

The PRESIDING OFFICER. The 30 minutes allocated to Senators for discussion of amendments is running only when those Senators are on the floor speaking as to that amendment.

Mr. PRESSLER. In view of the fact that the majority leader has stated a desire to vote by about noon, I hope that Senators will come to the floor.

Mr. President, I ask unanimous consent to speak as in morning business for 5 minutes on a separate subject.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Let me emphasize, that upon the arrival of any Senator with business on the telecommunications bill, I will immediately yield the floor.

UNITED STATES-JAPAN AVIATION DISPUTE

Mr. PRESSLER. Mr. President, I rise today to discuss a matter of great importance to the Group of Seven summit meeting to be held this week in Canada. I refer to the current aviation dispute between the United States and Japan. The United States must stand firm in this dispute. It is vital to our long-term U.S. international aviation policy. It is critical to the future of our passenger and cargo carriers. The millions of consumers who use air passenger and cargo services in the Pacific rim deserve the best possible service at competitive prices set by the market.

In recent months, many Senators have expressed views on the bilateral aviation negotiations between the United States and the United Kingdom. That interest was well-placed. In 1994, revenue for United States carriers between the United States and the United Kingdom was approximately \$2.5 billion. To put the significance of the United States-Japan aviation dispute in perspective, in 1994 the total revenue value of passenger and freight traffic for United States carriers between the United States and Japan was approximately \$6 billion.

First, let me put to rest a misconception. The United States-Japan aviation dispute is a bona fide, stand alone trade issue. It unquestionably is a separate trade issue. Commentators who suggest our current aviation disagreement is inextricably linked to our automobile dispute with Japan are wrong. Others who cynically suggest it is more than coincidence that the aviation dispute has come to a head at the same time as the automobile dispute obviously do not know the recent history of the United States-Japan aviation relations.

Plain and simple, this dispute arose as a result of actions by the Government of Japan to protect its less efficient air carriers from competing against more cost-efficient United States carriers for service beyond Japan to points throughout Asia. The issue is straightforward: Should the United States allow the Government of Japan to unilaterally deny United

States carriers rights that are guaranteed to our carriers by the United States-Japan bilateral aviation agreement? As chairman of the Commerce, Science, and Transportation Committee, I believe the clear and unequivocal answer is "no."

The dispute relates to our bilateral aviation agreement which has been in effect for more than 40 years. Over the years, that agreement has been modified and otherwise amended to reflect changes in the aviation relationship between our two countries. Pursuant to the United States-Japan bilateral agreement, three carriers have the right to fly to Japan, take on additional passengers and cargo in Japan, and then fly from Japan to cities throughout Asia. The U.S. carriers who are guaranteed fifth freedom rights, or so-called beyond rights, are United Airlines, Federal Express, and Northwest Airlines.

Recently, Federal Express and United Airlines tried to exercise their beyond rights and notified the Government of Japan that they would start new service from Japan to numerous Asian cities. The Government of Japan refused to authorize these new routes. The bilateral agreement requires that such requests be expeditiously approved. In violation of the bilateral agreement, the Government of Japan has said it will not consider these route requests until the United States holds talks aimed at renegotiating the bilateral agreement.

Mr. President, the consequences of the Government of Japan's unilateral denial of beyond rights have been significant. For example, Federal Express, relying on its rights under the bilateral agreement, invested millions of dollars in a new, Pacific rim cargo hub at Subic Bay in the Philippines. The Subic Bay hub is scheduled to be fully operational in several weeks. The Government of Japan's refusal to respect the terms of the bilateral agreement threatens Federal Express' multi-million-dollar investment. Similarly, United Airlines has already essentially lost the chance to provide service between Osaka and Seoul during the busy summer season.

There is no doubt that the economic impact of Japan's refusal to recognize Federal Express and United Airlines' beyond rights has already been great for each of these carriers. The burden has also been shouldered by consumers who have been denied the benefits of a more competitive marketplace. As each day passes, the costs become more significant. Yesterday, Federal Express was forced to postpone for 30 days its proposed July 3, 1995, opening of its Subic Bay cargo hubs.

