



**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, DC**

**Order 98-6-2**

**Served: June 8, 1998**

Issued by the Department of Transportation  
on the 2<sup>nd</sup> day of June, 1998

| <b>Applications of</b>  | <b>Dockets</b>   |
|---|--|
| <b>American Airlines, Inc.</b>  | <b>OST-98-3401<br/>Undocketed*<br/>Undocketed*<br/>OST-97-2477*<br/>OST-97-2944*</b> |
| <b>American Airlines, Inc. and Aero California<br/>S.A. de C.V.</b>   | <b>Undocketed*</b>   |
| <b>Aero California S. A. de C.V.</b>                                  | <b>OST-97-2481*<br/>OST-97-2961*</b>   |
| <b>Continental Airlines, Inc.</b>                                     | <b>OST-98-3317<br/>OST-98-3466</b>   |
| <b>Delta Air Lines, Inc. and Aerovias de<br/>Mexico, S.A. de C.V.</b> | <b>OST-97-3289*</b>  |
| <b>Trans World Airlines, Inc.</b>                                     | <b>OST-98-3325*</b>  |
| <b>United Air Lines, Inc.</b>   | <b>OST-96-1348*<br/>OST-96-1554*<br/>OST-96-1560*</b>                                |

\*The referenced Notice contains minor editorial or technical changes from the Notice originally issued. Any changes that we have made are nonsubstantive in nature and do not affect the authority described in the original Notice in question. To the extent that, following the issuance of a confirmation order, parties or other persons need to rely on the content of a Notice of Action Taken, they should regard the language in the Notice attached to the order, rather than the language of the original Notice, as the language that the Department is in fact confirming.

**United Air Lines, Inc. and Compania  
Mexicana de Aviacion, S.A. de C.V.**

**OST-97-3237\***

**United Air Lines, Inc. and  
Lufthansa German Airlines**

**OST-98-3476\***

for exemptions or authorities under 49 U.S.C.  
section 40109 and the orders and regulations of  
the Department of Transportation

## ORDER

The captioned U.S. air carriers and foreign carriers have applied for various forms of authority or relief from Title 49 of the U.S. Code or regulations or orders of the Department in order to perform the air transportation activities shown in the attached Notices of Action Taken. Except as noted, no answers were filed to these requests.

Because of the imminence of these operations, we approved them by telephone, subject to adherence, by each applicant, to the conditions set forth in its certificate(s) of public convenience and necessity, foreign air carrier permit, and/or conditions attached.

We carefully considered the information set forth in each application described in the attached Notices of Action Taken, and we found that each of the proposed operations was consistent with the public interest and was consistent with an applicable bilateral aviation agreement and/or the aviation relationship between the United States and the foreign country involved, that each applicant was qualified to perform its proposed operations, and that each application should be approved.

Under authority assigned by the Department in its Regulations, 14 CFR Part 385, we found that for each operation (1) immediate action was required and was consistent with Department policy; (2) grant of the exemption or authority was consistent with the public interest; and (3) grant of this authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975.<sup>1</sup>

ACCORDINGLY,

1. We confirm the actions described in the attached Notices of Action Taken, which granted the referenced U.S. and foreign air carriers (1) exemptions from the provisions of Section 41101 and

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<sup>1</sup> On the basis of data officially noticeable, we found that each U.S. and foreign air carrier applicant for an operating exemption is qualified to provide the services authorized.

41301, where necessary 41504 or as noted in the attached notices, other sections of Title 49 U.S.C.; or (2) relief or authorizations as provided for under regulations or orders of the Department, to the applicants to perform the operations described in the attached Notices of Action Taken;

2. In the conduct of the service, each applicant was to adhere to the conditions set forth in the Appendices, and to any other conditions as noted in the attached Notices of Action Taken;

3. To the extent not granted, or explicitly deferred as noted in the attached Notices of Action Taken, these applications are denied; and

4. We may amend, modify, or revoke this order at any time without hearing.

Persons entitled to petition the Department for review of this order under the Department's Regulations, 14 CFR 385.30, may file their petitions within ten (10) days after the date of service of this order. The filing of a petition for review of a particular action shall affect this order only as it concerns that action.

These actions were effective when taken, and the filing of a petition for review will not alter their effectiveness.

By:

PAUL L. GRETCH  
Director  
Office of International Aviation

(SEAL)

*An electronic version of this order is available on the World Wide Web at  
<http://dms.dot.gov/general/orders/aviation.html>*

**U.S. Carrier**  
**Standard Exemption Conditions**

In the conduct of the operations authorized by the attached order, the applicant(s) shall:

- (1) Hold at all times effective operating authority from the government of each country served;
- (2) Comply with applicable requirements concerning oversales contained in 14 CFR 250 (for scheduled operations, if authorized);
- (3) Comply with the requirements for reporting data contained in 14 CFR 241;
- (4) Comply with the requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Comply with the requirements of 14 CFR 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (6) Comply with the applicable requirements of the Federal Aviation Administration Regulations; and
- (7) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation, with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

The authority granted or confirmed by the attached order shall be effective only during the period when the holder is in compliance with the conditions imposed above.

