage says, "Don't rush me."

This industry has been in this business operating under the exemption authority for all of these many years and it believes that the whole theory of our transportation system is that after an experimental period which has clearly been long enough in this industry, those who survive and those who establish their need by virtue of their continuing existence are then brought into the regulated family of transportation.

We don't believe either that the motivations of the airfreight forwarding industry might be impaired by lack of competition as a result of certification. There are by our count 199, by the Board's count 197, which certainly seems to be enough to take care of any effective competition for the forseeable future.

So far as the secondary points are concerned practically all of this industry recognizes that the major development of airfreight will take place in the foreseeable future at the secondary and tertiary points and it is there that they have for the past number of years been investing their money, their time and energy in developing the markets for airfreight.

This industry well recognizes far from drawing in its horns and keeping themselves in the metropolitan areas where the size of the pie reaches a final and ultimate size that the future of developing more freight is in getting beyond the major metropolitan centers.

Of course, to the extent that certification might possibly have a remote tendency to impair competition which we doubt, the same thing could be said of the direct air carriers.

If the argument was made when they were certified many years ago that by certification they might tend to downgrade the quality of their service, then we would not have certificated airlines today.

The whole theory of our regulation and system of control is to certify after a substantial period of experimentation. We say that 23 years has been the longest period that any mode of transportation has been in an experimental state before being brought into the regulated system of transportation.

The airfreight forwarding industry does have a long history of service, Mr. Chairman. It goes back to World War II and before. This industry encouraged and urged the Board back in the 1940's to hold hearings to determine whether they should be granted operating authority. Prior to that, there were companies and businesses acting somewhat as airfreight forwarders. But they didn't have the status of carriers and they acted either as agents of the shippers or the airlines themselves and requested status as common carriers so that they could be free of dictation from the underlying direct air carriers, that is, the airlines. They petitioned the Board to grant them authorization as airfreight forwarders or indirect air carriers.

After protracted evidentiary hearings domestic forwarders were authorized for a 5-year period beginning in 1948 and international forwarders were authorized in 1949 similarly.

At the end of those respective 5-year periods, the authorizations of domestic and international forwarders were both renewed for indefinite periods. This is where the industry is now.

It should be emphasized that in all of the hearings held before the Board, the Board decision to regulate the industry to authorize the forwarders by exemption authority, and then to renew their authority for an indefinite period was made upon findings based upon substantial evidence.

The Vice Chairman of the Board said here today the Board of course regards this industry as a vital cog in the air transportation system.

The Board authorizations were first issued and are still issued and are based upon what is called the exemption authority under section 101(3) of the act, although the Board conceded at that time that it could issue certificates under section 401 of the act, that is the section under which the airlines were authorized.

The existing regulations under which new forwarders are admitted are almost identical to what they were in 1948 and 1949. Standards for admission are minimal. No hearing is necessary. An application of admission is filed on a form supplied by the Board, and unless the Board finds it to be against the public interest, the Board automatically issues authority.

The result is just about complete freedom of industry. Practically all applicants are admitted without any difficulty. No previous experience in air, or any transportation is needed. No proof of need or of inadequacy of existing service or of shipper demand is even looked into.

The record will show that there have been very few applicants denied authority by the Board and there have been less than a handful of evidentiary hearings held under the Board procedure where protests to the applications raised serious question regarding the involvement of the applicants with and their relationships to other modes of transportation.

Thus, for about 23 years the industry has existed under an indefinite, uncertain operating authority subject to change and modification at the whim of regulatory agencies, with no standard of fitness imposed as a guide for entry, with the opportunity for unrestricted entry and yet, with full regulatory control over those already in regarding rights, practices, and relationships with airlines.

I should parenthetically note that the industry, individual members of the industry, have to file tariffs with the Board. These are subject to board suspension and the forwarders' customers must pay the rates set forth in such tariffs.

The industry is thus in the position of a public utility which is faced with the competition from any and all sources by free entry, and yet is under rigid regulatory control in all phases of its operation and with the possibility of its authority being restricted by a change in regulatory policy.

As I have noted, as of March 30, 1970, our count of airfreight forwarders consisted of 199 companies, the difference between 199 and 197 is minimal.

In June of 1967, just 3 years ago, there were only 135. At this rate of growth under the open-door policy of the board, the industry will be more than inundated with competition from every conceivable source. No person we believe could conceivably say that any more entries are necessary to offer new techniques for serving the air public or to test the competitive mettle of those already in the field.

Indeed, as the prepared statement of one of our witnesses indicates, the domestic air forwarding industry already has three times as many companies as the surface forwarding industry, participating in less than 40 percent of the revenue that the surface forwarder industry enjoys.

The witnesses here today in behalf of the industry will discuss briefly the various aspects of their operations as forwarders and the contribution which they make in assisting independent manufacturing and distributing industries in competing on equal terms with larger competitors.

They will also discuss with you why legislation of this nature is required without delay. I think some of the reasons have been brought out in the questions to the vice chairman.

I also refer to some of these reasons in my prepared statement. I should like to summarize what some of them are.

First the industry has served its apprenticeship under full regulation for 23 years and is now beyond having reached maturity. It has more than justified its place in the air transportation system.

Second, the stability that will come from the permanent authority will permit the industry, and that includes the smaller members of the industry to more readily obtain for itself at more favorable rates, the financing necessary to engage in expansion in order to serve the needs of the public better in the rapidly expanding airfreight industry that is now with us and that looms in the future.

Moreover those companies who are fortunate to have their own resources for expansion cannot reasonably expect to assume the risk of plowing their additional capital into their business with the present uncertain nature of their operating authority.

The whole airfreight forwarding industry today has many millions in capital investment in the form of terminals, communications equipment, ground handling, and delivery facilities and containers.

They employ approximately 27,000 people in various capacities. Their involvement is now substantial enough with their present indefinite tenure.

Third, permanent authority will give them more reliable and secure status in the industry among both the shipping public and the direct carriers.

Fourth, permanent authority will deter the regulatory agencies from any radical change in rules and regulations governing the airfreight forwarding industry. Although we deem it highly unlikely that the board will ever terminate the industry out of existence, the concern is not entirely this. By regulatory erosion, whether from pressures or misunderstandings or otherwise, increased restrictions can be and have been imposed upon the nature of the airfreight forwarder operations which serve to limit the contribution that the industry can make to the shipping public.

Permanent authority will, as has been noted here earlier today, stabilize the operations of existing forwarders and insure they are not further unduly hampered.

The experimental period of the airfreight forwarding industry which might warrant a radical revision of the nature of the forwarders operating authority has long since passed. The forwarder is now as necessary to large segments of the shipping public as he is to the air carrier.

Five, the extablishment of a fitness test will insure that only fully qualified applicants will be given consideration. Unqualified applicants, those who are unqualified on both a financial and experience basis, we note from our own experience cast a stigma on the whole airfreight industry, perform a disservice to the shipping public and are a major problem to the direct air carrier.

A need test will insure that the public interest will be met whenever the facts justify the admission of new entrants and will also serve to prevent encroachment on the industry by other modes of transportation which has been a serious problem in the past.

There whould be no substantial reduction in competition, obviously. In our judgment it can reasonably be anticipated that competition will increase among the economically healthy forwarders who will have permanent authority.

Although the board without specific legislative directive can in theory grant certification under section 401 of the act, it cannot grant the same kind of authority to the extent now held by existing forwarders under their exemption authorization.

But the genuis of the forwarder function is that he can move into any particular area or any particular point in order to serve the needs of the shipping public as the traffic potential develops.

The courts have said that existing section 401 requires designation of terminal points and their intermediary points, if any, in carrier certificates. Moreover, under existing legislation, even if the board granted point-to-point authority, it could not grandfather the existing forwarders in, but would have to hold hearings on each one of them to determine fitness and need.

In any event, as the vice chairman has clearly indicated today, it is clear the board will not act without a congressional mandate in the form of legislation of this nature.

Finally, the legislation as proposed will do no more than simply establish substantially the same standards for admission to airfreight forwarding that Congress by amendment in 1957 to the Interstate Commerce Act prescribed for the surface forwarding industry.

In my prepared statement which is submitted for the record, Mr. Chairman, I have referred to a number of Senators and Congress-

men who have in the past supported certification for the airfreight forwarding industry, and I should like to refer those to your attention. I will not at this time read the statements. I think they are powerful and cogent.

(Mr. Haffer's prepared statement follows:)

STATEMENT OF LOUIS P. HAFFER, EXECUTIVE VICE PRESIDENT AND COUNSEL, AIR FREIGHT FORWARDERS ASSOCIATION OF AMERICA

My name is Louis P. Haffer. I am Executive Vice President and Counsel of the Air Freight Forwarders Association of America (AFFA), the national trade association of those air freight forwarders who hold operating authority from the United States Civil Aeronautics Board.

We are appearing here on behalf of the Association-sponsored Bill, H.R. 12831, which, after 23 years of regulation, would give permanent authority to those air freight forwarders who now hold indefinite temporary exemption authority from the C.A.B., and would establish criteria of fitness and need for prospective new entrants. The Bill differs from H.R. 10687 and H.R. 9227 only in several details but they are significant. For example, H.R. 12831 would give existing forwarders 180 days instead of only 60 days to file applications with the C.A.B. after enactment of the legislation. This added time was deemed necessary because of the complexities involved in preparing the applications.

There are now 125 air freight forwarders holding both domestic and international authority; 37 holding domestic only; and 37 holding international authority only, or a total of 199 air freight forwarder companies. There are numerous additional applications pending, with most of such applicants slated to be admitted on simple, *pro forma* representations with no requirement of fitness, financial responsibility, public need or previous experience.

In addition, hearings are pending which would serve to admit whole classes of direct surface carriers into the air freight forwarding business such as railroads and household goods movers. As a policy matter, the entrance of long-haul truckers has already been approved by the Board and a number have received their operating authority. In 1966 at the behest of the nation's largest truckers, the Board instituted an investigation to determine whether such truckers should be admitted to air freight forwarding. The matter was resolved recently when the Supreme Court declined to review a decision of the U.S. Court of Appeals for the Second Circuit which affirmed the Board's determination to authorize such truckers on an experimental, limited basis. While admitting three such carriers, the Court required the Board to make sure that its entry policy would not have an adverse effect on existing air freight forwarders, whose economic viability both the Board and the Court agreed was absolutely essential to the public interest. There are presently thirteen other similar applications pending, an undetermined number of which may well be granted. In addition, two of the nation's largest railroads are seeking and will most probably obtain entry under the standards laid down by the Courts in the near future. The nation's largest bus operator is also seeking to gain entry.

At oral argument in the *Motor Carrier* litigation, the Board's counsel, although referring to the Board's theretofore free entry policy for air freight forwarders, candidly admitted that in his view the Board had been lucky over the years in that the number of entrants had not caused any great disruption in the industry. However, the number of air freight forwarders of record at the time of the *Motor Carrier* case was 105, whereas, as I have noted earlier, the number now is close to 200 and has doubled in less than five years.

The Court in the *Motor Carrier* case characterized the air freight forwarder industry as being "highly vulnerable to the effect of entry of many well-financed competitors." (391 F. 2d at 299.) Since the year of record in that case (1965), the strength of the industry, as measured by both the absolute level of profits and even more dramatically by the return on investment, has declined substantially. Profits have decreased from over $6 million then to slightly over $3 million for the industry as a whole in 1968. In the meantime, investment requirements have jumped from $38 million to $83 million, causing after-tax profit as a percent of investment to decline from 11.3% to 5.1%.

At this point in time, therefore, the number of competitors is on the rise and profitability is on the decline. And this is occurring at a time when the need for those ground and other services which, by and large, only the forwarders provide, and which involve consolidation and containerization so that the larger

and more expensive aircraft of today can be fully utilized, is increasing dramatically.

Thus, independent air freight forwarders who have spent many years of their own energy and capital in plowing the field, subject to price-cutting competition from fly-by-night unqualified entrants who come and go leaving adverse effects upon the independents and a poor reputation with shippers in their wake now find themselves be set also by the potential powerful competition from financial giants engaged in other modes of transportation. The industry believes, and we submit that any fair-minded individual must agree, that certification of the industry is long overdue and that "enough is enough."

As long ago as 1963, Congressman Torbert H. Macdonald (D.-Mass.), a member of the House Interstate Commerce Committee said:

> The very uncertainty of tenure poses problems for your industry, not the least of which is difficulty in obtaining adequate financing for growth and development to meet the ever-increasing demands made upon you by the expanding air freight market. It would thus seem only natural that your industry whould seek that security which comes from certification; and I would say that you have served your apprenticeship long enough under exemption authority to now warrant your being accorded permanent status and full industry participation through certification like all the other air carriers. Justice will be served when you are accorded this privilege so that you may be assured of the right to maintain your position in the air industry and to share in the rewards of the business you have been so instrumental in developing.