I point out to the Senate, that is a great loss not only for Federal Express but to the United States. It is our rights of moving our airplanes around the world, as we allow other countries to move them into our country.

How did the United States and Japan get to the brink of an aviation trade war? Let me first dispel three myths.

First, the aviation dispute has nothing to do with a bilateral aviation agreement that is fundamentally unfair to Japan. Nor does it really have anything to do with so-called imbalances in treaty rights that must be remedied. Yet, United States carriers do have an approximately 65 percent share of the transpacific between the United States and Japan. However, this is due to market forces. It has nothing to do with fundamental imbalances in the bilateral agreement.

Since this goes to the heart of the issue, let me reiterate this point. The reason United States carriers have a larger share of the transpacific market than Japan carriers is due to market forces. Just 10 years ago, under the very same bilateral agreement that the Government of Japan now criticizes, Japanese carriers had a larger market share on transpacific routes than United States competitors.

Japanese carriers lost transpacific market share and they lost it fast. The reason why is simple economics. The root of this dispute also is simple economics. Japanese carriers have operating costs nearly double United States air carriers and they cannot compete with our carriers. For example, a passenger flying from New York to Tokyo on a Japanese carrier pays approximately 23 to 33 percent more for that service. Japanese carriers have priced themselves out of market share. Passengers have, so to speak, voted with their feet and selected U.S. carriers that have significantly lower air fares.

Second, the aviation dispute has nothing to do with unequal beyond rights for Japanese carriers to serve beyond markets from the United States. Yes, Japan only has the right to serve on destination beyond the United States while United States carriers currently have the right to serve 10 points beyond Japan. This, however, is a statistic without any real significance. Higher operating costs would prevent Japanese carriers from competing for traffic beyond the United States even if Japanese carriers had a greater right to do so.

The beyond markets the Government of Japan truly wants are the Asian markets. These markets, particularly service from Japan to China, are cash cows for Japanese carriers. There is nothing the Japanese want less on these routes than a good dose of American competition.

U.S. air carriers are not the only victim of this protectionist effort to restrict competition in the Asian beyond markets. Consumers, including Japanese citizens, are big losers. For example, service on Japanese carriers between Hong Kong and Tokyo, a beyond route, is approximately 24 percent higher than on a United States carrier. Air fares on a Japanese carrier between Tokyo and Seoul are approximately 20 percent higher.

Third, the United States has not caused this dispute by refusing to renegotiate the bilateral agreement. Let me refute this myth loud and clear: Foreign nations who enter into agreements with the United States must abide by the terms of those agreements. There are no two ways about that.

The Government of Japan is trying to force us to the negotiating table by unilaterally denying clear rights provided to United States carriers by the bilateral agreement. Let me add, the Japanese want these negotiations to increase restrictions on United States carriers to further protect Japanese carriers. This would be detrimental to United States carriers and consumers.

That is the wrong direction negotiations should go. Aviation talks with the Government of Japan should focus on opening the Japanese market, not further restricting it.

Also, it is the wrong way to get to the table for meaningful negotiations. The best way for the Government of Japan to open the door for negotiations of the United States-Japan bilateral agreement is to immediately honor and abide by the terms of the existing agreement. The approach the Government of Japan has taken by unilaterally denying rights guaranteed by the agreement is misguided, it violates international law, and it must not be tolerated.

Mr. President, we are at the brink of an aviation trade war with Japan for one reason. Operating costs of Japanese carriers are nearly double those of United States carriers. Japanese carriers cannot compete against our more cost efficient carriers. In a June 1994 report, Japan's Council for Civil Aviation, an advisory body to Japan's Transport Minister, warned that Japanese carriers need to become more competitive or they may not survive in international markets.