CONDITIONS OF AUTHORITY

In the conduct of the operations authorized, the holder shall:

- (1) Not conduct any operations unless it holds a currently effective authorization from its homeland for such operations, and it has filed a copy of such authorization with the Department;
- (2) Comply with all applicable requirements of the Federal Aviation Administration, including, but not limited to, 14 CFR Parts 129, 91, and 36;
- (3) Comply with the requirements for minimum insurance coverage contained in 14 CFR Part 205, and, prior to the commencement of any operations under this authority, file evidence of such coverage, in the form of a completed OST Form 6411, with the Federal Aviation Administration's Program Management Branch (AFS-260), Flight Standards Service (any changes to, or termination of, insurance also shall be filed with that office);
- (4) Not operate aircraft under this authority unless it complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention;
- (5) Conform to the airworthiness and airman competency requirements of its Government for international air services;
- (6) Comply with the requirements of 14 CFR Part 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (7) Agree that operations under this authority constitute a waiver of sovereign immunity, for the purposes of 28 U.S.C. 1605(a), but only with respect to those actions or proceedings instituted against it in any court or other tribunal in the United States that are:
  - (a) based on its operations in international air transportation that, according to the contract of carriage, include a point in the United States as a point of origin, point of destination, or agreed stopping place, or for which the contract of carriage was purchased in the United States; or
  - (b) based on a claim under any international agreement or treaty cognizable in any court or other tribunal of the United States.

In this condition, the term "international air transportation" means "international transportation" as defined by the Warsaw Convention, except that all States shall be considered to be High Contracting Parties for the purpose of this definition;

- (8) Except as specifically authorized by the Department, originate or terminate all flights to/from the United States in its homeland;
- (9) Comply with the requirements of 14 CFR Part 217, concerning the reporting of scheduled, nonscheduled, and charter data;
- (10) If charter operations are authorized, comply with the Department's rules governing charters (including 14 CFR Parts 212 and 380); and
- (11) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department, with all applicable orders or regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

This authority shall not be effective during any period when the holder is not in compliance with the conditions imposed above. Moreover, this authority cannot be sold or otherwise transferred without explicit Department approval under Title 49 of the U.S. Code (formerly the Federal Aviation Act of 1958, as amended).

RENEW



U.S. Department of  
Transportation

Office of the Secretary  
of Transportation

NOTICE OF ACTION TAKEN

March 31, 1998

*This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.*

Application of American Airlines, Inc. filed 1/29/98 in Docket OST-98-3401 to:

XX Renew exemption under 49 U.S.C. 40109 to provide the following service:

**Scheduled foreign air transportation of persons, property, and mail between the coterminous points New York, New York, and Miami, Florida, and the coterminous points Johannesburg and Cape Town, South Africa. American intends to serve these markets pursuant to a code-share arrangement with South African Airways. American requested that its authority be renewed for an indefinite duration.**

Applicant rep.: Carl B. Nelson, Jr. 202-496-5647 DOT analyst: Sylvia Moore, 202-366-6519

DISPOSITION

XX Granted in part (Subject to conditions, see below)

XX Balance Dismissed (*i.e.*, request for longer-term authority)

The above action was effective when taken: March 31, 1998, through March 31, 2000

XX Under assigned authority (14 CFR 385) by:

Paul L. Gretch, Director  
Office of International Aviation  
(Petitions for review may be filed from now until  
10 days after the confirming order/letter issues.  
Filing of a petition shall not stay the effectiveness of  
this action.)

XX Authority granted is consistent with the aviation agreement between the United States and South Africa.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

XX Holder's certificate of public convenience and necessity

XX Standard Exemption Conditions (attached)

**Conditions:** The code-sharing operations conducted under this authority must comply with 14 CFR 399.88 of the Department's regulations and any amendments to the Department's regulations concerning code-share arrangements that may be adopted and are expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service in computer reservation systems and elsewhere; that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept all obligations established in its contract of

(See Reverse Side)

carriage with the passenger; that the passenger liability of the operating carrier be unaffected; and that the operating carrier shall not permit the code of its U.S. carrier code-sharing partner to be carried on any flight that enters, departs, or transits the airspace of any area for whose airspace the Federal Aviation Administration has issued a flight prohibition.