The Chairman of the Subcommittee holding these hearings (Brock Adams D.-Wash.) has himself stated:

> The long prevailing theory of Congressional regulation of various modes of transportation has been, once the public need for service has been established and the industry offering the service has reached maturity, to certify it so that it can develop the stability necessary for future growth and development within the publicly regulated system. I am convinced that your industry has met these tests. Now the Congress should move on the question of permanent status and certification for your industry.

Senator Howard W. Cannon, member of the Senate Interstate Commerce Committee, has said:

> For over twenty years you have invested your capital, your energy and your experience in a field where free entry has been the prevailing regulatory rule. It seems to me that it is now high time you were given the guarantee of permanence and protection that other established modes of transportation have long ago received from the Congress. Such action would not simply be in your own self-interest; it can only redound to the advantages of the shipping public, of the airlines and of the entire air transportation industry.

Similar views have been expressed over the years by Senator Warren G. Magnuson (D.-Wash.), the late Senator E. R. Bartlett (D.-Alaska), Congressman John D. Dingell (D.-Mich.) also a member of this Committee, and Congressman F. Bradford Morse (R.-Mass.).

In 1965, hearings were held (89th Cong., 1st Sess.) on a similar bill before Subcommittee No. 4 on Distribution Problems of the Select Committee on Small Business of the House. Following those hearings, the Subcommittee, which of course did not have power to initiate legislation in this field, recommended certification legislation (House Rept. No. 2342, 89th Cong., 2d Sess.).

I should like to review briefly with you the long history of regulatory control by the C.A.B. of all air freight forwarders and to indicate the conditions and authority under which the forwarders have operated for the last 23 years and under which they still operate.

Regulatory control by the C.A.B. of all freight forwarders commenced with the Board decision in the Domestic Air Freight Forwarder Case in September 1948 (*Air Freight Forwarder Case*, 9 C.A.B. 472). Although there had been air cargo "expediters" engaging in performing service functions on behalf of air shippers long before World War II, the close of that conflict saw a fantastic growth in their number in order to meet the needs of the shipping public. These companies acted either as agents of shippers or agents of carriers and received their compensation in various ways. In order to obtain status as common carriers so that they could fulfill their primary obligation to their shipping customers through freedom from underlying direct air carrier dictation and control—an independence which was inconsistent with their then status as air carrier *agents*—and in order to be

able to consolidate—a function which is also inconsistent with an *agency* relationship—the members of the industry urged the Board to institute a proceeding to bring the industry under regulation. Upon the institution of this proceeding, a number of members of the industry filed applications for certificates of public convenience and necessity as air freight forwarders under section 401 of the then Civil Aeronautics Act (the certification section). After extensive evldentiary hearings, the Board decided to assume regulation over the industry and to issue authority to them upon a finding that there appeared to be a shipper need for their services and that they could contribute to the overall generation of air cargo for the direct air carriers. One of the compelling needs of air forwarder service was the delays which the Board found had occurred while air cargo was in a ground status and the consequent need for prompt and efficient ground handling of air cargo to correct this situation. The Board said of this that "the experience of the freight forwarders in this phase of transportation should result in improved air cargo service," (p. 496) and should help to rectify a condition in which "air cargo spends a disproportionally large share of its transit time in a surface status." (p. 497.)

In deciding to authorize air forwarder operations, the Board stated:

> The Nation-wide service offered by air freight forwarders will permit a manufacturer in many instances to deliver to one agency all his air freight even though it be destined to widely scattered points. Congestion of his shipping platform will be relieved because of the single pick-up service, and he will receive immediately copies of the forwarder's bills of lading for the complete transportation of all the separate packages or shipments. Contacts with, and separate bill of lading for, the various airlines by which the merchandise is to be carried will be made by the forwarder and he will also make arrangements with surface carriers so that necessary off-airline transportation may be provided. The shipper will be relieved of the inconvenience and responsibility of dealing with a large number of airlines daily, thus eliminating the time and expense incident to checking schedules, making space reservations, arranging routings and procuring information relative to tariffs, connecting surface transportation, and delivery.
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> The forwarder will provide for the shipper the advantage of flexibility because he will be able to select the direct air carrier immediately available for handling the shipment. His selection of a carrier will not be made until at or near flight time and thus he will be able to avoid delays that may occur at the originating airport due to space limitations or interruptions in service of one carrier. On interline cargo he will be in a position to select the speediest combination of schedules of available carriers, and through coordinated air and surface transportation can handle expeditiously off-airline shipments and cargo grounded because of flight interruptions . . . he will be able to deliver his bulk lot of cargo to the airline loading platform. His manifest will afford a description of each package as to size, weight, and content; he will lot-label all packages and give full shipping instructions as to handling, transferring, and airport delivery. He will have prepared a complete waybill which the carrier's representative need but initial. At airport destination the forwarder will relieve the air carrier of the numerous details of sorting and delivering the shipments, and collecting transportation and other charges. (9 C.A.B., pp. 492, 493.)

While the Board conceded in that proceeding that certificates of public convenience and necessity under section 401 of the Act "could be granted" for such service, it decided instead to grant operating authority in the form of a five-year "exemption" pursuant to the then section 1(2) of the Act (now 101(3) of the Federal Aviation Act) with the issuance of a so-called "Letter of Registration" to each successful applicant indicating its "exemption." Under that section of the Act, the Board "may by order relieve air carriers who are not directly engaged in the operation of aircraft in air transportation from the provisions of this Act to the extent and for such periods as may be in the public interest." The Board thus set up a five year "exemption" for a class of domestic indirect air carriers, otherwise known as domestic air freight forwarders. To implement this decision it issued contemporaneously a Regulation, now Part 296 of its Economic Regulations, setting forth the regulations to govern the industry as well as the criteria for admission.

These standards for admission are minimal; they have not changed substantially over the years. No hearing is necessary. The prospective entrant files an Application on a form supplied by the Board, and unless the Board finds the Application

to be against the public interest—a vague and undefined standard—it automatically issues authority. The net result is that there is in practical effect complete freedom of entry. There have been only a few evidentiary hearings held under this procedure where the nature of the Applicants and their involvement with or relationship to other modes of transportation were raised by opponents of the Applications and hearing proceedings were instituted. The run-of-mil Applicant, representative of most of those applying, is admitted quickly and without difficulty. No minimum financing is required. No previous experience in air or any transportation business is necessary. Of course, no proof of need, of lack of existing adequate service, of shipper request or demand, are elements even considered by the Board.

The Board's reasons for originally granting authority by exemption rather than by certificate after hearing, and "grandfather" certificates to existing forwarders, were several. As stated in the decision earlier referred to, the board felt "it [exemption authority] will be more appropriate and in the public interest at the present stage of the air forwarder industry" and "it also seems clear that the next few years will constitute a period of experiment in air forwarding. Essentially this experiment can be performed best, we believe, under the aegis of a general relief order in the form of a regulation exempting forwarders from certain provisions of the Act rather than under a system involving the issuance of certificates of public convenience and necessity." (p. 499.)

An additional reason given by the Board for regulating the industry by exemption rather than by certificate was that under the certificate section [401] the Board would have to establish terminal and intermediate points, that is, fix a point-to-point route pattern and grant certificates limited only to such points whereas, if such were established "it would be inflexible to a large extent and the need to meet shifting transportation requirements, as the air forwarder experiment develops and air forwarding techniques are perfected, would be frustrated and hampered by the time and expense necessary to obtain amendments to certificates of public convenience and necessity." (p. 499.)

We agree with the Board, as we shall note later, that the essence of the air forwarder's service to the shipping public requires that he be unhampered by any so-called point-to-point limitations, so that he may be free to service air freight in the interest of the shipper and the direct air carrier at any location where the need may occur. It is this very restriction in section 401 that is a reason why the Board cannot grant the necessary kind of certification that the public interest and the industry require, and why amendatory legislation is necessary.

At the end of the five year temporary authority, the Board instituted another proceeding which it called "a re-examination of the role of the indirect air carriers in the domestic air transportation system" (*Air Freight Forwarder Investigation*, decided August 30, 1955, 21 C.A.B. 536). After evidentiary hearings the Board found:

> (*a*) that there has been a substantial and increasing acceptance of the forwarder's services by the shipping public;
>
> (*b*) that the forwarders have handled many shipments at rates lower than charged by the airlines;
>
> (*c*) that they have provided efficient ground handling services, extensive personal solicitation, and advertising for airfreight;
>
> (*d*) that these results have benefited the shipping public and have stimulated the development of air transportation; and
>
> (*e*) that the forwarding operations which have yielded results have not required Government subsidy and have not produced apparent net injuries to the airlines." (p. 540.)

The Board decided therefore to renew the authority of existing domestic forwarders for "an indefinite term" and to issue Operating Authority to replace the Letter of Registration (without, however, any actual change in the substance of the authorization).

With respect to the position taken by some members of the forwarder industry that future forwarder Applicants should be required to establish their "fitness" in a public hearing, the Board said only that the Applicant's fitness would be determined "in the first instance by the Board's staff on the basis of available information and such investigation as may be appropriate," and "in the event the Board is unable to determine that the Applicant is fit, a public hearing may be held if necessary to resolve reasonable doubt as to such fitness." (p. 549)

In truth, the Board established at that time no criteria different than it previously had for Board staff to review internally and *ex parte* the "fitness" of an Applicant; and the record will show that only a handful at most have been denied

on fitness grounds although informal protests have been filed in the case of many Applicants. As this Sub-Committee knows, the opportunity to contest an Application without an evidentiary hearing, in which the Applicant is required to prove an affirmative case and to be subject to cross examination, is of minimal value and effect. The Board, it should be noted, refused to establish by regulation a fixed minimum dollar criterion for the financial aspect of fitness or any other other fitness criteria.

With respect to the contention by some forwarders that a public need test should be established for new entrants the Board said (p. 549):

> Respecting a public-need test for forwarders, it is quite clear, as the examiner noted, that the reasons which impelled Congress to prescribe a showing embracing public need for the certification of airlines—the objectives of economic stability as a basis for safety and of airline growth for defense purposes, and the existence of government subsidy—do not apply to forwarders. He also pointed out that freedom of entry was part of this country's traditional economic policy and that it would here tend to encourage the development of our large airfreight potential by permitting the introduction of new and more efficient forwarding techniques and preventing complacency in the solicitation of air-cargo. We find it in the public interest to maintain competition in airfreight forwarding, and believe that the question whether a particular forwarder's services would fill a public need should be left to the judgment of the shipping public itself.

It should be pointed out that in that proceeding, decided upon almost sixteen years ago, the Air Freight Forwarders Association espoused the position that no rigid fitness or public need test should be then imposed because "*at the present early state in the development of the airfreight industry,* a continuing flow of new blood into forwarding is most likely to promote development of new and efficient forwarding techniques so as to contribute to the advancement of air transportation." (p. 548.) That stage of development has long since passed.

The international air forwarding industry has experienced the same history of regulatory control by the Board and is now in the same regulatory status as the domestic industry. The international phase of the industry was first brought under control in 1949, after a similar hearing, by the issuance of Letters of Registration under the exemption authority of the Board for a five year period (*Air Freight Forwarder Case* (*International*), 11 C.A.B. 183 (1949)). Regulation, Part 297, similar to Part 296 governing domestic forwarders, was issued contemporaneously. At the end of the five year term, a new proceeding was held, and new authorizations were issued to existing international forwarders for "an indefinite term" in the form of Operating Authorities to replace the Letters of Registration.

Both segments of the industry are thus under substantially identical regulation. Both hold authority for an "indefinite term" under the exemption provision in section 101(3), subject to policy change by the Board at any time. Similarly, into both segments of the industry, there is pouring a constant stream of new entrants that are required to meet only the most elemental test of "fitness," with no "need" test whatsoever, and with no hearing procedure established as a matter of course under which either the qualifications of the Applicant or its impact upon the existing industry would be explored.

This then in brief is the regulatory status of the air freight forwarding industry.

The Association first sponsored a certification bill in 1960. The bill, H.R. 4181, was first introduced in the House in the 88th Congress, 1st Session. It was reintroduced in several subsequent sessions. The bill it is now supporting is in the form of an amendment to the appropriate sections of the Federal Aviation Act of 1958.

