STATEMENT OF CHARLES O. CARY, ASSISTANT ADMINISTRATOR FOR INTERNATIONAL AVIATION AFFAIRS, FEDERAL AVIATION ADMINISTRATION, BEFORE THE HOUSE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, SUBCOMMITTEE ON AVIATION, REGARDING THE AVIATION WAR RISK INSURANCE PROGRAM.

Mr. Chairman and Members of the Subcommittee:

Today, it is again my pleasure to appear before you to discuss the War Risk Insurance Program of the Department of Transportation, which is administered by my office. Appearing with me today is Bruce I. Selfon, Chief of the Legislative Staff of the FAA.

In my appearance before you last July, my associates and I discussed the day-to-day administration of the war risk program. We requested then that you extend this program for five years and provide statutory authority for the investment of the war risk insurance fund held in the Treasury. Public Law 94-90, developed by this Subcommittee, was enacted on August 9th of last year. It provided that the funds could be invested but extended the program only until May 7, 1976. Today, we continue to endorse the extension of the program for five additional years.

The extension was limited so as to allow Congressional reconsideration of the program after completion of a study by the Administration on possible expansion of the program. This study has been completed and a Report submitted to the Congress by the President. This Report has been made available, of course, to the members of this Subcommittee.

I believe that the Report speaks for itself, and I do not intend to reiterate its contents. If you do have specific questions about the Report or the conduct of the study, we will be happy to address them. It is regrettable that the finalization of the Report took longer than anticipated. The issues raised by the expansion of the program involved complex policy questions that took time to resolve. It is those issues that I'd like to discuss with you today in my opening statement.

The fundamental policy question posed was whether the Federal Government should get involved in providing insurance for risks other than war risks. We believe very firmly that commercial problems should be solved by commercial entities. The government should not find itself involved in providing insurance on a regular or routine basis to the air carriers. However, the Air Transport Association (ATA) last year before this Subcommittee highlighted the fact that the current authority of Title XIII is not broad enough to provide insurance to cover all possible circumstances where private insurance is not available and where it is in the United States' interest that an air service to a particular point be continued.

The ATA proposed amending legislation which would have expanded the definition of "war risk." We stated that we could not support that amendment in our testimony last July. In the study conducted pursuant to P.L. 94-90, the ATA recommendation and a number of other specific alternatives were carefully considered. These proposals and our analysis

are set forth in the Report. As the Report indicates, all of those alternatives were found inadequate in certain respects. Therefore we developed a new proposal which is now being advanced as the best legislative solution to the problem.

The Report recommends that a new section be added to augment the Secretary of Transportation's authority under Title XIII. This authority would permit the issuance of insurance coverage not limited to war risks under certain specified circumstances. The determinative factor for exercise of the new authority would be a Presidential determination that a particular air service should be maintained for reasons of foreign policy. This would establish a different standard to be applied in deciding whether to issue insurance for other than a "war risk." The present standard in §1302 is whether insurance "adequate for the needs of air commerce" is available. The proposed standard will be that foreign policy considerations including defense or humanitarian needs mandate a Presidential decision to continue the air service. This is a higher standard, designed to prevent frivolous use of this authority.

The new section should require that there be a conclusive finding by the Secretary of Transportation that commercial coverage is not available on reasonable terms and conditions. The Secretary of Transportation should consult with the Secretaries of State and Defense as appropriate, or other agencies if needed, to evaluate whether continuation of a particular service is required. If such a finding is made, the President's

approval shall be necessary before any insurance is issued. Finally, the insurance coverage should initially be of an interim nature.

I would like to comment now on some of the underlying policy judgments that led to two key conclusions reached in the Report.

(1) That the approach adopted must preclude involvement of the government in the day-to-day provision of insurance for commercial aviation operations on a routine or regular basis.

Our concern is that we do not want a Federal program designed for limited use in extraordinary situations to be relied upon by the air carriers as an easy substitute for private insurance. For this reason, we believe the Secretary of Transportation should have to establish conclusively that private insurance is unavailable on reasonable terms and conditions. Further, consultations with the Departments of State and Defense are needed to establish the basis for a determination by the President that foreign policy reasons mandate providing insurance so the air service can continue. This procedure should prevent exercise of the new authority except in bona fide cases.

(2) That the Secretary of Transportation should not be limited by legislation to named risks eligible for insurance, but, with the approval of the President, may insure against those risks not covered by available commercial insurance.

The reason for not specifying the risks eligible for coverage is that it is essentially irrelevant what type of risk needs to be covered. Only when the government makes the determination that air service should continue will we provide insurance. If we do not wish to provide insurance for certain risks (such as internal labor disputes) we can either decline to do so in the specific case or establish a policy by regulation. Please note that we are not proposing a mandatory program for the government, but a discretionary program. This program is designed for utilization by the government to fulfill needs of the United States, not any single commercial entity.

Let me reemphasize one point. It is not the intent or effect of the proposed expansion of Title XIII to introduce the government into an area where commercial interests are expected to operate. Thus, we could only provide insurance in the rare circumstance that the particular air service was determined by the President to be required. We believe that this proposal meets the needs of the air carriers and satisfies the interests of the government.

Mr. Chairman, this concludes my opening statement. We will be happy to address any questions you and the Subcommittee might have.