**Remarks:** Consistent with our standard practice, we renewed American's exemption authority for a period of two years, and dismissed its request for longer-term authority.

NEW



**U.S. Department of  
Transportation**  
Office of the Secretary  
of Transportation

## NOTICE OF ACTION TAKEN

April 6, 1998

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*This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.*

Application of American Airlines, Inc. filed 6/18/97 in Docket Undocketed for:

XX Statement of Authorization under 14 CFR Part 207 to:

**Display Philippine Airlines' "PR" designator code on flights operated by American between the following points:**

|                                |                              |
|--------------------------------|------------------------------|
| <b>Los Angeles-Chicago</b>     | <b>San Francisco-Chicago</b> |
| <b>Dallas/Ft. Worth</b>        | <b>Dallas/Ft. Worth</b>      |
| <b>Miami</b>                   | <b>Miami</b>                 |
| <b>New York(JFK)</b>           | <b>New York(JFK)</b>         |
| <b>Washington</b>              |                              |
| <b>Vancouver-New York(JFK)</b> |                              |

Applicant rep: Carl B. Nelson 202-496-5647 DOT analyst: Gerald Caolo 202-366-2406

### DISPOSITION

XX Granted in part., subject to conditions. (See below)

XX Balance (Vancouver-New York) dismissed (See below)

The above action was effective when taken: April 6, 1998, and will remain in effect indefinitely, subject to the conditions listed below.

XX Under assigned authority (14 CFR 385) by:

*Paul L. Gretch, Director  
Office of International Aviation  
(Petitions for review may be filed from now until  
10 days after the confirming order/letter issues.  
Filing of a petition shall not stay the effectiveness of  
this action.)*

(See Reverse Side)



*Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:*

**XX Holder's certificate of public convenience and necessity**

**Remarks:** We concurrently issued a Notice of Action Taken approving PAL's application for exemption authority to operate the U.S.-Philippines code-share services approved here (Docket OST-97-2633).

**Conditions:** The statement of authorization granted is subject to the following conditions:

- (a) The statement of authorization will remain in effect only as long as (i) American and PAL continue to hold the necessary underlying authority to operate the code-share services at issue, and (ii) the code-share agreement providing for the code-share operations remains in effect.
- (b) American and/or PAL must promptly notify the Department (Office of International Aviation) if the code-share agreement providing for the code-share operations is no longer effective or the carriers decide to cease operating any or all of the approved code-share services.
- (c) The code-sharing operations authorized herein must comply with 14 CFR 399.88 of the Department's regulations and any amendments to the Department's regulations concerning code-share arrangements that may be adopted and are expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service in computer reservation systems and elsewhere; that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept all obligations established in its contract of carriage with the passenger; and that the passenger liability of the operating carrier be unaffected.
- (d) We may amend, modify, or revoke the authority granted at any time without hearing at our discretion.

**Dismissal:** We dismissed American's request with respect to the Vancouver-New York (JFK) market, as PAL does not currently hold the necessary underlying economic authority to serve that market.

**Pleadings:** United filed a consolidated answer to the statement of authorization and PAL's exemption application in Docket 97-2633. American and PAL filed a joint reply and United filed a response to the joint reply of American and PAL.\* United argued that the requested authority was extrabilateral because the 1995 Memorandum of Consultations between the United States and the Philippines specifies that code-share operations are limited to designated carriers and American is not designated under the U.S.-Philippine aviation agreement. In addition, United stated that the Department should not grant unilateral and discretionary approval of this code-share since the Philippines has a history of not enforcing the provisions of the agreement, such as the right of U.S. carriers to ground handle non-Philippine carriers at Philippine airports. In this regard, United stated that local airport authorities in the Philippines have not permitted United to self-handle or provide ground handling to other carriers. In these circumstances, and particularly given the specific language of the aviation agreement, United stated that it opposed the requests, unless the Philippines provided assurances that all designated carriers could code-share with non-designated carriers.

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\* United's response was accompanied by a motion for leave to file an otherwise unauthorized document. We granted the motion.

(See Next Page)

American and PAL argued in their reply that PAL's agreement with American does not require extrabilateral authority since PAL has long held the right to code-share with non-designated U.S. carriers and the 1995 MOC should not be construed as restricting this right. They also stated that no other carrier shares United's interpretation and United has not objected to similar applications in the past. Moreover, they stated that even if their request was extrabilateral, the code share should be approved on the basis of reciprocity since U.S. carriers operate more frequencies than Philippine carriers and the two countries have a good aviation relationship. Finally, they stated that United's opposition is an attempt to frustrate the additional competition that PAL would provide by gaining access to American's large U.S. network.