In brief summary this bill would: 1) authorize the Board to issue a certificate to new Applicants to engage in air transportation as domestic or international air freight forwarders upon finding, after hearing, that the Applicant is fit, willing and able properly to perform the service of an air freight forwarder and to conform to the provisions of the Act and the regulations of the Board; 2) permit new certificates issued to designate a geographical area or areas within which service may be rendered, rather than requiring the Board, as would be necessary under the existing limitations of the Act, to provide for point-to-point certificates even were it to issue such certificates; and 3) require the Board to issue certificates to forwarders now holding indefinite operating authority to the same extent as authorized in their existing exemption authorizations.

This legislation will in effect establish substantially the same standard for admission to air freight forwarding that Congress by an amendment in 1957 to the Interstate Commerce Act prescribed for surface forwarders. As the Commission

in the *Frank P. Dow Co., Inc., Extension-Longview Case,* (No. FF–173) (1964) and earlier cases has construed the 1957 amendment to section 410(d) of the Interstate Commerce Act, new surface forwarder applicants are required to meet essentially the same burden of proof as direct motor carrier applicants for route authority. Since surface forwarders were not brought under regulation until 1942 it is obvious that they have had to wait only 15 years (to 1957) to obtain the kind of protection that air forwarders have not yet obtained in the 23 years they have been under Board Regulation. And long before 1957 surface forwarders had the stability that comes from permanent authority under their permits issued by the I.C.C. Indeed, the public need for certification in a case of *air* freight forwarders is even greater.

Air freight consists primarily of small shipment traffic, especially compared to overland surface transportation and waterborne carriage. The vehicles used in transportation by air, however—airplanes—are much more expensive relatively than by any other mode. It costs more, for example, to move a ton 1 mile by air than to move it the same distance by other modes. (Hence, air freight rates are generally higher than surface rates.)

As a result, it is much more important to achieve the maximum utilization of equipment used to transport air freight (airplanes) than in the case of equipment used to move freight by other modes (truck, trains, etc.). This means there must be less non-utilized or dead time for handling (loading, unloading and processing of paperwork) by the air mode. Yet, the handling problem is more acute by air because the size of shipment is smaller and the number per vehicle greater. There are virtually no "carload lots" moving by air. Hence, the services of the forwarder are even more important than by the other modes.

These facts are in some respects a mixed blessing, however. For along with the increased need for air freight forwarder services and opportunities, there is also a need for very high capital requirements. Expeditious handling requires costly equipment and training. In addition, since air freight is the premium type of freight service, it is necessary to trace shipments more adequatley by air than by other modes. This requires computers, not only for the documentation required, but also for the purpose of tracing shipments. Tracing capabilitiy is required because the standards for air freight generally are next-day delivery. Lost shipments by any mode are troublesome. When lost shipments or delay occurs by surface, however, the shipper always has the option of meeting an emergency by getting vitally-needed goods to destination by air. Lost shipments by air could very often be disastrous, however, because the air mode is in effect the mode of last resort—the shipper's last option.

The AFFA knows of no overt opposition from any source to legislation which would give this status to the forwarders and would insure adequate protective standards in the admission of new entrants. Although the direct air carrier industry in 1947 opposed the original grant of exemption authority by the Board to the air forwarding industry, when the original five-year authority expired and the Board examined into the question of extending the authority in 1955, not one airline opposed renewal—proof that in the short space of eight years the air freight forwarding industry had confirmed its contribution to the development of air freight for the airlines and to the improvement of service to the shipping public. In fact, in the 1955 Board proceeding two airlines actually urged the Board to issue certificates of public convenience and necessity to forwarders to stabilize the industry.

Members of the Association who will appear as witnesses here today in support of this legislation will discuss various aspects of the operations of the forwarders, their role as independent businessmen, and the contribution which they make in aiding independent manufacturing and distributing industries in competing on equal terms with their more substantial and larger competitors. They also will discuss with you the reasons why legislation of this nature is required without further delay. I should like to summarize for you briefly what some of these reasons are:

1. The industry has served its apprenticeship under full regulation for twenty three years and has long ago reached maturity. It has clearly justified its present place in the air transportation system through its contribution in developing the air freight market for the airlines and in serving the needs of shipper.

2. The stability that will come from permanent authority will permit the industry to more readily obtain for itself at more favorable rates the financing necessary to engage in expansion in order to serve the needs of the public better in the rapidly expanding air freight industry. Moreover, those companies having their own resources for expansion cannot reasonably be expected to assume the risk of expansion with the present uncertain nature of their operating authority. The

whole air freight forwarding industry today in total has many millions in capital investment in the form of terminals, communication equipment and ground handling and delivery facilities. They employ approximately 25,000 people in various capacities. Their involvement is now substantial enough with their present indefinite tenure.

Thus, in 1965 the air freight forwarding industry generated commercial revenues of $164 million, or 37% of total air freight services sold to the public, against 63%for the direct air carriers.[1] In 1968, the volume of forwarding revenues had risen to $298 million—nearly double 1965—and the forwarders' share of the total market climbed to 42% compared with 58% for the direct carriers. Commercial air freight revenues for the industry in 1968 totalled more than $700 million. It is thus apparent that what is involved in this decision today is close to a billion-dollar industry, in which the air freight forwarders are substantial tributors and imminently may well be the major contributors. On the basis of these figures, and given the rate of technological growth in air transportation throughout the years, it has frequently been predicted that in the not too distant future, freight revenues will exceed passenger revenues in air transportation. *American Airlines, Inc.* v. *Civil Aeronautics Board*, 359 F. 2d 624, 637 (D.C. Cir.), *cert. denied*, 385 U.S. 843 (1966) (dissenting Opinion of Judge Burger). Compare 1968 C.A.B. Ann. Rep. 139. The figures indicate that the air freight forwarding industry is an increasingly important element of the national economy. In fact, transportation and communications are both industries which vitally affect the public interest in that they provide the connections between the other segments of the economy and literally grease the wheels which turn the economy. Without these industries, the wheels would come and do come to a stop. Significantly, both industries generally are characterized by licensing and economic regulation in order to protect the obvious and special public interest in those industries.

3. Permanent authority will establish a more reliable impression of the industry with both the shipping public and the direct air carriers.

4. Certification will stay the hand of the Board in instituting any radical change in rules and regulations governing the air freight forwarding industry. Although it is unlikely that the Board will ever terminate the industry's existence, the concern is not entirely this, By regulatory erosion, whether from pressures of the direct air carriers, misunderstanding or otherwise, increased restrictions can be imposed, as they have in the past been imposed, upon the nature of the air freight forwarder operations. These restrictions serve to limit the contribution the industry can make to the shipping public. Certification or permanent authority will stabilize the operations of existing forwarders and will insure that they are not further unduly hampered. The experimental period of the air freight forwarding industry which might have warranted major revision by the Board of the nature of the forwarders' operation authority has long since passed. The forwarder is now as necessary to large segments of the shipping public as he is to the air carrer.

5. The establishment of a "fitness" test will insure that only fully qualified applicants will be given consideration. Unqualified entrants, both on a financial and experience basis, cast a stigma on the whole air freight industry, perform a disservice to the shipping public, and are a major problem to the direct air carriers.

6. A "need" test will insure that the public interest will be met whenever the facts justify the admission of new entrants and will also serve to prevent further encroachment on the industry by other modes of transportation, a serious problem in the recent past and present.

7. Although the Board has in recent years given increasing attention to its obligation to affirmatively promote the development of air freight transportation, certification will insure that the Board will recognize the essential and permanent place of the *forwarder* in this development. It has in the past been at best ambivalent about the role of the forwarder.

8. Although without specific legislative directive, the Board can in theory grant certification under existing section 401 of the Act, it cannot grant the same kind of authority to the extent now held by existing forwarders under their exemption authorization; and moreover, it would appear that the Board is not disposed to dispense even such limited certification without a clear Congressional directive.

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[1] These figures are taken from the following reports required to be filed with the Board, of which official notice may be taken under Rule 24(m) of the Board's Rules of Practice: Forms 244 (filed by air freight forwarders); Handbook of Airline Statistics, Part II, Table 83 (1967 ed.) (summarizing the direct air carrier data). The reported figures of the direct air carriers have been adjusted to eliminate revenues not received from the shipping public, i.e., forwarder payments.

The courts have said that existing section 401 requires a designation of terminal points and intermediate points, if any, in carrier certificates. (*United Airlines, Inc.* v. *C.A.B.*, 278 F. (2) 446, 448 (1960.)) Such a limitation would be destructive to the character of the service of the air freight forwarders, to the best interests of the shipping public and to the direct air carriers themselves. Moreover, the Board, under existing legislation could not "grandfather" existing forwarders but would have to hold hearings on each one of them to determine fitness and need. In any event, there is every indication that the Board will not act under existing law without a Congressional mandate in the form of legislation of this nature.

9. The Board objections in the second domestic forwarder case (21 C.A.B. 536, 549) to establishing a "need" test for new forwarder Applicants, that is, that "economic stability as a basis for safety and . . . growth for defense purposes" and "the existence of government subsidy" which warrant airline certification do not apply to forwarders, have no validity now, and had little validity even then. "Safety" is hardly the only public interest basis for regulatory control over an industry. The guarantee of "reliability" of service to the public is, of course, an equally important basis. The grant of permanent permits to the surface forwarder industry is certainly sufficient answer to this. With respect to development to aid our defense program, the record of history will show the heavy reliance of the Department of Defense, other government agencies and military-support industries on the services of the air forwarders during Korea and today for our participation in Viet Nam. With regard to the no-subsidy argument, it is true, of course, that no forwarder during the past eighteen years has ever received a single cent of subsidy. And this, contrary to the strange view expressed, is all the more reason that an industry otherwise fully regulated and restricted by the Government, and risking its own capital without Government financing or support, should have the security that comes from permanent authority.

10. The forearding industry has developed into a capital-intensive industry requiring investments of substantial funds for facilities such as terminals and containers. The industry representatives who follow me will elaborate on this in more detail but I should like to note here simply that containerization, which is the future of air freight, requires substantial volume between points involved. Excessive numbers of forwarders carving up available traffic have served to make containerization economically unsupportable.

In conclusion, may I say that all the industry is asking for is equality of treatment and opportunity. It is seeking only the same level of protection as was granted long ago to truckers, surface forwarders, airlines and other transportation modes with which it competes. We submit that no one can reasonably say that 199 is not more than sufficient unto the day.

Mr. HAFFER. I should now like to introduce to you the officers of the Air Freight Forwarders Association of America who will testify in support of this legislation and will offer a little bit more detail perhaps on the need for the legislation and on the economic and operational developments that have occurred in this industry.

Material that they will have in their prepared statements which they will not read will, in part, be based upon an economic study called the New Role of Air Freight Forwarding that the association commissioned and utilized for a presentation to the Civil Aeronautics Board in March of this year.

I should like to submit some copies of this study for the record.

Mr. FRIEDEL. We will accept that document for the files.

Mr. HAFFER. I should like to introduce the AFFA witnesses in behalf of the bill. Mr. James F. McCrohan, president of Novo Air Freight and president of the Air Freight Forwarders Association; Mr. M. G. Montgomery, who is president of WTC Air Freight and first vice president-west of the Air Freight Forwarders Association; and Mr. Martin Shulman, president of Shulman Air Freight, who is first vice president-east of the Air Freight Forwarders Association.

We would like to start off with Mr. McCrohan.

STATEMENT OF JAMES F. McCROHAN

Mr. McCROHAN. Thank you, Mr. Chairman.

I would like to join with Mr. Haffer in expressing our appreciation for the opportunity to be here and let our views be known on this legislation which is so important to us.

I have a prepared statement I offer for the record.

Mr. FRIEDEL. Your full statement will be incorporated in the record.

Mr. McCROHAN. I have summarized the contents of this statement. I would like to read this summary at this time.

For 23 years the airfreight forwarding industry has been growing up. We might say for this period, which is overlong as testing periods go, the industry has been in kind of purgatory. The industry in our judgment sometime ago became mature, competent, and responsible. It has long ago established its status as a required and needed service for the shipping public.

But these very attributes—maturity, competency, responsibility, and public necessity for their service have created conditions under which to continue to grow and prosper in the service of the airfreight shipping public, the industry deserves, and must have, the protection and permanence of certification as an indirect air carrier.

Our industry must move out of the limbo, out of the second class citizenship which it now suffers, into the permanent family of transportation services.

I should like to tell this committee, Mr. Chairman, at some risk of perhaps being elementary, what an airfreight forwarder really is and what he does.

The airfreight forwarders have been given a vital and unique role in the nation's transportation system, particularly with regard to airfreight.

In the past, the air forwarders have been characterized as middle men, or commissioned merchants. But this old image, though it lingers on, is not longer really recognizable in our industry today. The airfreight forwarders role to be understood really requires a review of the transportation system of this Nation.

