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U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of the Administrator

DEPARTMENT OF TRANSPORTATION

JUL 26 PM 2:33

800 Independence Ave., SW
Washington, DC 20591

JUL 24 2000

FAA-00-7018-51

Mr. Jean-Michel Bour
Chairman, Aviation Assembly
4101 Reservoir Road
Washington, DC 20007

Dear Mr. Bour:

This responds to your letter of June 28 to Mr. David Traynham, Assistant Administrator for Policy, Planning, and International Aviation, concerning Fees for Air Traffic Services for Certain Flights through U.S.-Controlled Airspace, Interim Final Rule, Docket No. FAA-00-7018. After careful consideration by the Federal Aviation Administration (FAA), including review of the material you submitted, I am denying your requests for an extension of the comment period and a delay in implementation of the Interim Final Rule (IFR).

The FAA has complied with international and U.S. laws, both substantive and procedural, in promulgating the IFR. This rulemaking correctly imposes fees to recover from certain users the costs directly related to FAA services provided those users, as required by Section 273 of the 1996 FAA Reauthorization Act (the Act), Public Law 104-264. The imposition of such user fees is contemplated by both the Convention on International Civil Aviation, done at Chicago, December 7, 1944 (the Chicago Convention), and by bilateral air transport agreements between the United States and foreign governments.

The procedures followed by the FAA satisfy the international obligations of the United States concerning changes in user fees. The IFR process, in accordance with the Act and the Administrative Procedure Act (APA), 5 U.S.C. 553 et. seq., provides users and other members of the public with a consultative process that allows for full involvement of interested parties as well as public review of all facets of this rulemaking prior to the issuance of a Final Rule.

Under the APA, all comments in this rulemaking will be fully considered by the FAA in its issuance of the required Final Rule. Comments received may cause the FAA to change either the IFR or the Final Rule. In addition to the formal IFR procedures, the FAA has continued to keep interested parties informed over the course of this 3-year process, including meeting with representatives of interested foreign governments in February of this year, prior to the issuance of this IFR. Once the rulemaking is completed, discussions with all users, including the Aviation Assembly, concerning the basis for future changes in the fees will be welcomed and encouraged by the FAA.

Accordingly, for the reasons stated above, your requests for extension of the comment period and a delay in implementation of the Interim Final Rule, Docket No. FAA-00-7018, are hereby denied. Per your request, your letter and the accompanying diplomatic note have, along with this letter, been placed in the docket of that rulemaking.

Sincerely,

Jane F. Garvey
Administrator