**Decision:** We decided to grant the requested statement of authorization. Prior to the 1995 MOC (which provided, among other things, for amendment of the code-share provisions of the U.S.-Philippine aviation agreement), both sides interpreted the agreement as requiring them to approve code-share operations of the type requested here. While the code-share language was amended in 1995, neither Party has construed that amendment as derogating from the rights previously available. Since the type of authority at issue here was available under the bilateral regime that prevailed prior to the 1995 amendments, and since the 1995 amendments clearly did not alter that regime as would affect this type of request, we found no basis to withhold the authority requested by American and PAL, or to seek additional assurances from the Philippines regarding the code-sharing provisions of the aviation agreement. Should the Philippines not approve similar arrangements between U.S. and Philippine carriers, we are prepared to reconsider the award of authority granted here.

While we are interested in the groundhandling issue that United has raised, we were unable to conclude on the present record that it provided a persuasive basis to withhold the requested authority. However, we are prepared to explore the issue more fully with United and, should circumstances warrant, to raise the matter directly with the Government of the Philippines.

NEW



**U.S. Department of  
Transportation**

Office of the Secretary  
of Transportation

## NOTICE OF ACTION TAKEN

**March 24, 1998**

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*This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.*

Application of American Airlines, Inc. filed 11/14/97 in Undocketed for:

**XX** *Statement of Authorization under 14 CFR Part 207 to:*<sup>1</sup>

**Display TAM-Transportes Aereos Meridionais, S.A. (TAM)'s "JJ" designator code on a blind-sector basis on flights operated by American or American Eagle between TAM's U.S. gateway points Miami, New York (JFK), Dallas/Ft. Worth, and Chicago, on the one hand, and Austin, Nashville, Raleigh/Durham, St. Louis, and Tampa, on the other, carrying TAM's Brazil-U.S. traffic.**

Applicant rep.: Carl B. Nelson, Jr. 202-496-5647 DOT analyst: Linda Senese, 202-366-2367

### DISPOSITION

**XX** *Granted with respect to Austin, Nashville, and Raleigh/Durham (Subject to conditions, see below)*

*The above action was effective when taken: March 24, 1998, through July 1, 1998 (coextensive with earlier code-share approval for U.S.-Brazil services)*

**XX** *Under assigned authority (14 CFR 385) by:*

*Paul L. Gretch, Director  
Office of International Aviation  
(Petitions for review may be filed from now until  
10 days after the confirming order/letter issues.  
Filing of a petition shall not stay the effectiveness of  
this action.)*

**XX** **Authority granted is consistent with the aviation agreement between the United States and Brazil, as amended, and the November 18, 1997, Memorandum of Consultations.**

*Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:*

**XX** **Holder's certificate of public convenience and necessity**

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**Remarks:** The authority granted is coextensive with the duration of the exemption authority granted TAM on March 24, 1998.

(See Reverse Side)

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<sup>1</sup> American's Statement of Authorization application includes its regional affiliates: Executive Airlines, Inc., Flagship Airlines, Inc., Simmons Airlines, Inc., and Wings West Airlines, Inc.

As provided under the November 18, 1997, Memorandum of Consultations, each country may select 25 points for services by its carriers to be operated on a code-share-only basis. The Government of Brazil had previously selected 19 points for the code-share-only services. Based on those selections, the Department granted American's request (and TAM's related exemption application) for services to St. Louis and Tampa. See Notice of Action Taken, dated January 6, 1998, and confirmed by Order 98-1-23. Subsequent to that action, the Government of Brazil notified the United States by diplomatic note of its selection of Raleigh/Durham, Austin, and Nashville as additional points for code-share-only services. In light of the Government of Brazil's selections, we have now granted the balance of American's application (*i.e.*, for a statement of authorization to engage in code-share operations for services between Brazil and Austin, Nashville, and Raleigh/Durham).

**Conditions:** The code-sharing operations authorized herein must comply with 14 CFR 399.88 of the Department's regulations and any amendments to the Department's regulations concerning code-share arrangements that may be adopted and are expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service in computer reservation systems and elsewhere; that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept all obligations established in its contract of carriage with the passenger; and that the passenger liability of the operating carrier be unaffected.