The railroads were the first real transportation system and they were characterized by being obviously inflexible and to serve off-line points and to handle small shipments which were really a nuisance to them. The surface freight forwarder evolved to fill in the missing gaps in rail transportation, to give rail transportation flexibility.

Later, when the technology allowed it, when the trucks came, the trucks provided the extreme flexibility, the ultimate in flexibility and unlimited opportunities for door-to-door service.

Then came the airplane, whose overwhelming advantage was speed between airports, but whose serious disadvantage almost like the railroads was an operational confinement to airports and limitations and service due to economic reasons.

Theoretically, airfreight is capable of moving at nearly the speed of sound, between airports. Airfreight service to the shipper, however, consists of the service from the shipper's door to the consignee's door, the true origin or the true destination.

The shipment must be loaded, moved to the airport on the ground, documented, loaded on an airplane, consolidated into containers with other shipments.

The forwarder has done, we believe, a fine job in this area of providing airfreight to the airlines in an economically digestible form. We think, in fact, we are pretty sure that the freight provided by the forwarders to the airlines is the most profitable freight for the airlines. We know this from our studies in containerization.

The forwarders' role is to provide all of the elements needed for expediting movement in airfreight from door to door. The forwarder can provide the flexibility because it is not limited to specific routes. The air forwarder has become a specialist in the airfreight system, which makes it possible to adopt a standard for airfreight of next day delivery.

Our shipping public is taking it for granted that an airfreight shipment generally gets to its destination anywhere in the country next day. An important service which the forwarder performs is to provide tracing capabilities or information with regard to a shipment which allows corrective measures to be taken if necessary to insure satisfactory service.

Many airfreight shipments are of an urgent nature and the shipper requires what he calls negative feedback. If something has gone wrong, with or without the control of the forwarder, the forwarders' shipper expects to be told about this so that he can take appropriate and immediate action.

I have already mentioned containerization to facilitate the physical handling of airfreight that benefits both shippers and airlines. There was discussion earlier about pilferage.

In many instances, forwarders are using containers not that they are particularly economic, but because the container itself is one of the best safeguards we have against pilferage. Containerized freight is practically pilfer-proof.

The airfreight forwarder because of its comprehensive service and current and increasing investment is the major provider of these services.

Mr. Chairman, it takes money to provide the containers and the facilities, the ground-handling facilities, the automatic equipment, to properly and economically containerize freight.

For example, the forwarder produces 71 percent of revenues earned by the airlines from containerized freight.

The forwarder has a special role in the small-shipment field. Other modes of transportation, particularly the truckers, have moved away from small shipments. They are unprofitable. They don't want them. They are actually selective in how they sell and promote their services and the small shipments they do not want.

The airfreight business on the other hand is a small-shipment business, but the small shipments per se are uneconomical for the airlines. I think our study shows that a 50-pound shipment on the ground costs the airlines $11 and some pennies. It costs the forwarding industry $6 and some pennies.

One of the reasons for this efficiency is the investment that the forwarders have and the expertise, if you will, in handling shipments on the ground. So, the forwarder plays a very important economic role, both for the airlines and doing on the ground more effectively, more efficiently, offering larger shipments, offer containerized shipments in a form which is more economic for the airlines to handle.

At the same time, they are offering to their shippers an opportunity to move airfreight often at lower cost and in a form that is containerized relatively safe from pilferage.

The growth of air forwarders is a measure of the public's acceptance of forwarder service and the forwarders perform the role which I have described, and has been as indicated by other witnesses here, quite remarkable. Faster, in fact, than any other mode or segment of transportation. And the details of the statistics are set forth in my written testimony.

This is a very significant point. Despite the fact that our revenues have been increasing so rapidly, in 1969, revenues did not increase as fast as the investment by the forwarders.

This brings me to the point that to continue to do the job that we are doing, our investment has to continue to increase. The large, medium, and small companies are finding it increasingly difficult to make this investment and despite the statements that have been made that we will lose our zest and zeal for battle doesn't really hold up against the reality which we face, because to effectively perform our role as a forwarder, helping both the shipper and the airline, we have to have this investment.

Today we are in a pretty sophisticated, highly mechanized business, and it costs money to be in it.

The air forwarding industry investment in airfreight facilities now exceeds $100 million. That figure is extracted from the balance sheets shown on the 244 forms. Much of the investment is not reflected in these 244's, because much of the equipment is leased. Many of the forwarders' terminals are leased and they are not capitalized for the purpose of the 244 balance sheet.

So, in my personal judgment, the forwarders' investment exceeds this figure. It may be double.

Over $70 million of this has been raised since 1965. The bulk of the new investment is flowing into new terminals and into the facilities necessary for containerization.

In addition, the forwarding industry has sales offices and stations in over 128 cities throughout the United States and the forwarding industry has been a means of putting hundreds of salesmen in the field whose sole function is to promote and solicit airfreight.

I might say again, that no forwarder has ever found a way to move an air shipment without turning it over to a direct air carrier, substitute service aside.

One consequence of the fact that forwarders are not limited to specific groups is that forwarders can afford to solicit small plants and businesses which might otherwise be lost to airfreight.

The inducement to the forwarder is the opportunity of handling all the airfreight of such a concern, whereas, on the other hand, the direct carriers, even the larger ones who do not serve all points to which a small shipper has traffic, are going to have to interline with another direct carrier. They don't have the same incentive to solicit that freight, particularly if that shipper is located 70 miles from the airport.

The forwarder's lack of confinement to any one direct carrier gives the shipper customer all the operations that are available rather than merely those that might be available in a system of the origin carrier.

Because of the forwarder's lack of commitment to specific carriers, forwarders frequently make end runs or movements where there is a pile up at center. By that I mean when one airport is congested, Chicago has been recently, the forwarder finds ways. They will use alternative airports and get the freight to the shipper, sometimes by using substitute service, or trucks, for instance.

What does all of this have to do with certification? What is the significance of the fact that investment needs have skyrocketed and that our industry is becoming more and more capital incentive. While revenues have grown markedly, approximately 24 percent per year, such revenues as I have stated before have not grown as fast as investment.

The answer to me, it seems, is apparent. If the required investment is to be found, there would have to be an end to the proliferation of new forwarders and the effect here is that if there is unlimited entry in the industry, many of these new entrants are not adequately financed. They do not have the wherewithal to approach the business as it should be approached.

By that I mean the refinements of containerization, and so forth. But they do come into existence, they do acquire freight, and their effect in total on us is substantial. Individually, no.

So, that kind of competition would have to be limited in the forwarder industry. Certification will achieve that objective. The necessity for the curtailment of the influx of many new carriers to enjoy the fruits of the developmental effort already made is manifest.

New people can come into the business by virtue of the fact that the airfreight forwarder service has long since been sold and accepted by the public, even new poorly equipped entrants can obtain a piece of the market, sometimes only a tiny piece of it, but nevertheless, a piece of the market for a while, and then the realities of the economics of their situation catch up with them.

Otherwise, the capital structure of the existing forwarders and their ability to continue their acquired effort would be undermined. Dilution of the revenue base as the figures demonstrate cannot be offset by growth alone. That has been the theory.

If I am not mistaken, that is presently the theory of the Board, that the industry is growing so fast that it can continue to absorb new members indefinitely. We absolutely disagree for the reasons that I have stated.

The Board has never established the economic criteria with regard to the level of competition required. Therefore, we submit, Congress must provide the needed regulatory environment for the industry.

For over 20 years we have been viewed as kind of living experiment. Now we think the results are in. They point clearly toward certification for the airfreight forwarders as provided for in this legislation.

This legislation we support and we urge its enactment.

Thank you, Mr. Chairman.

(Mr. McCrohan's prepared statement follows:)

STATEMENT OF JAMES F. MCCROHAN, PRESIDENT, NOVO AIR FREIGHT AND PRESIDENT, AIR FREIGHT FORWARDERS ASSOCIATION OF AMERICA

For 23 years the air freight forwarding industry has been growing up. We might indeed say that for this period, which is over-long as testing periods go, the industry has been in purgatory. The industry some time ago became mature,

competent, and responsible. It long ago established its status as a required service with the shipping public.

But these very attributes—maturity, competency, responsibility and public necessity have created conditions under which to continue to grow and prosper in the service of the air freight shipping public, the industry deserves and must have the protection and permanence of certification as an indirect air carrier. It must move out of limbo and into the permanent family of transportation services.

I should like to tell this Committee, at the risk of being elementary, what an air freight forwarder really is and does.

In the past, the air forwarders have been characterized as middle men or consolidators or commission merchants, as if their function was not really oriented toward providing special services to the public or as if they were not an integral and essential part of the total air freight industry. The public now accepts the air freight industry as a necessary means of distribution. The old image is no longer recognizable. This fact is attested to by the performance of the forwarders and the dramatic increase in the tonnage they carry and in their revenue. The role of the forwarder must be examined in the context of the market place, the technology of the airline industry and competitive pressures from other modes.

The railroads were our first real transportation system. It was a relatively inflexible system, although if you had a spur track and your customer had a spur track, it was convenient. To handle the small freight which was a nuisance, the railroad encouraged the surface freight forwarder and the express companies. Then came the trucks, with their extreme flexibility and door-to-door service. Now come the jets—air freight—whose over-whelming advantage is speed between airports and whose serious disadvantage is absolute confinement to the airport. There are no spur tracks for DC–3 or jumbo jets.

Obviously, for the potential of the lift capacity and speed from runway to runway to be realized, the door-to-airport and airport-to-door logistical problem of time and space, must be solved. If it is not solved and the solution is not permanent much of the ground gained in recent years by air transportation will inevitably be lost to competing surface modes. I do not have to remind this Committee how the railroad has been able to fight back against trucks. If because of airport congestion and the time required to route airplanes, air freight service deteriorates to three to four days transcontinentally, then the system will fall back in the caverns of fast trains and efficient trucks and will be lost to air transportation.

What are the elements of the solution? The shipper must receive prompt pick-up . . . for shipments must move fast enough from pick-up to airport to make flights that will preserve the basic advantage of the mode—speed—next day delivery for the most part. The shipments must be presented to the airline in a digestible form—in containers—which should be processed away from airport congestion. The paperwork must be accomplished. During the life of the shipment, it must be monitored and negative feedback to the shipper must be prompt—if things go wrong, air freight, mostly by its very nature a type of movement where the customer requires great dependability for each and every shipment. In many instances he demands it as an essential part of the service. That should a shipment be lost, or delayed because of weather or other circumstances, that he receive what we call negative feedback. That he receive the opportunity to utilize a contingency plan, if he has one, or he may wish to send another shipment or at least he may wish to advise the intended consignee of the extenuating circumstances. At destination, delivery must be sure and prompt. The average life of an air freight shipment is about 22 hours.

Who has been providing all of the elements. It has been the air freight forwarder.

The fact of the matter is that the air freight forwarder represents a most creative force because of his closing of the "flexibility gap." He puts freight in the air that would never fly without him and significantly, no forwarder yet has found a way to put freight in the air without using an airline, and forwarder freight is more profitable for the airline. So ultimately, the successful efforts of the forwarders cannot but benefit the direct carriers. It is true, that in his creative efforts to generate air freight business, the forwarder provides a lot more than simple airport-to-airport air freight service.

But the forwarder's contribution to welfare of the total air freight industry is not limited to marketing and service expertise. The air freight forwarder is the prime mover in the containerization of air freight. The forwarder produces 71 percent of the revenue earned by the airlines from containerized freight and 63 percent of the weight. As a result the air freight forwarder industry makes a major contribution to airline efficiency and the economic viability of the entire air freight industry.

Among the other reasons why the air forwarding industry has been so well accepted is that the forwarder helps fill a very critical gap between the shipper's door and the aircraft that cannot reach the shipper's door. The air forwarder transforms freight that is not easily loaded in an aircraft to a form in which it can be easily loaded. The air forwarders have built *shipper*-oriented routing, tracing and control procedures that serve as a vital link between the shipper and the operation of a multitude of airline schedules that utilize numerous different aircraft types and provide a diversity of service patterns *not* designed for an individual shipper's need.

The use of aircraft for the distribution of freight has great logistical limitations particularly when aircraft are compared to over-the-road trucks that can be brought right up to the customer's door. Somehow the freight has to move from the shipper's dock to the aircraft. In the space of time between the pick-up of the freight and aircraft departure, the freight has to be documented, consolidated, weighed, sorted, billed and delivered to the aircraft in a form that will not delay its departure. This is where the forwarder plays an important role in the eyes of the shipper *and* the carrier. The forwarder develops a system for gathering freight, sorting it, consolidating it, containerizing it and documenting it so that it moves to the aircraft as expeditiously as possible. At the delivery end the forwarder relieves the airline of processing burdens by taking the shipment in bulk to its own facilities for break/bulk and distribution.