Japan's Council for Civil Aviation is absolutely correct. The solution is for Japanese carriers to become more competitive. Instead, as reflected by this dispute, the Government of Japan has chosen to prescribe yet another dose of protectionism.

Mr. President, on May 17, 1995, I urged President Clinton to take whatever steps deemed necessary and reasonable to assure that the Government of Japan abides by the terms of the United States-Japan bilateral aviation agreement. I ask that a copy of that letter be printed at the end of my statement in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRESSLER. Today, I again urged the administration to stand firm in our aviation dispute with Japan and to take whatever steps it deems necessary and reasonable to protect rights given to our carriers by the United States-Japan bilateral agreement.

Mr. President, at the beginning of these remarks, I mentioned the impor-

tance of the aviation rights issue to the Group of Seven Summit meeting to take place this week. I believe the Group of Seven leaders are in a position to promote a new system for aviation rights to replace the confusing web of bilateral agreements we now have.

That is something we have to do, and in the Commerce Committee one of my goals is to find a way that we can replace this bilateral aviation system with a new system for aviation rights.

We have a confusing web of bilateral agreements. I hope you there in Halifax, the Group of 7, especially I hope President Clinton talks to the Japanese about this situation.

Top-level leadership can bring about such a reform. I recommend to my colleagues an article I wrote for the June 7 edition of the Seattle Post-Intelligencer, "Rules for World Air Transport Need Overhaul."

Mr. President, I ask unanimous consent the article be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2).

EXHIBIT 1

U.S. SENATE, COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,

Washington, DC, May 17, 1995.

Hon. WILLIAM J. CLINTON,
The President, The White House, Washington, DC.

DEAR MR. PRESIDENT: As Chairman of the Senate Committee on Commerce, Science, and Transportation, I am writing to urge you to take whatever steps you deem necessary and reasonable to assure the Government of Japan abides by the terms of the United States/Japan bilateral aviation agreement.

Since the early 1990s, the Government of Japan has routinely ignored the clear language of the U.S./Japan bilateral aviation agreement and in doing so has denied several U.S. air carriers permission to serve points in Asia from Japan. Recently, the Government of Japan failed to approve Federal Express' request for a route between Osaka and Subic Bay, the location of Federal Express' new cargo hub in the Philippines. Similarly, the Government of Japan rejected United Airlines' request to commence service between Osaka and Seoul. These carriers are guaranteed "beyond rights" by the bilateral agreement, each made economic decisions based on these rights, and the Government of Japan should honor its agreement.

Mr. President, the United States must require foreign nations to abide by the terms of international aviation agreements with our country. International aviation opportunities are critical to U.S. passenger and cargo carriers, as well as the thousands of individuals they employ, their customers and the communities they serve.

Sincerely,

LARRY PRESSLER,
Chairman.

EXHIBIT 2

[From the Seattle Post-Intelligencer, June 7, 1995]

RULES FOR WORLD AIR TRANSPORT NEED OVERHAUL

(By Larry Pressler)

Since the early 1990s, the Japanese government routinely has violated its bilateral aviation agreement with the United States.

Japan currently is holding up approval of new routes involving "beyond rights" for Federal Express and United Airlines, even though those carriers explicitly enjoy such rights in the U.S.-Japanese agreement.

"Beyond rights" means that the Japanese government allows a U.S. carrier to arrive in Japan from the United States, unload and take on cargo or passengers and then fly to a third country. Japan's denial of routes is an explicit violation of the U.S.-Japan bilateral air agreement. Meanwhile, a more fundamental inequity is that only three U.S. carriers enjoy "beyond rights" with Japan, while Japan has denied five other American carriers such transit rights.

Japan apparently believes that by violating its air agreement with the United States, it can induce the United States to renegotiate the agreement on terms more favorable to Japan. That is unacceptable. I have urged President Clinton to take whatever measures he deems necessary and reasonable to get Japan back into compliance with the agreement.

Meanwhile, I urge the U.S. and Japanese governments to use their economic leverage and political skills to advance the longer-range project of global reform of international air-transport agreements.