NEW

## NOTICE OF ACTION TAKEN

March 20, 1998

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This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Applications of AMERICAN AIRLINES, INC., filed 5/7/97 and 9/30/97 in Dockets OST-97-2477 and 97-2944; AERO CALIFORNIA S.A. de C.V. (AeroCalifornia), filed 5/7/97 and 10/1/97 in Dockets OST-97-2481 and 97-2961; and AMERICAN AIRLINES, INC., and AERO CALIFORNIA filed 5/7/97 and 9/30/97 (Undocketed) for:

- XX Exemption authority under 49 U.S.C. 40109  
XX Statements of Authorizations under Part 207/212 of the Department's regulations to provide the following service:

**Scheduled foreign air transportation of persons, property, and mail between various points in the United States and various points in Mexico, to allow for expansion of the code-share arrangement between American Airlines, Inc. (American), and Aero California S.A. de C.V. (AeroCalifornia). On February 4, and February 11, 1998, American and AeroCalifornia filed documents requesting immediate action on the following authorities:**

**Exemption authority for American in the following markets: Boston-La Paz/Loreto\*/ Mazatlan; Chicago-Torreon; Dallas/Ft. Worth-Loreto\*; New York-Hermosillo/Los Cabos/Tijuana.**

**Statement of Authorization for AeroCalifornia under Part 212 of the Department's regulations to display American's "AA" airline designator code on flights operated by AeroCalifornia in the following markets:**

**Los Angeles-Mazatlan; Los Angeles-La Paz-Mazatlan; Los Angeles-Tijuana; Los Angeles-Durango-Torreon; Dallas/Ft. Worth-Hermosillo; Dallas/Ft. Worth-Chihuahua-Mazatlan; Dallas/Ft. Worth-Hermosillo-Tijuana; Mexico City-Mazatlan; Mexico City-Torreon; Guadalajara-Torreon; Mexico City-Durango; and Monterrey-Hermosillo for the carriage of American's U.S.-Mexico traffic described above, and for the carriage of traffic under authority already held by American (Dallas/Ft. Worth-Tijuana; Dallas/Ft. Worth-Hermosillo; and Dallas/Ft. Worth-Durango).**

**\*American's applications in the referenced dockets do not include a request to serve these markets. We viewed American's February 4 and 11 requests as an application for these authorities.**

(See Reverse Side)

**Exemption authority for AeroCalifornia in the following markets: Chicago-Acapulco; Dallas/Ft. Worth-Cancun/Guadalajara/Leon/Hermosillo/Los Cabos/Monterrey; New York-Los Cabos; and Mexico City-Indianapolis/Minneapolis-St. Paul/Seattle/Charlotte/Raleigh-Durham/Nashville/Reno/Salt Lake City/Cincinnati/Portland.**

**Statement of Authorization for American under Part 207 of the Department's regulations to display AeroCalifornia's "JR" airline designator code on flights operated by American in the following markets:**

**Chicago-Acapulco; Dallas/Ft. Worth-Cancun; Dallas/Ft. Worth-Guadalajara; Dallas/Ft. Worth-Leon; New York-Dallas/Ft. Worth-Los Cabos; Dallas/Ft. Worth-Monterrey; Dallas/Ft. Worth-Mexico City; and Chicago-Mexico City for the carriage of Aero California's Mexico-U.S. traffic as described above.**

Applicant reps: Carl Nelson for American (202) 496-5647 DOT Analyst: Linda Lundell (202) 366-2336  
David Coburn for Aero California (202)429-8063 Allen Brown (202)366-2405

#### DISPOSITION

- XX Granted, In Part, Carriers' Requests of February 4, and February 11, 1998 for the operating authority described (See Attachment).**
- XX As to those requests granted, dismissed carriers' request for longer term authority.**
- XX Dismissed American's exemption application and AeroCalifornia's request for a statement of authorization for Chicago/Dallas/Ft. Worth-Culiacan code-share services.**
- XX Deferred action on the balance of the carriers' requests in the referenced dockets.**

The above action was effective when taken: 3/20/98. The exemption authority will expire 3/20/99, or 90 days after final Department action on a corresponding certificate application, whichever occurs earlier. The statement of authorization authority will expire 6/14/98.

**XX Under assigned authority (14 CFR 385) by: Paul L. Gretch, Director  
Office of International Aviation  
(Petitions for review may be filed from now until  
10 days after the confirming order/letter issues.  
Filing of a petition shall not stay the effectiveness of this action.)**

**XX Exemption authority granted is consistent with the aviation agreement between the United States and Mexico. The code-share authority granted is consistent with the overall state of aviation relations with Mexico.**

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

- XX Holder's certificate of public convenience and necessity (American)**
- XX Standard Exemption Conditions (attached) (American and AeroCalifornia)**

(See Next Page)

**Special Conditions/Remarks:** The U.S.-Mexico exemption authority granted to American is subject to the dormancy notice requirements set forth in condition 7 of Appendix A of Order 88-10-2.

In the interest of administrative efficiency, and consistent with our standard practice regarding U.S.-Mexico code-share authorities, the code-share authorities granted here have been awarded coextensive with duration of the code-share authorities already held by the carriers for other U.S.-Mexico code-share services. (See Statements of Authorization granted December 18, 1998 to American and AeroCalifornia as well as to Delta Air Lines and United Air Lines and their respective code-share partners). We dismissed the balance of the requests for those authorities granted insofar as the requests sought longer-term authority. Because the authority granted here is for a period of less than 180 days, APA rights will not apply. The dismissal is without prejudice to the carriers filing for extension of the authorizations at the appropriate time.