Without the availability of this expedited ground handling service the operation of aircraft in competition with surface transportation would be fruitless. The freight would spend more time on the ground getting to and from the aircraft than a truck door-to-door line-haul takes. Time is air freight's only inherent advantage.

The air freight forwarding industry has implemented service concepts that preserve air freight's inherent advantage. The industry has adopted overnight delivery in domestic markets as the standard. This standard cannot be met by other modes of transportation regardless of price. A second phase of the air forwarder's marketing efforts has been directed at the small and intermediate sized surface shipper. He is the shipper whom the forwarder has been able to attract to air for some time because of numerous factors including the increasing cost of surface transportation and the fact that surface carriers discriminate against his freight. The surface carriers say they lose money on less than 500 pound shipments. They say that type of freight is too costly to handle in the terminals.

Somehow the shipper can't be sympathetic with the reasons why his freight is not attractive. He still needs to get his goods to market. The air forwarding industry has offered such shippers a real alternative to trucking and in the process has opened up the shipper's eyes to many new opportunities for distribution of products on a larger scale and cost savings from closer coordination of production and transportation.

Public acceptance of air freight forwarder service has been phenomenal. In 1961 the industry carried a little more than four million shipments. Now it carries over sixteen million. Since 1961, sales of air freight service to the shipping public have risen from slightly over $66 million to over $375 million. Tonnage has increased to fivefold in the last eight years to a level that now exceeds one-half million tons. The average annual rate of growth for the industry's traffic has been around 24 percent for the last eight years. Domestic growth has outpaced international traffic growth, but both phases of the industry are growing rapidly. By 1971 the industry will generate about eight hundred thousand tons of traffic, or sixty-five percent more traffic than in 1968. (Appendix A)

The growth of sales and traffic volume has not "just happened." The air forwarding industry has invested over $100 million in air freight facilities. Over seventy million of this new investment has been raised since 1965. The bulk of the new investment is flowing into new terminals and containerization. Air forwarders have also put hundreds of salesmen in the field. These salesmen solicit *only* air freight. Forwarder sales offices and stations have been opened in over 128 cities thoughout the United States. In addition, hundreds of cities receive inbound forwarder services through a broad network of agents. These statistics, of course, speak for themselves.

But equally important to these reasons for the fantastic development is the pure and simple fact that the forwarder has fulfilled a public *need* for the service, and has proved to even the most skeptical that there is a need for an industry that is responsive to the service demands of the shipping public.

The magic word is *service,* service which he has been in a position to offer the shipper and to develop the air freight market to the extent part of its potential.

The forwarder is convinced, moreover, that this service inheres in the nature of the forwarder operating itself, something which the airlines themselves cannot offer, or cannot offer as well, or cannot offer as inexpensively to the shipper.

The capacity for superior service, the forwarder is convinced, stems in the main from a number of built-in attributes, unique to the air forwarder operation, of which perhaps the principal ones are these: 1) the unrestricted nature of his route structure; 2) freedom from overly rigid commitment to any particular direct carrier; and 3) ability and willingness to serve the specialized needs of a particular shipper.

Since the forwarder is an air carrier under the Federal Aviation Act, and since he can operate anywhere in the United States under domestic authority and anywhere in the world under international authority, he can, by using whatever direct carriers are necessary, offer one-carrier service, that is, his own service, to any place in the United States and to any place in the world to which a shipper desire to move a product. He can go anywhere. It is, of course, a service which even the largest trunk carrier cannot offer and which less-than-trunk carriers can offer even less.

This unlimited route pattern has certain important consequences. The forwarder is able to serve all of the air traffice needs of a particular establishment, no matter how widely scattered the customer's consignment or procurement points. He becomes in many cases an adjunct of the traffic department, and in many small businesses and in some large ones becomes in effect the very traffic department itself.

As a result of this single-force identification and integration with the shipper's freight department, the forwarder has more incentive and frequently acquires more specialized knowledge about the shipper's traffic needs so as to be in a position to convert more and more of the shipper's total movement to air. Because of this limitless route structure he can also afford to solicit those smaller plants and businesses, which might otherwise be lost to air freight where there is a wide geographical distribution of products. The inducement for him there is the probability of handling all their air freight business whereas on the other hand it might not pay for an airline to put much effort into selling or servicing since it could itself handle directly, at best, only a limited portion of the customer's business. For the same reason in part, the widely-roaming forwarder can serve, and hence promote and develop more effectively, individual plants located in off-line and secondary points which local or regional airlines could not serve at all in the case of movements beyond the area of their own route structure. This advantage is of no minor moment since it has been estimated that a good fifty percent of the future air freight potential is located at these points.

The primary commitment of the forwarder to his shipper's needs rather than to a particular direct carrier means that he seeks the fastest, lowest cost air movement for a customer at the time the freight is offered to him. In this way he frequently overcomes the problems of ineffective airline scheduling, equipment failure and airport back-up. The shipper has less cause to worry about circumstances such as these when he gives the freight to the forwarder. Forwarders frequently make end-run or off-tackle movements where there is a pile-up at center.

Underpinning this capability and as further evidence of the commitment is a collosal array of hardware, software and payroll.

What the forwarder is doing is not done with mirrors. He does it because he has to do it.

"Necessity" has resulted in air forwarder tonnage in 1969 reaching a level that is six times greater than in 1961. *Both* domestic and international tonnage has grown rapidly. By 1971 we forecast that domestic tonnage to be about 716 thousand tons and international traffic just about 100,000 tons. This estimate is based on the average annual rate of growth achieved by the industry in past years with growth between 1969 and 1970 tapered somewhat to reflect the effects of a recession already underway (Appendix A).

I make these statements about the superiority of the forwarder function neither in the spirit of braggadocio nor to adorn a tale. It is a fact of life that any shipper—indeed any airline—will verify to you. I need only point to the series of full-page ads that Pan Am ran some time ago stating: "Sometimes it pays to give your cargo to an air freight forwarder than to Pan AM."

The air forwarding industry has made significant progress in containerization, in our judgment the future of air freight development. During the first six months of 1969, the air freight forwarding industry generated 63 percent of the net weight tendered to the airlines in containers and 71 percent of the revenues earned by airlines from containers (Appendix B). Air Forwarders generated 23 million more pounds of containerized freight than commercial shippers. The

air forwarding industry tendered twice as much tonnage in the large size igloo containers than the commercial shippers tendered to the airline. Four years ago the air freight forwarding industry generated only 22 percent of the total tonnage carried by the domestic airlines. Now the figure is over 30 percent. In the top nine air freight markets, the air forwarders generate forty percent of the traffic. In the New York industrial complex, air forwarders generate 51 percent (Appendix C). Four years ago, very little traffic was containerized. Now the air freight industry containerizes over 100 million pounds of freight annually. The forwarder must be credited with most of this containerization development.

In order to sustain the growth and development of the air forwarding business and to meet the requirements of containerization, better service and lower costs, the air forwarding industry has sought to attract vast amounts of new capital.

Twenty-nine leading air freight forwarding companies have more than $107 million invested in air freight development at the present time. Seventy million dollars of this capital has been raised during the last four years (Appendix D). Thirty percent of the capital invested by these carriers is equity capital.

An analysis of the investment of twenty-nine leading air freight forwarders shows that all of these companies substantially increased investment between December 1965 and December 1969. Only five had increases in capital of less than 50 percent. Twenty had increases of well over 100 percent. Large increases in capital were posted by large, medium and small companies alike, but medium-sized companies realized the greatest increases (Appendix E).

The influx of capital into air forwarding during the last few years, highlights the fact that the air freight forwarding industry is becoming more capital-minded—or if you wish, capital-intensive. This trend is in large part the result of an increasing requirement for development of containerization and off-airport facilities to relieve airport congestion and hold down forwarder operating costs. As investment in new facilities has increased, the revenue generated by air forwarders per dollar of investment has undergone a significant decline. The magnitude for this trend for the period 1965 to 1969 is illustrated in Appendix D.

It is axiomatic that to sustain its rate of growth, the air freight forwarding industry must increase its capital structure at a rate equal to or better than its past performance. As investment in containers and terminal facilities designed to handle containers increases, a greater element of fixed costs is introduced into forwarding operations. As the fixed element of cost per shipment is increased, there will be a greater and greater need for maximizing the utilization of the newly expanded facilities, if reasonable profitability is to be achieved.

The difficulty of achieving profitable operations while undergoing a shift in cost structure from highly variable to less variable and more fixed is evidenced by the trends in the air forwarder industry rate of return. The increase in air forwarder investment outpaced the increase in air forwarder revenue, even though the *rate* of increase in air forwarder revenue has been at historic highs during the last few years. As these trends continue, profitability as measured by rate of return on investment falls.

My own company, Novo Air Freight, represents an investment of over $4 million in air freight forwarding business.

I am setting forth below the trend in air forwarder investments as a percentage of investment.

AIR FORWARDER PROFITS AS A PERCENT OF INVESTMENT 1969 VS. 1965

[Dollars in thousands]

28 leading air forwarders [1]	Domestic and international air forwarding operations		
	1968	1969	Percent change
Investment	$37,274	$106,547	186
Revenue [2]	144,308	345,239	144
Operating profit	8,103	14,058	
Estimated profit after taxes [3]	4,214	7,310	
After tax profit as a percent of investment	11.3	6.9	—40

[1] Include 28 leading air forwarders in 1965 that were still leading forwarders in 1969.
[2] Excludes all agency and surface business except the agency business of Jet Air Freight.
[3] Taxes estimated at 43 percent of operating profit. This estimate pertains only to air forwarding operations of each company.

Source: C.A.B. forms 244 (see app D).

In view of these developments there is a clear need for increasing the volume of traffic of each company operating in the field. This can be accomplished in a number of ways, among which are the following and none of which are mutually exclusive: (1) protection of existing carrier participation in future growth by limiting new competition; (2) encouragement of mergers; (3) encouraging a more rational rate structure, particularly in the international field. Certification would aid the air freight forwarding industry by curtailing the oversaturation of the market with new carriers seeking to nibble at the fruits in the orchard that the existing industry has labored so hard to develop. Such curtailment is an absolute since further dilution of the traffic base (already shared by 200 air forwarders) will undermine the ability of the existing forwarders to develop the capital structures needed to exploit the potential of the freight forwarding market. Dilution of the revenue base has not been and cannot be offset by growth alone because the development of containerization requires a rate of new investment that substantially exceeds the rate of traffic (revenue) growth. There is no viable alternative to certification if the quality and continued development of air freight forwarder service is to continue. That principle has long since been acknowledged by regulatory procedures applied to all other modes of transportation. Indeed, there is no fear that there will be a reduction in *real* competition with certification. Legislation of the kind we propose would *accentuate* healthy competition by those forwarders who will be stronger and in a better position to offer improved services and rates.

The air freight forwarding industry today has reached a turning point in its development. It has bridged the transition from a small labor-intensive industry to a large capital and labor-intensive industry. But in order to fulfill these functions successfully, the industry needs the encouragement and stability that would follow from certification.

The Civil Aeronautics Board has never established economic criteria to be used in processing air freight forwarder applications that measure (1) the need for additional air forwarder service and (2) the extent to which added competition may be introduced without detrimental effect on existing carriers and the industry as a whole. The current developments of the industry require the examination of such criteria, particularly when new applicants can be expected to add substantial competition in the industry.

For twenty-three years the air freight forwarding industry has been viewed as an experiment. No specific requirements to meet a particular demand for service were placed on the carriers approved. The benefits of this practice have been obvious. The air forwarders themselves sought out the demand, established service patterns in accordance with the demand, and then proceeded to develop the market. As a result of this development, the economics of the industry that was once an experiment have changed dramatically. Patterns of air commerce have developed that exist only because of the availability of air forwarding service. The air forwarding industry is now relied on regularly by a large segment of the shipping public in much the same was as certificated route carriers are relied upon The time has now come to place this industry on a sound and permanent economic footing.

I thank you for this opportunity to appear before you on this legislation that is so vital to the future health of our industry.

