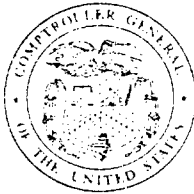


DECISION

THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

60620

FILE: B-184136

DATE: MAR 10 1976

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MATTER OF: Use of foreign flag air carrier during
travel on official business

DIGEST: (1) In appropriate instances where questions of payments to be made by a Governmental department are presented to the Comptroller General for decision by a departmental official who is not the department head, the questions will be decided and transmitted to the department head as if he had submitted them under 31 U.S.C. 74 (1970).

(2) Department of State employee may not use a foreign flag air carrier during travel while performing temporary duty in order to use excess foreign currency where an American flag air carrier is available even though the amount expended on the foreign flag carrier is only a small fraction of the amount that could have been expended in excess foreign currency for the entire trip.

The Inspector General of Foreign Assistance, Department of State, has requested an advance decision as to whether an exception may be made to E-138942, June 17, 1975, proscribing the use of foreign flag air carriers that can be paid for in excess foreign currency where American flag air carriers are available. Since requests for decisions in matters such as this should be applied for by the head of a department or establishment of the Government, the submission will be treated as a request for an advance decision by the Secretary of State and answered accordingly. 55 Comp. Gen. 52 (1975); 41 Comp. Gen. 767 (1962).

Two of the Inspector General's inspectors departed Washington, D.C., to make an overseas inspection with five official stops at Paris, Tunis, Cairo, Rangoon and Hong Kong, flying across the Atlantic Ocean and returning across the Pacific Ocean. Pan American World Airways, Inc. (Pan Am) officials have stated that they would accept payment in excess foreign currency for a ticket they would issue covering the entire trip as long as Pan Am is used over both of these oceans.

Although Pan Am does fly across the Atlantic Ocean, it does not fly to Paris nor does it make connections in Europe with any other American flag air carrier to Paris. If Pan Am were used across the Atlantic Ocean, it would be necessary to use a foreign flag air carrier from London to Paris. There is direct service from Washington to Paris by another American flag air carrier. It is also reported that all flights from Paris through the remainder of the trip would remain the same regardless of the flight(s) taken from Washington to Paris.

The Inspector General correctly points out that B-138942, June 17, 1975, requires the use of the American flag air carrier providing direct service to Paris rather than the use of Pan Am with the consequent foreign flag connection to Paris because American flag air carriers must be used where they are available. An exception is requested in this case, because it is reported that if the foreign flag connection were used to Paris, fares to American flag air carriers would only decrease by \$55.60, whereas if American service were used from Washington to Paris, \$3,882 could not be spent out of Government-owned excess foreign currencies.

Existing legislation has reflected concern for the proper control, management, and use of U.S.-owned foreign currencies by directing the use of these currencies to reduce the balance of payments deficits experienced by the United States. See, for example, section 105 of the Agricultural Trade Development Act of 1966, Public Law 89-808, 80 Stat. 1532, November 11, 1966, 7 U.S.C. 1705 (1970). This same policy is also encouraged in Office of Management and Budget Circular A-20.

The International Air Transportation Fair Competitive Practices Act of 1974, Public Law 93-623, 88 Stat. 2102-2106, (hereinafter referred to as the Act) was enacted to correct a generally unfavorable United States international airline economic situation. The measures provided in the Act were intended to produce a more competitive environment for the American flag air carriers conducting international operations which in turn would generate more income to such carriers. The Committee Report on the part of the bill that became section 5 of the Act, the section for which the implementing guidelines were set forth in B-138942, June 17, 1975, specifically listed the reduction of the balance of payments deficit as one of the reasons for passage of section 5. See S. Rep. No. 93-1257, 93rd Cong., 2d Sess. 9 (1974).

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However, even though the policy of reducing the balance of payments deficit is common to the Act and to the excess foreign currency management program, the means of achieving this policy in the Act is to require the use of and consequent payment to American flag air carriers "to the extent service by such carriers is available." The effect is to reduce payments to foreign entities but, more importantly, it increases revenues to American flag air carriers.

The Act requires that all American flag air carriers are to be preferred over their foreign flag competitors for Government-financed commercial air transportation services.

We must, therefore, deny the requested exemption from our decision of June 17 because it would be contrary to the legislative intention of generating income to American flag air carriers and because it would not employ the means chosen by the Congress in this situation for reducing the balance of payments deficit.

R.F. KELLER
Deputy
Comptroller General
of the United States