The code-share operations authorized here are subject to compliance with section 399.88 of the Department's regulations regarding code-sharing operations and any amendments to those regulations that may be adopted by the Department, and the further condition that the foreign air transportation be sold in the name of the carrier holding out service in computer reservation systems and elsewhere; that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept all obligations established in the contract of carriage with the passenger; that the passenger liability of the operating carrier be unaffected; and that the operating carrier shall not permit the code of its U.S. code-sharing partner to be carried on any flight that enters, departs, or transits the airspace of any area for whose air space the Federal Aviation Administration has issued a flight prohibition.

Authorization of the code-share services may be withdrawn in any U.S.-Mexico city-pair market where another U.S. carrier proposes to operate services with its own aircraft (direct carrier services) and (1) additional designations are not available to authorize the proposed direct carrier service; and (2) the Department determines that the proposed direct carrier services would provide benefits and service options superior to the code-share operations in the market.

United argued that the Department must defer action on the American/AeroCalifornia requests to the extent that there are an insufficient number of designations available to satisfy all of the alliances seeking authorization. In response, American and Aero California urged that, if we grant any carrier's discrete request, we should also grant their joint request. Consistent with our standard practice with respect to U.S. carrier applications for Mexico, we have deferred action to the extent that American's exemption applications to serve U.S.-Mexico markets are mutually exclusive with those of other U.S. carriers. Consistent with our standard practice with respect to Mexican carrier exemption applications of the type involved here, we have granted authorizations to the extent that the carrier held the necessary underlying authority and designation from Mexico to conduct the proposed services. To the extent such authority and designation were held, we granted the U.S. carrier code-share partner the necessary statement of authorization to engage in the code-share operations proposed ( see Order 97-7-31). Pursuant to the previously described standard practices, we deferred action on American's request for exemption authority and AeroCalifornia's request for a Statement of Authorization to provide code-share services in the following markets: New York-Hermosillo/Los Cabos/Tijuana.

Finally, we dismissed the joint applicants' request for authority to serve the Chicago/Dallas/Ft. Worth-Culiacan markets, since both carriers already hold the necessary authority for code-share services in these markets (originally granted by Order 97-7-31 on July 29, 1997, and renewed on December 18, 1997).

## ATTACHMENT

### AUTHORITY GRANTED ORALLY

Exemption authority for American in the following markets: Boston-La Paz/Loreto/Mazatlan; Chicago-Torreon; and Dallas/Ft. Worth-Loreto.

Statement of Authorization for AeroCalifornia under Part 212 of the Department's regulations to display American's "AA" airline designator code on flights operated by AeroCalifornia in the following markets:

Los Angeles-Mazatlan; Los Angeles-La Paz-Mazatlan; Los Angeles-Tijuana; Los Angeles-Durango-Torreon; Dallas/Ft. Worth-Hermosillo; Dallas/Ft. Worth-Chihuahua-Mazatlan; Dallas/Ft. Worth-Hermosillo-Tijuana; Mexico City-Mazatlan; Mexico City-Torreon; Guadalajara-Torreon; Mexico City-Durango; and Monterrey-Hermosillo for the carriage of American's U.S.-Mexico traffic described above, and for traffic under authority already held by American (Dallas/Ft. Worth-Tijuana; Dallas/Ft. Worth-Hermosillo; and Dallas/Ft. Worth-Durango).

Exemption authority for AeroCalifornia in the following markets: Chicago-Acapulco; Dallas/Ft. Worth-Cancun/Guadalajara/Hermosillo/Leon/Los Cabos/Monterrey; New York-Los Cabos; and Mexico City-Indianapolis/Minneapolis-St.Paul/Seattle/Charlotte, Raleigh-Durham/Nashville/Reno/Salt Lake City/Cincinnati/Portland.

Statement of Authorization for American under Part 207 of the Department's regulations to display AeroCalifornia's "JR" airline designator code on flights operated by American in the following markets:

Chicago-Acapulco; Dallas/Ft. Worth-Cancun; Dallas/Ft. Worth-Guadalajara; Dallas/Ft. Worth-Leon; New York-Dallas/Ft. Worth-Los Cabos; Dallas/Ft. Worth-Monterrey; Dallas/Ft. Worth-Mexico City; and Chicago-Mexico City for the carriage of Aero California's Mexico-U.S. traffic as described above.



