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Approved For Release 2001/08/27 : CIA-RDP79-00498A000100030012-4

OGC 76-2174
4-28-76

OGC HAS REVIEWED.

MEMORANDUM FOR: Deputy Director for Administration

FROM : Thomas B. Yale
Director of Finance

SUBJECT : Waiver of Provision of [REDACTED] Travel on
American Airlines for Employees [REDACTED]
[REDACTED] Prior to June 1975

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25X1A REFERENCE : Memo for DD/A from D/OEL dtd 26 Mar 76, subj:
Exception to [REDACTED]

25X1A 1. Action Requested: Your approval, under provision of
[REDACTED], of the referent request for exception to [REDACTED]

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25X1A 2. Basic Data: The exception requested relates to an un-
determined number of employees [REDACTED] who utilized
25X1A foreign air carriers, for reasons of personal economy and con-
25X1A venience, for travel to Rest and Rehabilitation locations other
than [REDACTED] the officially designated R and R point, prior to
June 1975. Through misinterpretation of Headquarters advice
that foreign airlines could be used for R and R travel to [REDACTED]
25X1A as no American airline served the direct, usually traveled route,
[REDACTED] allowed the use of foreign airlines to alternate
R and R destinations over routes that were served in whole or in
part by American carriers. Travelers were reimbursed for such
25X1A travel in an amount not exceeding the cost of the round trip air
fare between [REDACTED] Agency auditors, noting that
this use of foreign air was contrary to [REDACTED] recommended
that the Station initiate action to collect erroneous reimburse-
ments resulting from this cause or seek blanket waiver of the
provisions of [REDACTED] for such travel performed prior to June
1975. A Station directive issued in June 1975 has subsequently
corrected this misuse of foreign airlines. Determination of
the number of travelers and exact amounts reimbursed in error
would require extensive research of Station vouchers at Head-
quarters and has been deferred pending the outcome of the request

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ATTACHMENT

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EXEMPT CL BY 21608

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SUBJECT: Waiver of Provision of [REDACTED] Travel on
American Airlines for Employees [REDACTED]
[REDACTED] Prior to June 1975

for waiver.

3. Staff Position:

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(a) The Office of Finance has examined the propriety of waiver of the provisions of [REDACTED] under the above circumstances in terms of the authority delegated to the Deputy Director for Administration in HR [REDACTED] which permits his authorization or approval of any emergency, unusual or additional payment when necessary or expedient, if allowable under existing authority whether or not specifically provided for by Agency travel regulations. The Office of Finance has consistently interpreted the phrase existing authority to mean existing statutory authority; therefore, consideration of the applicability of HR [REDACTED] was in this context. 25X1A

(b) Agency regulations proscribing the use of foreign air carriers except under specified circumstances were first published in October 1963 pursuant to a Concurrent Resolution of both Houses of Congress dated 1 October 1962. This Resolution stated the sense of the Senate and the House that when travel on official business is to be performed on civil aircraft by legislative and government officers and employees that said travel will be performed by them on United States flag air carriers. In response to a request from the Chairman of the Travel Policy Committee regarding the legal basis for the requirement for use of American airlines and whether the Agency was bound by Government regulation requiring use of U.S. registered aircraft, the Office of General Counsel, in OGC 70-1773 dated 20 October 1970, provided an opinion as follows:

A Concurrent Resolution is not normally legislative in character, but it is used to express a fact, principle or opinion of both Houses of Congress affecting their operations. This resolution (regarding the use of U.S. airlines) also affects Government employees generally and may be considered the strongest of policy directions short of specific legislation on the subject.

