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FOR TRANSPORTATION
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MEMORANDUM FOR: Honorable Lee C. White
Special Counsel to the President

SUBJECT: Suggested Items for Amending the Transportation Regulatory Statutes

A program of general revision of the transportation regulatory statutes, including revision of the basic procedures or any legislation which would liberalize present regulatory restrictions, would be very controversial. The regulated industries, particularly motor and water carriers, would fight major proposals vigorously, while supporting groups such as shippers and railroads would not offer sufficient strength to offset the carrier groups' opposition.

There are several specific regulatory items, however, which might not generate such last ditch opposition. Some of these items would involve deregulation, while others would meet specific regulatory needs.

1. Create a Joint Board of the ICC-CAB-FMC to consider through routes and joint rates.

This joint board proposal was first advanced in the Kennedy Message of April 1962. The Conference of the three regulatory Chairmen has accepted this principle and has drafted a bill to put it into effect. This bill should be incorporated in the Administration's Legislative program.

A joint board would consider only voluntary submittals of through routes and joint rates by transportation modes regulated separately by two or more of the regulatory agencies. It would meet a need for better transport coordination. It would provide a body of experience for further development of regulatory coordination. It is understood that some opposition from aviation interests may be encountered on the general basis that the operations of such a board would be against the best interests of the industry.

2. Amend Federal Aviation Act to provide for regulation of rates and practices of domestic and foreign air carriers in international transportation.

This proposal is in conformity with the Statement of International Air Transport Policy approved by the President in 1963 which recommended that the Civil Aeronautics Board be given authority, subject to the approval of the President, to control rates in international air transport to and from the United States. Some foreign governments unilaterally control rates of U.S. carriers, but the United States lacks machinery to control rates of foreign air carriers. Profits of U.S. carriers have reached levels which may justify lower fares, but due to lack of means to control the mechanisms of international fare determination, the attainment of lower fare structures has proven difficult. The public interest of the United States requires a measure of governmental authority in this area now entirely under the control of international air carrier associations insofar as U.S. carriers are concerned. Historically, the Air Transport Association has opposed this position, but from the evidence of the ATA statement before Congressional hearings during 1965, their opposition is diminishing.

3. Requirement that Common Carriers accept tender of shipper-owned containers and equipment at cost based rates or allowances.

At present many shipper-owned railroad cars, truck trailers, containers and other equipment are suitable for transportation by common carriers. Carriers normally pay allowances of varying amounts for the use of such equipment while on line. This works satisfactorily so long as the carrier is willing to accept the shipper-owned equipment, but this is not always the case. The proposal would require the acceptance of equipment tendered by shippers and would increase the economy of service to the public, reduce the cost of transportation by many carriers, and make possible a source of investment funds for transportation equipment not now fully realized.

4. Repeal of the "rule of three" in the present dry bulk commodity exemption of water transportation under the Interstate Commerce Act.

In the present dry bulk commodity exemption of water transportation, any vessel may carry only three such commodities if the exemption is to be effective. A barge tow by definition is considered a single vessel for purposes of the exemption. Repeal of the "rule of three"

would enable exempt carriers to carry any number of dry bulk commodities, and would assure greater efficiency of loading and bring greater economies to the shipping public and more flexibility of service. The proposal would be moderately controversial but would not deal with the regulatory situation of the water carriers in a fundamental way.

Regulated water carriers would oppose this proposal vigorously. This group consists of 88 carriers, but their weight would not prevail against the much larger group of unregulated carriers and the producing interests they represent. Railroads would raise minor objections unless some corresponding liberalization were granted their industry.

Dry bulk commodities subject to the exemption include only those in the trade as of June 1, 1939. Moreover, these commodities may not be carried in the same vessel as regulated commodities. It is not recommended that these factors be amended at this time because of the added controversy that would result.

5. Remove the procedural difficulties in cases involving the abandonment of freight service on branch lines and discontinuance of freight service at low density stations.

In 1958, the Congress enacted legislation to provide more lenient procedures in discontinuing passenger service. Similar procedures should be available to abandon costly and unproductive branch lines and low density stations. Losses incurred tend to hold up rates on more productive segments above what they could be. Railroads would favor the proposal. Truckers and waterway operators would not be opposed. Big shippers would be favorable. Opposition by labor can be met to a large extent by a job protection provision through attrition, a principle now generally accepted by the railroads. Opposition by communities potentially affected can be met to a large extent by a provision guaranteeing through origin to destination service including required rail-truck rates to the extent necessary.

Alan S. Boyd