NEW



**U.S. Department of  
Transportation**

Office of the Secretary  
of Transportation

## NOTICE OF ACTION TAKEN

**March 30, 1998**

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*This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.*

Application of Continental Airlines, Inc. filed 1/7/98 in Docket OST-98-3317 for:

**XX** Exemption under 49 U.S.C. 40109 to provide the following service:

Scheduled foreign air transportation of persons, property, and mail between any point or points in or behind the United States and any point or points in Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama, and any point or points beyond those countries, as well as between any point or points in Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama on flights originating or terminating in the United States. Continental also requests authority between any point or points in the United States and Belize City, Belize, as well as the ability to combine that authority with its existing exemption and certificate authority.

Applicant rep.: R. Bruce Keiner, Jr., 202-624-2500 DOT analyst: Sylvia Moore, 202-366-6519

### DISPOSITION

**XX** Granted in part (Subject to conditions, see below)

**XX** Balance Dismissed

The above action was effective when taken: March 30, 1998, through March 30, 2000

**XX** Under assigned authority (14 CFR 385) by:

Paul L. Gretch, Director

Office of International Aviation

(Petitions for review may be filed from now until  
10 days after the confirming order/letter issues.

Filing of a petition shall not stay the effectiveness of  
this action.)

**XX** Authority granted is consistent with the aviation agreements between the United States, on the one hand, and Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama, on the other, and with the overall state of aviation relations between the United States and Belize.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

**XX** Holder's certificate of public convenience and necessity

**XX** Standard Exemption Conditions (attached)

(See Reverse Side)

**Conditions:** The authority granted here was made subject to the following conditions:

(1) The authority granted to serve third countries beyond Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama is limited to countries with which the United States has signed open-skies agreements and/or countries for which the carrier holds authority to serve under certificates or exemptions issued by the Department, and for which it holds route integration authority by virtue of either the present action or other action of the Department.

(2) The authority to operate beyond the foreign points authorized and the authority to integrate the Belize services with Continental's other certificate and exemption authority is subject to the condition that all services operated are fully consistent with the bilateral agreements between the United States and the foreign countries involved, and the further condition that (a) nothing in the award of the authority requested should be construed as conferring upon Continental rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless Continental notifies us of its intent to serve such a market and unless and until the Department has completed any necessary selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in Continental's authority by virtue of the exemption granted here, but that are not then being used by Continental, the holding of such authority will not be considered as providing any preference for Continental in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

**Remarks:** We dismissed that portion of Continental's application with respect to operations from behind the United States. The authority to conduct operations from points behind the United States is inherent in the authority that we award U.S. carriers to perform foreign air transportation.

**RENEW**



**U.S. Department of  
Transportation**

Office of the Secretary  
of Transportation

**NOTICE OF ACTION TAKEN**

**March 30, 1998**

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*This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.*

Application of Continental Airlines, Inc. filed 2/10/98 in Docket OST-98-3466 to:

**XX** Renew allocation of 14 U.S.-Brazil combination frequencies to provide the following service:

**Scheduled foreign air transportation of persons, property, and mail between Newark, New Jersey, and the coterminal points Sao Paulo and Rio de Janeiro, Brazil.**

Applicant rep.: Lorraine B. Halloway 202-624-2500 DOT analyst: Sylvia Moore, 202-366-6519

*DISPOSITION*

**XX** *Granted (subject to conditions, see below)*

*The above action was effective when taken: March 30, 1998\**

**XX** *Under assigned authority (14 CFR 385) by:*

*Paul L. Gretch, Director  
Office of International Aviation  
(Petitions for review may be filed from now until  
10 days after the confirming order/letter issues.  
Filing of a petition shall not stay the effectiveness of  
this action.)*

**XX** **Authority granted is consistent with the aviation agreement between the United States and Brazil.**

*Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:*

**XX** **Holder's certificate of public convenience and necessity**

**XX** **Standard Exemption Conditions (attached)**

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**Conditions:** Consistent with our standard practice, the frequency allocation granted is subject to the condition that it will expire automatically and the frequencies will revert to the Department for reallocation if they are not used for a period of 90 days. It is subject to the further condition that we may amend, modify, or revoke the allocation at any time without hearing at our discretion.

\* The frequency allocation will remain in effect, provided that Continental continues to hold the necessary underlying authority to serve the Newark-Brazil market.