The existing system of bilateral agreements is a bad arrangement. An outmoded patchwork of rules has international air transport stalled in a holding pattern. Instead of a uniform global agreement such as the General Agreement on Tariffs and Trade, there are about 3,500 different nation-to-nation air-transport agreements. That makes for babel of confusion and inefficiency.

Many countries have insisted upon agreements heavily protectionist in favor of their own national airlines. Others sharply limit the number of U.S. carriers allowed into their markets, fomenting rivalries between carriers having access vs. those that do not. Still other nations impose discriminatory cargo processing and freight-forwarding delays on the ground. All such arrangements put a drag on economic growth in America and around the world.

In Asia, the need for reform is especially important. The world has high hopes for continuation of the "Asian miracle" in economic growth. This phenomenon could be badly dimmed, however, without aviation reform. American air carriers' restricted access in Asia impairs our ability to enhance and share in Pacific Rim growth.

At Kimpo Airport in Seoul, for instance, U.S. and other non-Korean airlines are banned from operating domestic trucking companies. That increases costs and adds delay to freight delivery. At Tokyo's Narita Airport and Hong Kong's Kai Tak Airport, numerous other so-called "doing business" problems hamper foreign carriers.

Asia is not the only so-called source of friction for U.S. air carriers. The United Kingdom and France, for example, also have highly protectionist air access policies. Indeed, while world economic growth naturally depends on efficient transportation, transportation remains the most politically restrictive area of commerce.

The rules for world air-transport access need a complete overhaul. To accomplish that, we need a sense of mission, a model and top-level leadership.

The mission should transcend protecting the status quo. We need to keep our eyes on prizes for the next generation: commercial air routes and markets less developed now but clearly with great potential in years to come. China, India and Southeast Asia are examples; Russia and East Europe are others. Our policies need to keep opportunities open not just for existing companies, but also for the enterprises of tomorrow.

In form, a model for air-transport liberalization is the GATT: a multilateral, uniform, global agreement. In substance, the global air agreement should provide "open skies." An example of this open arrangement is the U.S.-Netherlands agreement. It allows Dutch air service full access into any U.S. city, with reciprocal rights for U.S. carriers.

Transforming a complicated web in international protectionism can't be done without leadership at the highest level. While I will use the chairmanship of the Senate Commerce, Science and Transportation Committee as a "bully pulpit" for reform, it is imperative that the cause have leadership from world heads of state.

I urge President Clinton to put world aviation reform on the agenda for the next Group of Seven Summit of the major industrialized nations. With attention at this level, we can get done what needs to be done.

TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

The Senate continued with the consideration of the bill.

Mr. PRESSLER. I hope Senators will come to the floor and use their time on the telecommunications bill.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1298

Mr. LIEBERMAN. Mr. President, I thank the Chair.

Last night I called up amendment No. 1298. I would like to proceed for the half-hour allocated under the unanimous consent agreement.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for up to 15 minutes, under the previous order.

Mr. LIEBERMAN. Mr. President, this amendment aims to maintain protection for the millions of cable consumers around America who, for the last 2 years, faced with cable systems that they enjoy, that they need, that they want to purchase, but faced with only one choice of a cable system in all but 50 of the more than 10,000 cable markets in America, are about to lose their consumer protection if the bill, as drafted and before the Senate, S. 652, passes.

I just think that would be a shame. In a way, an outrage, because of the way in which the cable consumer protections that were enacted in 1992, and were in effect for less than 2 years, have benefited consumers, and not hurt the cable industry.

Think about it, Mr. President. We are talking here about monopolies that exist in more than 10,000 markets in America. Only 50 have effective competition according to the FCC, and yet we will remove a consumer protection regulation that exists in the current system that has dropped rates cumulatively 11 percent, that has seen continued good health in the cable industry.

What is the rationale for this? The rationale seems to be in this overall reform of telecommunications, surprisingly, this termination of these consumer protection regulations that have just existed for a couple of years and worked so well.

