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MERCHANT MARINE COMMISSION
OF BRAZIL

RENATO DE AZEVEDO
U. S. REPRESENTATIVE
BRAZILIAN EMBASSY
3007 WHITEHAVEN STREET
WASHINGTON 8, D. C.

Washington, D.C.
7 de Fevereiro de 1945

588.(20)

Meu caro Barbosa da Silva:

Certo que o projeto de lei anexo, em estudo no Senado, sôbre o comércio aereo, será de real interesse ao meu distinto amigo, envio-lhe duas cópias na esperança de que ainda não as tenha recebido por outras vias.

Continuo aguardando noticias suas.

Um abraço amigo do

Dr. Edmundo Barbosa da Silva
Gabinete Civil da Presidência da República
Palacio do Catete
Rio de Janeiro, Brasil

RdA-b
Anexo

79TH CONGRESS
1ST SESSION

S. 326

IN THE SENATE OF THE UNITED STATES

JANUARY 15, 1945

Mr. MCCARRAN introduced the following bill; which was read twice and referred to the Committee on Commerce

A BILL

To create the All-American Flag Line, Incorporated, and to assure the United States world leadership in the field of air transportation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into sections according to the following table of contents, may be cited as the "All-American Flag Line Act of 1945":

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CREATION OF ALL-AMERICAN FLAG LINE, INCORPORATED

CORPORATE NAME

SEC. 1. (a) Sixty days after the effective date of this Act, there is hereby created a body corporate with the name "All-American Flag Line, Incorporated" (herein called the Corporation).

PURPOSE

(b) The purpose of the Corporation shall be to operate

as an air carrier in foreign air transportation and to provide transportation by air throughout the world, under the American flag, for persons, property, and mail.

OFFICES OF CORPORATION

(c) The Corporation shall have its principal office in the District of Columbia, but may establish branch offices or agencies in any city or cities of the United States or of any foreign country, under rules and regulations prescribed by its board of directors.

CORPORATE POWERS

(d) The Corporation shall have the following powers: To make contracts; to sue and be sued, complain and defend in any court; to have succession until dissolved by Act of Congress; to receive, hold, own, use, mortgage, and dispose of such real estate and personal property as shall be necessary for its corporate purposes; to adopt, with the approval of the Civil Aeronautics (Board) Authority (hereinafter called the Authority), a corporate seal that shall not thereafter be altered; to adopt a constitution, bylaws, and regulations to carry out its purposes not inconsistent with the provision of this Act or the laws of the United States or of any State; to establish and maintain offices and buildings for the conduct of its business; to establish State, Territorial, and foreign organizations and local branches; to acquire and control subsidiaries in the

furtherance of its corporate purposes without regard to the provisions of any antitrust law; to receive by devise, bequest, donation, or otherwise, property, either real or personal, and to hold the same absolutely or in trust, and to invest, reinvest, and manage the same in accordance with the provisions of its constitution, and to apply said property and the income arising therefrom to the furtherance of its corporate purposes and, in the case of property devised, bequeathed, or donated, in accordance with instructions of its donors; to exercise by its board of directors or duly authorized agents any powers specifically granted by the provisions of this subsection or by the constitution and bylaws of the Corporation, and such incidental powers as shall be necessary to carry out the powers so granted; to appoint by its board of directors such officers and employees as it deems necessary, to define their duties, fix their compensation, require bonds of them and fix the penalty thereof, and to dismiss at pleasure such officers or employees; and generally to do all such acts and things as may be necessary and proper in carrying into effect the purposes of the Corporation.

GOVERNMENTAL ASSISTANCE

(e) In furtherance of its corporate purposes, the Corporation is authorized to call upon any department or

agency of the United States Government for such cooperation or assistance, other than direct financial assistance, as such department or agency may render.

ISSUANCE OF STOCK

CLASSES OF STOCK

SEC. 2. (a) The capital stock of the Corporation shall be divided into two classes, class A and class B. The total amount of class A stock which shall be issued shall be $200,000,000. There shall be no limit on the amount of class B stock which may be issued, subject to the approval of the Authority, as provided in section 3.

CLASS A STOCK—DIVIDENDS

(b) Class A stockholders shall be entitled to payment of dividends out of net earnings at the rate of 6 per centum per annum on the capital stock paid in by them, which dividends shall be cumulative, or to the extent of 25 per centum of such net earnings in any one year, whichever amount shall be the greater, but in no case more than 8 per centum per annum on the capital stock paid in by them.

CLASS B STOCK—DIVIDENDS

(c) Class B stockholders shall be entitled to payment of such dividends out of net earnings as the board of directors of the Corporation shall declare subject to the approval of the Authority.