APPENDIX A

HISTORY AND PROJECTION OF TOTAL DOMESTIC AND INTERNATIONAL AIR FORWARDER REVENUE AND TRAFFIC

Domestic and international consolidations	Revenues (in thousands)	Percent change	Tonnage	Percent change	Shipments (in thousands)	Percent change
1961	$66, 229		110, 047		4, 085	
1962	83, 360	25. 9	136, 356	23. 9	4, 774	16. 9
1963	102, 692	23. 2	162, 093	18. 9	5, 779	21. 1
1964	126, 658	23. 3	198, 162	22. 3	8, 847	53. 1
1965	163, 642	29. 2	256, 767	29. 6	10, 552	19. 3
1966	205, 608	25. 6	321, 435	25. 2	11, 406	8. 1
1967	242, 776	18. 1	363, 418	13. 1	12, 990	13. 9
1968	298, 324	22. 9	493, 951	35. 9	16, 314	25. 6
1969 [1]	375, 100	25. 7	574, 270	16. 3	16, 044	(1. 7)
Forecast, 1971 [2]	531, 857		814, 289		21, 158	

[1] 1969 data estimated based on an analysis of the carriers reporting 97 percent of air forwarder revenues.
[2] See pp. 2 and 3 for domestic and international forecast methodology.

Source: CAB Form 244.

HISTORY AND PROJECTION OF DOMESTIC AIR FORWARDER REVENUE AND TRAFFIC

Domestic consolidations	Revenues (thousands)	Percent change	Tonnage	Percent change	Shipments (thousands)	Percent change
1961	$49,504		93,828		3,748	
1962	58,495	18.2	111,213	18.5	4,331	15.6
1963	69,148	18.2	129,724	16.6	5,180	19.6
1964	86,478	25.1	161,184	24.3	8,144	57.2
1965	112,959	30.6	207,356	28.6	9,764	19.9
1966	142,400	26.1	265,701	28.1	10,498	7.5
1967	169,027	18.7	308,871	16.2	12,092	15.2
1968	214,917	27.1	415,592	34.6	15,347	26.9
1969 [1]	275,268	28.5	498,730	20.0	15,077	(1.8)

AVERAGE ANNUAL GROWTH

Period	Revenues	Tonnage	Shipments
1961–69 (percent)	24	23.5	19.0
1965–69 (percent)	25	24.8	15.6
Forecast 1971 [2]	$395,697,000	715,777	20,044,000

[1] 1969 data estimated based on an analysis of the carriers reporting 97 percent of air forwarder revenues.
[2] Based on the average annual growth between 1965 and 1969 and a 15-percent annual growth rate for 1969–70 to reflect the effect of the recession in 1970.

Source: CAB Forms 244.

HISTORY AND PROJECTION OF INTERNATIONAL AIR FORWARDER REVENUE AND TRAFFIC

International consolidations	Revenues (thousands)	Percent change	Tonnage	Percent change	Shipments (thousands)	Percent change
1961	$16,725		16,219		337	
1962	24,866	48.7	25,143	55.0	443	31.5
1963	33,544	34.9	32,369	28.7	599	35.2
1964	40,180	19.8	36,978	14.2	703	17.4
1965	50,683	26.1	49,411	33.6	788	12.1
1966	63,208	24.7	55,734	12.8	908	15.2
1967	73,749	16.7	54,547	(2.1)	898	(1.1)
1968	83,407	13.1	78,359	43.7	967	7.7
1969 [1]	99,832	19.7	75,540	(3.6)	921	(4.8)
Average annual growth:						
1961–69 (percent)	25.0		21.5		13.4	
1965–69 (percent)	18.6		13.4		4.1	
Forecast 1971 [2]	136,160		98,512		1,114	

[1] 1969 data estimated based on an analysis of the carriers reporting 97 percent of air forwarder revenues.
[2] Based on the average annual growth between 1965 and 1969 and a 15-percent annual growth rate for 1969–70 to reflect the effect of the recession in 1970. Shipments are assigned an annual growth rate of 10 percent to 1971.

Source: CAB forms 244.

APPENDIX B

WEIGHT OF CONTAINERS SHIPPED BY FORWARDER AND NONFORWARDER CUSTOMERS OF THE AIRLINES, JANUARY–JUNE 1969

Container type	Net weight of containers (in thousands of pounds) tendered to the airlines by—			Percent air forwarders of total
	Air forwarders	Other shippers	Total	
A	46,654	22,749	69,403	67.2
B	868	1,923	2,791	31.1
B–2	860	132	992	86.7
C	67	65	132	50.8
D	7,667	7,523	15,190	50.5
X	43	712	755	5.7
Total	56,159	32,783	88,942	63.1

Source: CAB unitization and containerization reports, docket 16080, and CAB T–103 report audit summaries.

AIRLINE CONTAINER REVENUES GENERATED BY AIR FREIGHT FORWARDERS, JANUARY TO JUNE 1969

[Dollars in thousands]

Container type	Airline revenue from containers tendered by			Percent air forwarders of total
	Air forwarders	Other shippers	Total	
A	$5,855	$1,919	$7,774	74.3
B	59	141	200	29.5
B-2	138	15	153	90.2
C	8	9	17	47.1
D	781	703	1,484	52.6
X	5	76	81	7.2
Total	6,846	2,756	9,602	71.3

Source: C.A.B. unitization and containerization reports, Docket 16080 and C.A.B. T-103 report audit summaries.

APPENDIX C

TONNAGE GENERATED BY AIR FORWARDERS IN MAJOR MARKETS

Major domestic market	1968 domestic aircargo-tons originated			
	Direct air carrier nonforwarder tonnage [1]	Forwarder tonnage [2]	Total tonnage originated [3]	Percent forwarders of total originations
Atlanta	27,313	9,120	36,433	25.1
Boston	27,894	15,172	43,066	35.2
Chicago	121,687	43,188	164,875	26.2
Detroit	53,191	24,556	77,747	31.6
Los Angeles	80,825	50,474	131,299	38.4
New York/Newark	102,947	102,969	205,916	50.6
Philadelphia	27,738	19,444	47,182	41.2
Cincinnati	8,436	3,681	12,117	30.4
St. Louis	12,407	6,234	18,641	33.4
Total, above cities	462,438	274,838	737,276	37.3
Total, all cities	999,314	415,592	1,414,906	29.4

[1] Figures obtained by subtracting forwarder tonnage from total tonnage originated by the direct carriers at each city.
[2] Based on data reported on station reports of the top 46 air forwarders. These reports do not include all forwarder traffic originations at all stations. Accordingly, forwarder traffic is understated
[3] Total domestic tonnage reported by all carriers except helicopter carriers.

Source: CAB form 244 and CAB airport activity statistics.

APPENDIX D

AIR FREIGHT FORWARDERS HAVE BEEN REQUIRED TO RAISE OVER $70,000,000 IN CAPITAL IN THE LAST 4 YEARS TO SUSTAIN THEIR GROWTH—CARGO ECONOMICS, INC.

	Total assets (thousands)			
	December 1965	December 1969	Percent change, 1969–65	Amount of increase, 1969–65 (thousands)
Emery	$11,352	$24,803	118.5	$13,451
Airborne [1]	6,876	13,855	101.5	6,979
WTC	1,529	10,604	593.5	9,075
Shulman	1,878	8,336	343.9	6,458
AEIC	6,023	7,123	18.3	1,100
Wings & Wheels	1,955	6,720	243.7	4,765
Jet Air Freight	610	4,642	661.0	4,032
UPS	475	695	46.3	220
DAX	322	8,593	2568.6	8,271
Air Dispatch (Novo)	721	5,395	648.3	4,674
Add	737	[2] 1,026	39.2	289
Imperial	282	622	120.6	340
ABC	955	3,174	232.4	2,219
Amerford	506	731	44.5	225
Trans-Air	662	1,623	145.2	961
Circle	236	2,701	1044.5	2,465
Air-Land	189	679	259.3	490
Associated	258	1,026	297.7	768
Bor Air	495	908	83.4	413
Express Air Freight	308	522	69.5	214
Mark IV	67	441	558.2	374
Penson	297	835	181.1	538
Scott	([3])	561		561
Flying Mailman	58	352	506.9	294
Medallion	([3])	406		406
New England	102	[2] 272	166.7	107
Apex	36	162	350.0	126
Joyce	81	270	233.3	189
All State	175	256	46.3	81
Total, above air forwarders	37,185	107,333	188.6	70,148

[1] Includes Pacific air freight.
[2] Period ended June 30, 1969, used because December 1969 date was not available.
[3] Carrier did not exist during year shown.

Note: American Express excluded because it does not separate forwarding assets from the total assets of the company

Source: CAB Forms 244.

APPENDIX E

GROSS REVENUE PER DOLLAR OF INVESTMENT, 1969 VERSUS 1965

28 leading air forwarders [1]	1965	1969	Percent change
Investment (thousands)	$37,274	$106,547	280
Revenues (thousands)[2]	144,308	345,239	240
Revenue per dollar of investment	3.87	3.24	(18)

[1] Includes 28 leading air forwarders in 1965 that were still leading forwarders in 1969.
[2] Excludes all agency and surface business except the agency business of jet air freight.

Source: CAB form 244.

OVERALL PROFIT OR LOSS FROM AIR FORWARDING IN 1969

[In thousands of dollars]

28 leading air forwarders	1969 air forwarding			Air forwarding operating profit or loss
	Investment	Revenues	Expenses	
Emery	24,803	105,347	96,102	9,245
Airborne	13,855	57,614	57,381	233
WTC	10,604	21,589	20,810	779
Shulman	8,336	20,746	20,285	461
AEIC	7,123	15,439	14,527	912
Wings and wheels	6,720	15,485	14,721	764
Jet air freight	4,642	[1] 21,676	[1] 20,748	928
UPS	695	12,507	11,912	595
DAX	8,593	12,119	11,819	300
Air Dispatch (Novo)	5,395	10,077	10,257	(180)
Imperial	622	3,458	3,488	(30)
ABC	3,174	3,665	3,703	(38)
Amerford	731	7,411	6,315	1,096
Trans-Air	1,623	5,719	5,494	225
Circle	2,701	6,382	6,174	208
Air-Land	679	3,140	3,431	(291)
Associated	1,026	5,021	4,723	(298)
Bor-Air	908	[2] 3,934	[2] 3,934	
Express Air Freight	522	2,674	3,532	(858)
Penson	835	2,639	2,324	45
Flying Mailmen	352	1,755	1,602	153
Joyce	270	1,622	1,599	23
All-State	256	1,245	1,200	45
Panalpina	603	721	754	(33)
General	675	1,953	2,156	(203)
California Air forward	99	634	642	(8)
J. D. Smith	496	484	670	(186)
All-Air Transport	209	453	878	(425)
Total above Carriers	106,547	345,239	331,181	14,058

[1] Includes all of Jet Air Freight's reported revenues and expenses since Jet's report did not provide a complete breakdown between agency expenses and air freight forwarding expenses.
[2] As reported.

Source: CAB Forms 244.

OVERALL PROFIT OR LOSS FROM AIR FORWARDING IN 1965 OF LEADING AIR FORWARDERS IN 1965

28 leading air forwarders	1965 air forwarding (in thousands)			Air forwarding operating profit or loss
	Investment	Revenues	Expenses	
Emery	$11,352	$49,889	$44,254	$5,635
Airborne [1]	6,876	24,878	24,491	387
WTC	1,529	10,022	9,374	648
Shulman	1,878	3,941	3,859	82
AEIC	6,023	9,764	9,823	(59)
Wings & Wheels	1,955	6,653	6,177	476
Jet Air Freight	610	3,953	3,867	86
UPS	475	7,284	7,007	277
DAX	322	2,246	2,069	177
Air Dispatch	721	4,209	4,146	63
Imperial	159	863	769	94
ABC	955	4,381	4,454	(73)
Amerford	506	1,008	856	152
Trans-Air	662	3,780	3,846	(66)
Circle	236	1,119	1,134	(15)
Air-Land	189	1,072	1,039	33
Associated	258	1,227	1,178	49
Bor-Air	495	1,640	1,655	(15)
Express Air Freight	308	1,012	1,035	(23)
Penson	297	582	615	(33)
Flying Mailmen	58	539	513	26
Joyce	81	575	569	6
All-State	175	634	614	20
Panalpina	147	525	522	3
General	282	1,388	1,173	215
Cal Air Forwarders	78	317	292	25
J. D. Smith	572	293	370	(77)
All Air Transport	75	514	504	10
Total, above carriers	37,274	144,308	136,205	8,103

[1] Includes Pacific as if the 2 companies were already merged.

Source: CAB form 244.

Mr. HAFFER. Mr. Chairman, to save the committee's time, Mr. Montgomery will not make an oral presentation, but I should like to have his written presentation included in the record.

Mr. FRIEDEL. It will be so included in the record at this point.

(Mr. Montgomery's prepared statement follows:)

STATEMENT OF M. G. MONTGOMERY, PRESIDENT, WTC AIR FREIGHT AND FIRST VICE PRESIDENT-WEST, AIR FREIGHT FORWARDERS ASSOCIATION OF AMERICA

My name is M. G. Montgomery. I am President of WTC Air Freight, with its administrative and headquarters office in Los Angeles, California.