This opinion was the basis for continuing the Agency reg-

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SUBJECT: Waiver of Provision of [redacted] Travel on
American Airlines for Employees [redacted]
[redacted] Prior to June 1975

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ulation on the use of U.S. airlines until passage of the International Air Transportation Fair Competitive Practices Act of 1974 (P.L. 93-623). Section 5 of this Act requires, in the absence of satisfactory proof of necessity, the disallowance of expenditures from appropriated funds for Government financed commercial foreign air transportation performed by an air carrier not holding a certificate under section 401 of the Federal Aviation Act of 1953. With the issuance of guidelines for implementation of this Act by the Comptroller General on 17 June 1975, the requirement that American air carriers be used when available became statutory in affect.

(c) In view of the foregoing, it is the belief of the Office of Finance that there was no statutory prohibition of the use of foreign airlines for official travel prior to 17 June 1975, and therefore the authority of the Deputy Director for Administration under provision of [redacted] to waive such use in the circumstances described in paragraph 2, above, is not impaired.

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4. Recommendation: It is recommended that the provision of [redacted] which requires the use of American airlines for official travel of Agency employees abroad when available be retroactively waived in the case of employees [redacted] who used foreign airlines for R and R travel prior to 17 June 1975.

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[redacted]

Thomas B. Yale

25X1A

No Legal Objection:

General Counsel

Date

The Recommendation in Paragraph 4 is:

APPROVED:

Deputy Director for Administration

Date

DISAPPROVED:

Deputy Director for Administration

Date

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ROUTING AND RECORD SHEET

SUBJECT: (Optional)				
FROM: Director of Finance 1212 Key Bldg.			EXTENSION	NO.
			DATE 27 APR 1976	
TO: (Officer designation, room number, and building)	DATE		OFFICER'S INITIALS	COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)
	RECEIVED	FORWARDED		
1. General Counsel 7-D-01 Hqs	4-28-76			
2.				
3. Deputy Director for Administration 7-D-26 Hqs				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
14.				
15.				

SENDER WILL CHECK CLASSIFICATION TOP AND BOTTOM			
UNCLASSIFIED	CONFIDENTIAL	SECRET	
OFFICIAL ROUTING SLIP			
TO	NAME AND ADDRESS	DATE	INITIALS
1	EO/DDA	9/16	Bj
2			C
3	ADDA	17 SEP 1976	Eg
4			
5	DDA		
6			
<input type="checkbox"/>	ACTION	<input type="checkbox"/>	DIRECT REPLY
<input type="checkbox"/>	APPROVAL	<input type="checkbox"/>	DISPATCH
<input type="checkbox"/>	COMMENT	<input type="checkbox"/>	FILE
<input type="checkbox"/>	CONCURRENCE	<input type="checkbox"/>	INFORMATION
<input type="checkbox"/>		<input type="checkbox"/>	PREPARE REPLY
<input type="checkbox"/>		<input type="checkbox"/>	RECOMMENDATION
<input type="checkbox"/>		<input type="checkbox"/>	RETURN
<input type="checkbox"/>		<input type="checkbox"/>	SIGNATURE
DDA 76-4564			
Remarks:			
<p>Tom Yale asks that you approve waiver of need to try to find vouchers of employees who used foreign airlines and thus need to reimburse the Government for doing so.</p> <p>Reasons: (a) claims would no way equal the cost of conducting the search! (b) probably can't find the documentation to prove the claims.</p> <p>OGC agrees!</p> <p style="text-align: center;">RFZ</p>			
FOLD HERE TO RETURN TO SENDER			
FROM: NAME, ADDRESS AND PHONE NO.			DATE
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OFFICIAL ROUTING SLIP

STATINTL !

TO	DATE	INITIALS
1 [REDACTED]		✓
2 Gary		✓
3 Brand		✓
4 Mr. B —		
5 See attached		
6		

ACTION	DIRECT REPLY	PREPARE REPLY
APPROVAL	DISPATCH	RECOMMENDATION
COMMENT	FILE	RETURN
CONCURRENCE	INFORMATION	SIGNATURE

Remarks:

I note you say
 OAC means - how
 about getting them to
 sign off? [REDACTED]

STATINTL
AT!

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Del - After Mr. Blake signs, please
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send copy to [redacted] OGC

STATINTL