VOTING STOCK

(d) Class A stock shall be voted at meetings of stockholders. Class B stock shall not be so voted.

ELIGIBLE SUBSCRIBERS

(e) Eligible subscribers to class A stock shall be air carriers holding certificates issued by the Authority authorizing foreign air transportation, or authorizing interstate air transportation other than air transportation wholly within Alaska.

LIMITATION ON STOCK OWNERSHIP

(f) Each air carrier eligible to subscribe for class A stock shall be entitled to subscribe for such stock in the amount of at least $5,000,000, or in such larger amount which, proportionate to the whole amount of such stock, is not greater than the proportion which the gross operating revenue of such air carrier for the calendar year 1943, as determined by the Authority, bears to the total gross operating revenues of all such eligible air carriers, similarly determined: *Provided,* That no subscription shall be received from any air carrier for class A stock in an amount less than $5,000,000 or in excess of $50,000,000.

REALLOCATION OF STOCK

(g) If any air carrier eligible to subscribe for class A stock shall fail to apply, within thirty days after the effective date of this Act, for the full amount of such stock to which

such carrier is entitled, such stock not applied for shall be reallocated among all other eligible air carriers on the basis of the relationship which the gross revenue of each such carrier bears to the total gross revenues of all such carriers, subject to the maximum limitations provided in subsection (f). No stockholder shall hold or retain at any time class A stock in a total amount exceeding $50,000,000.

CASH SUBSCRIPTIONS; SPECULATIVE TRADING BANNED

(h) Subscriptions for class A stock shall be accompanied by payment in full for such stock at par. Class A stock of the Corporation shall not be traded on any stock exchange or curb market; nor shall such stock be sold or transferred except with the approval of the Authority.

ISSUANCE OF CLASS B STOCK

(i) Class B stock shall be issued only in payment for assets purchased by the Corporation from holders of class A stock as provided in section 3.

PURCHASE OF ASSETS OF CLASS A STOCKHOLDERS

CONDITION PRECEDENT

SEC. 3. (a) No air carrier shall subscribe or offer to subscribe for class A stock of the Corporation unless such air carrier has agreed without reservation, after becoming a stockholder of the Corporation to sell, transfer, and assign to the Corporation for fair market value, any or all physical properties, equipment, operating facilities, licenses, fran-

chises, leases, goodwill, or other valuable rights owned by such stockholder and used in foreign air transportation, to the full extent that the Corporation shall require such sale, transfer, and assignment; and to accept in payment therefor class B stock of the Corporation having a par value equivalent to the purchase price.

DETERMINATION OF MARKET VALUE

(b) Determination of the fair market value of any assets held by a holder of class A stock shall be made for the purposes of subsection 3 (a) by a board of appraisal, composed of two members nominated by the holder of class A stock, two members nominated by the Corporation, and a member nominated by the Authority.

RIGHT OF PURCHASE UNAFFECTED BY PARTIAL EXERCISE

(c) Exercise by the Corporation of its right of purchase, pursuant to this section or any agreement made hereunder, of any assets of any holder of class A stock, shall not affect the right of the Corporation subsequently to purchase any other assets of such holder.

MANAGEMENT OF CORPORATION

SEC. 4. Management of the Corporation shall be vested in a board of directors consisting of one member designated by each holder of class A stock, and ten additional members, who shall be elected annually by the holders of class A stock.

LIMITATIONS ON CORPORATE OBLIGATIONS

SEC. 5. The Corporation is authorized and empowered to issue and to have outstanding at any one time in an amount aggregating not more than three times the amount of its issued capital stock, including both class A and class B shares, its notes, debentures, bonds, or other such obligations, to be redeemable at the option of the Corporation before maturity in such manner as may be stipulated in such obligation, and to bear such rate or rates of interest, and to mature at such time or times as may be determined by the Corporation: *Provided*, That any issue of such securities by the Corporation shall not be made without the approval of the Authority, as herein provided: *Provided further*, That the Corporation may sell on a discount basis short-term obligations payable at maturity without interest. All notes, debentures, bonds, and other such obligations of the Corporation shall be secured by assets of the Corporation in such manner as may be provided by its board of directors. Such obligations shall be offered for sale at such price as the Corporation by its board of directors may determine. Any or all obligations of the Corporation may be purchased by the Secretary of the Treasury with any funds in the Treasury not otherwise obligated.