WTC Air Freight is the third largest company in the domestic air freight forwarding industry in terms of revenue and the second-ranking in profits.

My personal experience in transportation commenced with the Santa Fe Railroad as an audit clerk in 1936. During World War II I was transportation officer of Headquarters 4th Air Force in San Francisco. Upon release from the Service in December 1945, I became Traffic Manager for one of the West Coast's leading department stores. At the end of 1950 I joined The Flying Tiger Line Inc. as Assistant to the President and Director of Ground Operations. In October, 1954, at the cessation of negotiations for The Flying Tiger/Slick Airline merger, I left The Flying Tiger Line and joined Western Transportation Co., Inc. to set up an air freight forwarding division of this experienced surface freight forwarder.

Operations were commenced in January, 1955, under my direction in the name of WTC Air Freight. In 1966 WTC Air Freight was spun off as a separate corporation preparatory to its becoming a public company in April, 1967. WTC's stock is now traded over-the-counter. The original offering price was $12 a share.

Since its formation in 1955 revenues of the company have consistently increased. Our projected revenues for 1970 are $50 million. While some of our current revenues are attributable to the acquisition in the last two years of a surface freight forwarding company, the acquisition of an international air freight forwarder, customs broker, ocean freight forwarder, and more recently the acquisition of two smaller customs brokerage firms, by far the greatest percentage of our revenues are from our original domestic air freight forwarding operation. The point is that those revenues have grown from zero in 1955 to their present high level.

Competition has increased many times over in recent years. At the inception of our company's operations in 1955 I believe there were approximately 35 air freight forwarders, both domestic and international, operating in the United States. Today there are (at the latest count) as Mr. Haffer has indicated, 199 such forwarders—125 of which are both domestic and international, 37 are domestic only, and 37 are international only.

The following figures illustrate the effect of excessive competition. In 1968 the total domestic air freight forwarder revenue was approximately $215 million to be divided up among approximately 150 air forwarders holding domestic authority. By comparison, there were about 54 Class I surface forwarders in 1968 (with revenues of $100,000 or over) with a total revenue of $560 million. Thus, about one-third as many surface forwarders as air freight forwarders participated in revenues approximately over two and one-half times that of the entire air freight forwarding industry. The surface forwarders on the other hand have been accorded the protections of certification in the public interest and the air forwarders have not.

Competition over this period of time has, of course, increased greatly particularly from the small so-called air freight truckers who are also known as house truckers. These companies service perhaps one or two large accounts from a pickup and delivery standpoint and in the course of their business carry freight to or from the direct airlines or air freight forwarders. At some point, due to the free entry policy that presently exists in this field, they decided to become air freight forwarders and as such became another source of competition to the existing air freight forwarders in the field. Most of them are not well financed and most of them do not promote or develop air freight as such. They simply act as conduits. With the change in traffic management in the companies which they serve, they very often lose their highly personalized accounts and eventually go out of business because of their inability to compete effectively in the air freight forwarding market. Many go into bankruptcy.

Competition has intensified heavily at the major air freight generating points. Out of the 199 air freight forwarders presently operating, probably in excess of 50

operate out of each of the cities of Los Angeles and New York City. The size of the air freight pie in these major points has stabilized in the last several years. But the number of participants sharing in the pie has increased substantially.

It has been the view of some that the more air freight forwarders in the business, the greater the development of air freight. But this is simply not so. Instead of intensified growth, 2, 3 or more air freight forwarders commence business every month or two and perhaps 2 or 3 go out of business through inability to generate profitable business. During the brief period of their operations, they cut rates below their own operating costs as a means of making inroads on the established companies, offer kickbacks and rebates, and generally comport themselves in a manner that is destructive to the continued interests of their legitimate competition. Moreover, their tactics and practices constitute a disservice to the public. Reduced rates below the cost of service are of no long-range value to the shippers. Something must give and it is the service to the shipper that does. These companies eventually fold, owing substantial amounts of money to the airlines, in many cases as much as $200–$300 thousand, and leaving their shipper customers with claims for undelivered goods, unpaid C.O.D.'s and so on. Companies like mine find it very difficult to regain such customers for air transportation. They identify all of us with the limited few whom they have found to be untrustworthy.

The Bill that is the subject of this hearing has in a similar form been pending for some 8 years. This Bill should be enacted to protect the public interest, to protect the airlines, to provide for a more efficient and effective promotion and development of air freight. The Bill would achieve these goals by helping the existing forwarders secure a solid responsible position in the field of transportation. This will enable them to obtain proper financing through either equity or debt in order to continue to serve the public as a recognized segment of the air transportation industry.

To illustrate this last point, when an air freight forwarder proposes to go public one of the first questions asked by the prospective underwriter is—what is your operating authority and how permanent is it? As it stands today, the only answer that can be given, and this must be disclosed in the prospectus, is that our authority is temporary and that we have no guarantee from the Government of being in business more than one day from today's date. This obviously gives underwriters and the stock-buying public pause to consider why they should be involved in such an undertaking. I can say from experience that this feature of our operations has caused serious delays in our efforts to seek public funds. Moreover, it is becoming even more difficult to attract speculative capital. Today's market is not the same as yesterday's. Investors, needless to say, are much more cautious now and ask many more questions than they have in the past. The uncertain status of the forwarder's authorization is thus even a very much greater problem than it has been in the past.

In closing, I would merely like to note a particularly urgent reason why it is especially important that the air freight forwarders be given the means to raise capital on at least an equal footing with the other modes of transportation. With the advent of the jet aircraft in the early 1960's the air freight system could no longer tolerate so-called "loose" freight. It became *necessary* to handle freight in containers instead. While the idea of containerization had long been advocated, the use of containers had been made impractical previously by the weight and space limitations of the aircraft. Since the advent of the jets, the use of containers has not only been made possible, but also, most would say has become an absolute necessity if shippers and the airlines are to escape the clutches of ground congestion and paperwork, and if the full potential of air freight is to be achieved. The advent of the 747 and other jumbo jets has intensified the problem even more.

It is noteworthy that the air freight forwards have been the primary contributors to the success of the container program. The forwarding industry contributed 71 percent of the revenues received by the direct air carriers from containerized freight in the first six months of 1969. This represented 23 million more pounds than that generated by the direct air carriers themselves from commercial shipping sources.

I can illustrate what this means from my own company's experience. As a result of the need for containerization, WTC has invested nearly one-half million dollars in containers themselves, not incluiding the capital costs of support equipment, such as computers, other facilities, including warehouse space and equipment, and training, all of which represent an investment many times greater.

Specifically, again referring to my own company's investment from 1965 to 1968, during which time the air freight containerization program was commenced and began to grow, increased from $1.5 million to $4.4 million. In the next *six*

months WTC's investment *doubled* to $9.4 million. Without public financing and without the security for public funds that comes from permanent authority and protection from get-rich-quick competition, we cannot meet the challenge posed by the age of containerization. In sum, the need for certification of the air freight forwarders has never been greater as a result of the need for increased investments occasioned by this radical operational development in the air freight business.

I thank you for this opportunity to appear before you.

Mr. HAFFER. The next witness for the association will be Mr. Martin Shulman.

STATEMENT OF MARTIN SHULMAN

Mr. SHULMAN. Thank you, Mr. Chairman, and Mr. Adams for giving me and my colleagues the opportunity to appear in support of these bills.

I have a brief written statement which I will not read to you. I would instead like to address my remarks to what I conceive to be the fundamental issues that have developed here with respect to the desirability of certification of the airfreight forwarders at this point in time.

I think the Board has recognized that the industry is doing a splendid job and my colleagues have testified here as to the role of the forwarders in the air transportation industry.

Why then certification now? Why doesn't the existing exemption do the job for us effectively at least for now?

The fact is that we are at a critical juncture in this industry presently. The development of airfreight generally, among the direct air carriers, has slowed perceptively I believe this year it will be perhaps 2 percent over last year, which is certainly not doing the job of filling up these jets that are in the air today and that are on order.

The fact is that through containerization, the direct air carriers have advocated the job of developing new airfreight, and new sources of airfreight to the airfreight forwarders. They have published rates for containers, the most widely used of which is the so-called igloo, the largest container, which will hold up to 10,000 pounds in weight, the airlines usually assessing a minimum charge for about 3,000 pounds. They have in effect said to the shipping public and to the airfreight forwarders which are considered as part of that public "If you give us freight in these containers, we will give you a lower rate and the more freight you can pack into these containers, the more dense the freight, the lower our charge to you will be."

Who among the shipping public can in the first place generate 3,000 pounds of freight moving from point A to point B and can also develop a so-called mix of freight in that container which will, one, provide the maximum revenue, and two, provide the lowest cost per pound in the movement of this freight?

Only the airfreight forwarder. Very, very few commercial shippers can provide, first, 3,000 pounds in a container, and secondly, a kind of mix of commodities, light commodities and dense commodities which will provide the optimum cost. It is only the forwarder that can do this.

That being the case, the forwarder who is now charged with this responsibility must of necessity invest in substantial facilities, containers, materials handling equipment, vehicles adapted to the movement of these containers between terminal and airplane, and this is

what Mr. McCrohan meant when he said that this is now becoming a capital-oriented, capital-incentive industry. We must now do the job on the ground that the air carriers for one reason or another are unable or unwilling to do.

Mr. Gillilland stated several times in his testimony that the sole characteristic of airfreight that makes it salable is speed. I submit to you that this need not be so. It ought not to be so. The fact of the matter is that the direct operating costs of aircraft have come down and down with the introduction of new and larger jets and will continue to come down. These costs are now down virtually to the level of trucks.

What is skyrocketing is the other costs, the costs of ground handling and general administrative costs to the point where for every revenue dollar that the air transportation takes in, two-thirds of it goes for the ground handling and general and administrative and only one-third of it for actually flying the airplane and the freight in it.

The fact is that as these direct operating costs of aircraft come down, the terminal handling costs that the airlines are burdened with continue to increase.

There is only one segment of this industry that can reverse that trend and that is the airfreight forwarding industry, and the direct air carriers have implicitly recognized this by virtue of the container rates, by virtue of their cancellation of all the rates, for so-called loose freight, in volume, over 3,000 pounds.

If in turn, as I have said, we are to pick up this responsibility, and make this investment, we must have the wherewithal to do it. We must be able to go into the marketplace and secure these funds for these investments. We have got to have not only the funds, the facilities that these funds will buy which will enable us to assemble—because after all, that is our function, to assemble—large aggregations of freight to fill up airplanes, like the C–5A that is going to carry 375,000 pounds.

Where in the name of commonsense can you do this with a proliferation of airfreight forwarders where you have got hundreds in the industry? You must have people who have the capacity, both financially in terms of their capital investment, and in terms of their personnel, to assemble huge aggregations of freight from distances up to 200, 300, 400 miles of the 22 major airport hubs of this country, and to then tender it to the airlines in a digestible form so they can fly from point to point.

In the present posture, we are as far as these direct aircarriers are concerned, a shipper. We can't be treated any differently than any other shipper under the exemption which we have been granted operating authorization. Despite the fact that Shulman Air Freight represents 45,000 regular shippers and the other industry witnesses at this table represent comparable numbers, as far as the airline is concerned in its dealings with us, each of us is just one shipper. We have got to be treated no differently than any other shipper, because under the law to do otherwise would be discriminatory.

How could we develop sufficient flexibility in our relationships with the aircarriers unless we are dealt with not under this legal fiction, but as what we are. We are carriers. We are common carriers. We are not recognized as such under this exemption.

That concludes my remarks, except I would like to submit my written statement as part of my testimony.

Mr. FRIEDEL. That will be included in the record.

(Mr. Shulman's prepared statement follows:)

STATEMENT OF MARTIN SHULMAN, PRESIDENT, SHULMAN AIR FREIGHT AND FIRST VICE PRESIDENT–EAST, AIR FREIGHT FORWARDERS ASSOCIATION OF AMERICA

My name is Martin Shulman. I am the President of the Shulman Air Freight, a Board-authorized domestic and international air freight forwarder, and First Vice President—East of the Air Freight Forwarders Association of America.

My company is one of the pioneers of the air freight forwarding industry, having first received its authority in 1949. Our air freight revenues for 1970 are projected at $32 million. In 1969, they were $23 million and in 1964, just five years before, they were only a little over $5 million.

This remarkable revenue growth, substantially greater on an annual basis than the cargo of the airlines themselves, testifies, in my judgment, to the existence of a felt need among the shipping public for the kind of expedited, individualized, fairly priced air freight service that my company and other reputable air freight forwarders offer. The growth, of course, has not been automatic.