Apparently, the argument by the cable industry has been they need to have rates deregulated. They need to take the cap off. They need to be free of any rule of reason, without competition, without regulation, because they need to go to the capital markets to raise capital so they can be ready to compete with the telephone companies direct broadcast satellites that are coming in.

Mr. President, the facts I showed last night show that not only have the cable companies continued to make money, with an operating margin industrywide of 20 percent—the highest of any element of the telecommunications industry—but their capital expenditures have continued to go up. In 1993, almost \$3 billion; in 1994, \$3.7 billion. Plenty of opportunity under regulation to raise money.

Perhaps as significant, take a look at what the market says. This is a bill that is procompetitive. It is market-oriented. Let me show the chart that talks about the cable index stocks.

We believe in markets. That is what this bill is all about. The blue line is an index of cable industry stocks. Look what happened in 1993 after regulation goes on: It shoots up, comes down, stays high, much higher than the S&P Standard 500 stock index. This is a measure of the market. Investors say the regulation that we put on was reasonable. It did not make them feel that these stocks were a bad investment. In fact, they continue to raise over the average stocks in the market.

I ask here, with this amendment, why are we doing this? On the face of it, respectfully, I would say it looks like the cable industry has used this overall reform of telecommunications to basically jump on or jump in to hide in a kind of Trojan horse of telecommunications reform, and put inside that horse an opportunity to raise rates.

I will say the system created in this bill is complicated. The bottom line is simple: Rates to most cable consumers in America are going to rise; by one estimate, \$5 a month for a service that a lot of people consider to be a necessary, basic source of information, recreation, entertainment, even shopping, now, in their lives.

If the amendment I propose passes, I am convinced that rates will remain stable, the cable industry will continue to be competitive, and the rates will remain regulated only until there is competition. Part of what is happening here is the hope being raised of immediate competition in the cable business.

In 1984 when Congress last deregulated cable, and the consumers paid deeply out of their pockets for the en-

suing years, until 1992 when we put regulation back on, the hope was raised that direct broadcast satellites were going to provide enormous competition for cable television.

Today, 11 years after 1984 when that argument was made, less than 1 percent of cable consumers, multichannel service consumers, get their television from direct broadcast satellites.

Telephone companies are authorized by the legislation before us to come into the cable business. I hope they do and I hope they do rapidly. When they are providing competition, the regulation will go off. But I am not so sure any of us can say that is going to happen next year or 3 years from now or 5 years from now or, in some cases, 10 years from now.

What this bill, without the amendment I am proposing, will do in that interim, it will simply take off the protection for consumers.

Incidentally, it substitutes, in place of that protection, a very ornate, complicated standard that there is no regulation unless the cable system charges substantially higher than the per channel average nationally on June 1, 1995. That is very complicated and actually shows you do not need regulation to have regulation. You can have all the problems of regulation through legislation.

My alternative here is simple and market oriented. It says a cable company will be subject to regulation if it charges substantially more than the national average in markets that are competitive. So my standard is not what the average is on June 1, 1995, or, as the bill suggests, what it will be 2 years from now after cable rates are raised. Then we are going to have substantially higher charges than the average 2 years later. My basis is what the market says where there is competition. As competition spreads throughout America, that standard will change and the consumers will benefit.

I want to respond to just a few comments that were made against the amendment last night as I wait for some of my colleagues who want to speak on this to come to the floor. There was some reference to the special status of smaller cable companies. I want to stress that no small cable company will be affected under my amendment. We are exempting any cable company that has less than 35,000 customers or any multiservice operator—that is, any company that owns more than one cable system—that has less than 400,000 customers. I am not interested in regulating these small, mom and pop cable operators. They are already economically responsible and I believe accountable to their communities, and therefore they are exempt from regulation.

Last night my friend and colleague from South Dakota suggested that cable revenues have remained flat for the first time in 1994. In fact, the cable