ORGANIZATION OF CORPORATION

AUTHORITY TO ACT AS TRUSTEE

SEC. 6. (a) Immediately after this Act becomes effective, the Authority shall proceed as promptly as possible to determine the air carriers eligible to subscribe for class A stock of the Corporation, and the amount of such stock to which each such carrier is entitled, and shall advise each such carrier of its determination. The Authority shall, as trustee for the Corporation, receive subscriptions for class A stock of the Corporation, make necessary provisions for issuance of such stock, and shall, during the period terminating sixty days after the effective date of this title, do and perform all other and further acts necessary to proper effectuation of the purposes of this Act.

FIRST MEETING OF BOARD OF DIRECTORS

(b) On the day sixty days after the effective date of this Act, or, if such day be a Sunday or a legal holiday, then on the day next following, all of the class A stock of the Corporation shall be issued to eligible subscribers for such stock in such amounts as the Authority shall have determined in accordance with the provisions of this Act; class A stockholders of the Corporation shall meet and elect a board of directors as provided in section 4; and the board of directors so elected shall adopt a corporate seal, and shall take such other and further action as may be then and there required,

in the opinion of the board, and further effectuate the provisions of this Act.

AIR CARRIER CERTIFICATE TO ISSUE

SEC. 7. On the day following creation of the Corporation, the Authority shall, in conformity with the Federal statutes governing such issuance, issue to the Corporation a certificate of public convenience and necessity as an air carrier in foreign air transportation.

EXTENSIONS OF SERVICE MAY BE REQUIRED OF CORPORATION

SEC. 8. The Authority, upon certification by the Secretary of State that any action is necessary in the public interest (A) for the maintenance of cooperative relationships between the United States and any foreign country, or (B) in furtherance of national policy, or (C) for the performance of any obligation of the United States imposed by treaty, may by order require the Corporation to make any extensions of its existing service, or to establish and provide any new service, in air transportation otherwise than between points in the continental United States (not including Alaska) : *Provided*, That if the Authority requires the Corporation so to extend its service or to provide new service, it shall issue its order making such requirement only under such conditions as will guarantee to the Corporation a reasonable compensation for the service it is so required

to perform. Within the limits of available appropriations made by the Congress therefor, the Authority is authorized and directed, when necessary for compliance with the provisions of this section, to make direct payments to the Corporation which, together with all other revenue of the Corporation, will enable it most effectively to promote the public interest. Such payments shall be subject to such terms, conditions, and limitations as the Authority may prescribe, having regard for the provisions of this section.

INTERSTATE AIR TRANSPORTATION AND INTERSTATE AIR COMMERCE

SEC. 9. No certificate to engage in interstate air transportation and no license to engage in interstate air commerce shall be granted to or held by All-American Flag Line, Incorporated, or any subsidiary thereof.

AIR MAIL

SEC. 10. No air carrier except All-American Flag Line, Incorporated, shall be authorized, by any certificate covering operations in foreign air transportation, to transport United States mail.

SECRETARY OF STATE

AGREEMENTS WITH FOREIGN GOVERNMENTS

SEC. 11. (a) The Secretary of State shall advise the Authority of, and consult with the Authority concerning,

the negotiation of any agreements with foreign governments affecting or in connection with air navigation or air commerce.

AGREEMENTS FOR BENEFIT OF ALL-AMERICAN FLAG LINE, INCORPORATED

(b) The Secretary of State may negotiate agreements with foreign governments in the name of the United States for the benefit of All-American Flag Line, Incorporated.

AVAILABILITY OF SERVICES AND FACILITIES

(c) In connection with negotiations by All-American Flag Line, Incorporated, with foreign governments or foreign nationals, the Secretary of State shall, when requested to do so, make available any and all services and facilities of the State Department in furtherance of such negotiations.

LIMITATION OF NEGOTIATIONS

(d) Except as herein provided, the Secretary of State shall not negotiate agreements with any foreign government or foreign national for the benefit of any air carrier engaged in foreign air transportation.

OTHER STATUTES

SEC. 12. All-American Flag Line, Incorporated, shall be subject to all provisions of Federal statutes applicable to air carriers, unless otherwise provided herein.

SEPARABILITY

SEC. 13. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE OF ACT

SEC. 14. The provisions of this Act shall become effective sixty days after enactment: *Provided*, That the Authority shall, if it finds such action necessary or desirable in the public interest, by general or special order, postpone the effective date of any provision of this Act, except this section, to such time as the Authority shall prescribe, but not beyond the one hundred and eightieth day following the enactment of this Act.

79TH CONGRESS
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S. 326

A BILL

To create the All-American Flag Line, Incorporated, and to assure the United States world leadership in the field of air transportation.

By Mr. McCARRAN

JANUARY 15, 1945

Read twice and referred to the Committee on Commerce