The industry of which my company is a part has, in the past five years particularly, spent vast sums of money and its resources of talent and energy in selling the shipping public on the concept of air freight and on the total cost distribution concept, and in providing the service mechanisms to keep pace on the ground at both origin and destination with the ever-increasing air speeds of the jet planes. Our investments of time and money have paid off not only for the shipping public and for us but for the airlines as well. Not only has this industry's percentage of freight sold compared to that of the air freight sold by the airlines directly increased each year but the air freight forwarding industry has served to buttress and support the direct air carrier air freight operations in both good and bad times. At this very moment, the airline industry is undergoing a serious reduction in its rate of growth. In particular, its air freight growth has almost come to a standstill and has stagnated. In the face of this the forwarder's growth has accelerated, basically as a result of the increased sales emphasis and service improvements in ground handling, tracing and containerization. It is safe to say that but for the presence of the air forwarders in the market, the airlines would be in far more serious financial trouble than they now are.

To service the increased demands made on it by the shipping public, the air freight forwarding industry has been compelled to open more stations, to increase its staff of trained personnel, and to make substantial new investments in terminals, trucks, ground handling equipment, containers and communication equipment.

My company is now in the process of initiating a $5 million public underwriting for this purpose. I can speak first-hand of the problems involved in such an undertaking where the operating authority we hold is for an indefinite period, and with no protection from the back-biting, uneconomic price-cutting competition of a limitless number of competitors. The first thing our investment analyst asked us was the nature and duration of our operating authority and, of course, it was necessary that we tell him. Moreover, in our S.E.C. Prospectus we necessarily had to inform the prospective investors that there is "no assurance that operating authorization will continue indefinitely in the future"—"nor does the company have any assurance that its operating authority will not be restricted."

In a bullish period in the stock market, such a caveat may not have any telling effect on the enthusiasm of the potential investors, although our experience is that even in such a market it does have a retarding effect by seriously limiting the net price at which an offering can be sold. In short, investors for the most part regard such an offering as "speculative" and have insisted upon offering prices that would insure them a very substantial return on investment. With the present disruptions in the capital markets, the industry faces increased and nearly overwhelming obstacles in raising the required capital at this time. Certification would help alleviate these special problems at this time, as well as the many other problems, which call for certification over the long term. Needless to say, it is difficult enough under the best of circumstances to negotiate financing for the business of a regulated common carrier which must offer its services to the public at rates set by the C.A.B., but which is not accorded the usual protections of certification which goes along with regulation. It is a *major* problem *right now*. All we ask is equality of treatment and opportunity with the truckers,

the surface forwarders, the airlines and the other transportation modes. While I feel that our underwriting will be successful in view of the reputation of our company, many an obstacle would be removed to our obtaining the necessary financing if we had what our equals have in other modes, the permanance and protection that comes from certification.

We have been in the air freight business for 21 years, through periods of depression and inflation. There are times when we, and others of our industry, had grave reservations as to whether we would make it, and as to whether the continuing expenditure of our own funds and zeal was worth the trouble. We adhered because we believe in our mission and foresaw a profitable future ahead. But neither we nor our colleagues can or should reasonably be expected to invest our funds nor to encourage the public to invest its funds in an industry that does not have the security that comes from certification. All we seek is what other similar industries have obtained after a far shorter period of apprenticeship.

I thank this Committee for the opportunity to appear before it.

Mr. FRIEDEL. Mr. Haffer, you heard Mr. Gillilland say that the Board did not need any new legislation, it had the right to grant certification. What is your opinion on that?

Mr. HAFFER. First, there are two answers to that: One is that as Mr. Gillilland indicated, the Board is not disposed to grant certification even if it does have authority under the existing statutes. He stated that it believes its present method of granting authority by exemption is correct. I don't think that the vice chairman even held out the "pie in the sky" in any foreseeable future for the grant of certification by the Board.

Second, as my prepared remarks stress, and as I believe I indicated briefly in my oral remarks, Board authority under section 401 permits certification to the airfreight forwarding industry only by naming specific points. It cannot be granted on an areawide geographical basis or without limitation as to points.

The unique function, and the general use of the contribution the airfreight forwarding industry makes to the shipping public through the direct air carrier, as I have indicated, is that he is free to go into any point to serve any area, to serve any market. That may appear to have a potential for airfreight. It is for this reason that even if the Board disposed to act on its own, it could not grant to the existing forwarding industry authority of the scope or the extent that the industry now possesses.

Mr. FRIEDEL. Mr. Adams?

Mr. ADAMS. Part 4 of H.R. 12831 on page 4 says, "A certificate issued under section 4A of section 401d to engage in airfreight forwarding shall designate the terminal and intermediary points only insofar as the Board shall deem practical and otherwise shall designate only the geographical area or areas within or between such service may be rendered."

Do you feel that is necessary as an amendment to 401 to maintain flexibility in the business?

Mr. HAFFER. Mr. Adams, that applies, of course, only to those new applicants other than those under the previous section. Existing forwarders would be given authority coextensive with the existing exemption authority which is nationwide.

Without any designation.

Mr. ADAMS. Whoever was grandfathered in would have the nationwide authority. Is that correct?

Mr. HAFFER. That is correct.

Mr. ADAMS. I also wanted to get from the other witnesses some idea of how practical this work is. Several of you mentioned that you

were treated like any other shipper and you indicated that for airlines, all of those really in air transport, it is one-third of any revenue dollar and two-thirds is on the ground. What do you do? Do you file a tariff and then pay the established airline and truck tariffs to deliver from one point to another?

Mr. HAFFER. That is correct.

Mr. ADAMS. In other words, you have to pay the same price for airline transportation that any other shipper does, but you are able to make your profit in this two-thirds that they have to allocate really for handling it on the ground. Is that right?

Mr. SHULMAN. Worse than that. We also have to pay them for a portion of that ground support. For example, built into the airline costs are the costs for tariffs, for sales, for markets research, for communications, all of the things that we also have we have our own tariff department, our own sales department, our own market research, all of the general and administrative costs that the air carrier has, yet, we must pay him for his, that is built into his rates as well as in our own rates we charge the shipping public, and bill in those costs.

So, we pick up duplicate costs to a significant extent.

Mr. ADAMS. In other words, you have a different situation than the forwarder who forwards by railroad, where he really has only the difference between the carload and the LCL lot. You have a tariff that will probably be higher than the tariff if someone tendered directly to the airlines. Is that correct?

Mr. SHULMAN. In some instances, not always. Shulman is, as is WTC, termed a volume forwarder. We ship in very substantial volume between certain major points and thereby do get the kind of spread that you are talking about.

Mr. ADAMS. Is there a spread in the tariffs by volume and weight on the airlines, too?

Mr. SHULMAN. Unfortunately not. We have kept our finger in the dike as far as our airline costs are concerned by engaging in a charter arrangement where Shulman Air Freight and WTC Air Freight have joined together in a so-called co-load arrangement to charter a full airplane moving from coast to coast and by so doing, we have avoided at least up to now, the necessity for paying the very substantially higher rates which are represented by the single Igloo.

We are in effect buying the equivalent of 21 of these Igloos in a charter arrangement. But it is true that where we can't do that because charters aren't available or for whatever reason, our rates in many instances are somewhat higher at over the 100 pound level than the airlines themselves.

Mr. ADAMS. In other words, if you are a shipper in New York City and you want to ship to, say, your office or to someone else in San Francisco, the shipper would come to you and you would quote him a rate from his dock to the consignee's dock?

Mr. SHULMAN. Exactly.

Mr. ADAMS. Or he could try to call up a truck line and ask them to deliver it to the airfreight terminal and he would get, I assume, then a series of bills of lading, one from the trucker in New York City, one from the airline and then one from a truck.

I am not talking about your business, but if he wanted to use an alternative way of shipping these things.

Mr. SHULMAN. No, sir. The fact is that the airlines through Air Cargo, Inc., a company owned in common by all the scheduled airlines, do arrange for this pick up and delivery and they charge for that on a single air bill. There are three elements to that charge: The pick up, the airport to airport and the delivery.

But it is all on the air bill even though the services are provided by three different entities. The pick up and delivery are provided by agents of the airline.

Mr. ADAMS. Is that on a separate tariff basis?

Mr. SHULMAN. Yes. The airlines publish a pick up and delivery tariff which is separate from the airport to airport tariff. The shipper may avoid the payment of those charges by either delivering the freight to the airline, or consignee picking it up or giving it some other trucker.

If he calls the airline for the pick up, then he must pay the appropriate pick up and delivery charges as well as the air carrier, airport to airport charges.

Mr. ADAMS. The other alternative is the shipper who has his own truck fleet at both ends. Is that right?

Mr. SHULMAN. Yes.

Mr. ADAMS. I am trying to get how your business works. Does a national company like Sears & Roebuck ever deliver to the airlines and then pick up at the other end? Is there any of that?

Mr. SHULMAN. No, sir. It is very limited. There is some of that. But to use your example, Sears, Roebuck will employ forwarders, because although in the aggregate they receive a very substantial amount of freight, Sears will buy from several thousand manufacturers in the New York area or the Atlanta area, or wherever, and the individual shipments are relatively small. That is where the forwarder comes in. He picks these shipments up which individually are small and consolidates them.

Then when he delivers to Sears, Roebuck in Chicago, he is going to be delivering a substantial amount of frieight.

It is true that some few large shippers do pick up or do delivery to the airport, but that is the exception than the rule.

Mr. ADAMS. In other words, those airport terminals, freight terminals that they are putting in around the country, now basically that freight comes either from the airlines picking up and delivering to and from them, or from you?

Mr. SHULMAN. Yes.

Mr. ADAMS. There is a very small volume of shippers that actually take things out to the dock and drop them and try to get somebody to pick them up at the other end.

Mr. SHULMAN. That is correct.

Mr. ADAMS. Are they now sending cross country between major ports full cargo airplanes as opposed to combined cargo airplanes?

Mr. SHULMAN. They are sending both.

Mr. ADAMS. In other words, the major airlines will now set aside a full jet that will be nothing but freight?

Mr. SHULMAN. That is correct.

Mr. ADAMS. You have had to in some cases charter in order to avoid paying the high charges on the so-called igloo?

Mr. SHULMAN. That is correct.

Mr. FRIEDEL. I want to thank you very much.

The committee now stands adjourned.

(The following letter was received for the record:)

AIR TRANSPORT ASSOCIATION,
Washington, D.C. June 19, 1970.

Hon. SAMUEL N. FRIEDEL,
Chairman, Subcommittee on Transportation and Aeronautics, Committee on Interstate and Foreign Commerce, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We submit for the record herewith the views of the Air Transport Association with respect to H.R. 9227, H.R. 10687, and H.R. 12831, bills to provide for the certification of air freight forwarders under the Federal Aviation Act of 1958.

The airlines understand the reasoning of the air freight forwarders in seeking permanent certification and appreciate their concern with the current exemption system. However, the Civil Aeronautics Board has taken the position that it has statutory authority to do virtually all the things the air freight forwarders have sought.

In 1966, then CAB Chairman Murphy stated in testimony before the House Select Committee on Small Business that: "the Act is sufficiently flexible to permit the Board to issue certificates to the freight forwarders if such action should appear to be required by the public interest, and also to impose appropriate standards limiting entry into the field."

In response to a Committee question, Chairman Murphy elaborated as follows:

> It is true that section 401 of the Act provides that certificates shall specify terminal and intermediate points. The Board has never ruled whether a combination of an exemption from this provision coupled with a certificate proceeding, or some other application of the Act, could result in the award of a blanket type of authority to freight forwarders which they now enjoy. There can be no question, however, that legislation specifically authorizing such action would probably eliminate litigation on the issue. However, in the past, the Board has refused to endorse similar legislation on the ground that existing procedures provide a flexible system for licensing and regulating air freight forwarders in accordance with the public convenience and necessity standards of the Act. Presumably, this would continue to be the position of the Board in the absence of changed economic conditions requiring a different view.

Our position on the certification question is, therefore, one involving the need. Any legislation authorizing certification may be unnecessary in view of the Board's present authority to license and regulate air freight forwarders. If, however, the Committee does decide to proceed with this legislation it should be appropriately amended to insure that (1) adequate provision is made for CAB and judicial enforcement with respect to air freight forwarder practices, (2) it requires the establishment of adequate financial, equipment, facility and service responsibility to be met by air freight forwarders, and (3) it preserves the shipper-carrier relationship between freight forwarders and direct air carriers.

We will be happy to provide the Committee with whatever additional information it may require.

Cordially,

S. G. TIPTON, *President.*

(Whereupon, at 11:50 a.m. the subcommittee adjourned.)

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