NEW

## NOTICE OF ACTION TAKEN

March 20, 1998

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This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Joint Applications of DELTA AIR LINES, INC., and AEROVIAS de MEXICO, S.A. de C.V., filed 12/29/97, in Docket OST-97-3289 for:

XX Exemption authority under 49 U.S.C. 40109

XX Statements of Authorizations under Part 207/212 of the Department's regulations to provide the following service:

**Scheduled foreign air transportation of persons, property, and mail between various points in the United States and various points in Mexico, under a code-share arrangement between Delta Air Lines, Inc. (Delta), and Aerovias de Mexico, S.A. de C.V. (Aeromexico). On January 16, and February 17, 1998, Delta and Aeromexico filed documents requesting immediate action for approval of the following authorities:**

**Exemption authority for Delta to serve the following markets: Atlanta-Los Cabos/Mazatlan/Ixtapa-Zihuatanejo/La Paz/Oaxaca/Culiacan/Chihuahua/Hermosillo/Durango/Veracruz; Dallas/Ft. Worth-Los Cabos/Mazatlan/Ixtapa-Zihuatanejo/La Paz/Oaxaca/Culiacan/Chihuahua/Hermosillo/Durango/Veracruz; Los Angeles-Los Cabos/Mazatlan/Ixtapa-Zihuatanejo/La Paz/Oaxaca/Culiacan/Chihuahua/Hermosillo/Durango/Veracruz; New York-Los Cabos/Mazatlan/Ixtapa-Zihuatanejo/La Paz/Oaxaca/Culiacan/Chihuahua/Hermosillo/Durango/Veracruz.**

**Statement of Authorization for Aeromexico under Part 212 to display Delta's airline designator code on flights operated by Aeromexico between Mexico City and Los Cabos, Mazatlan, Ixtapa/Zihuatanejo, La Paz, Oaxaca, Culiacan, Chihuahua, Hermosillo, Durango, and Veracruz for the carriage of Delta's U.S.-Mexico traffic described above.**

**Exemption authority for Aeromexico to serve between Mexico City and the coterminal points Charlotte, Raleigh/Durham, Greensboro, Greenville, Knoxville, and Birmingham (via Atlanta); between Mexico City and the coterminal points Colorado Springs, Denver, Memphis, Nashville, Reno, Salt Lake City, Cincinnati, Portland, and Seattle (via Dallas/Ft. Worth); and between Mexico City and Portland (via Los Angeles).**

**Statement of Authorization for Delta under Part 207 to display Aeromexico's airline designator code on flights operated by Delta: between Atlanta and the coterminal points Charlotte, Raleigh/Durham, Greensboro, Greenville, Knoxville, and Birmingham; between Dallas/Ft. Worth and the coterminal points Colorado Springs, Denver, Memphis, Nashville, Reno, Salt Lake City, Cincinnati, Portland, and Seattle; and between Los Angeles and Portland for the carriage of Aeromexico's Mexico-U.S. traffic described above.**

Applicant reps: Robert E. Cohn for Delta (202) 663-8060 DOT Analyst: Linda Lundell (202) 366-2336  
William C. Evans for Aeromexico (202)371-6030 Allen Brown (202)366-2405

(See Reverse Side)

**DISPOSITION**

**XX Granted , In Part, Carriers' Requests of January 16, and February 17, 1998, for the operating authority described (See Attachment).**

**XX As to those requests granted, dismissed carriers' request for longer term authority.**

**XX Balance of application deferred.**

The above action was effective when taken: 3/20/98. The exemption authority will expire 3/20/99, or 90 days after final Department action on a corresponding certificate application, whichever occurs earlier. The statement of authorization authority will expire 6/14/98.

**XX Under assigned authority (14 CFR 385) by:**

**Paul L. Gretch, Director**

**Office of International Aviation**

**(Petitions for review may be filed from now until 10 days after the confirming order/letter issues.**

**Filing of a petition shall not stay the effectiveness of this action.)**

**XX Exemption authority granted is consistent with the aviation agreement between the United States and Mexico. The code-share authority granted is consistent with the overall state of aviation relations with Mexico.**

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

**XX Holder's certificate of public convenience and necessity (for Delta)**

**XX Holder's foreign air carrier permit (for Aeromexico)**

**XX Standard Exemption Conditions (attached)**

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**Special Conditions/Remarks:** The U.S.-Mexico exemption authority granted to Delta is subject to the dormancy notice requirements set forth in condition 7 of Appendix A of Order 88-10-2.

In the interest of administrative efficiency, and consistent with our standard practice regarding U.S.-Mexico code-share authorities, the code-share authorities granted here have been awarded coextensive with the duration of the code-share authorities already held by the carriers for other U.S.-Mexico code-share services. (See Statements of Authorization granted December 18, 1997 to Delta and Aeromexico, as well as to United Air Lines and American Airlines and their respective code-share partners). We have dismissed the balance of the requests for those authorities granted insofar as the requests sought longer-term authority. Because the authority granted here is for a period of less than 180 days, APA rights will not apply. The dismissal is without prejudice to the carriers filing for extension of the authorizations at the appropriate time.

The code-share operations authorized here are subject to the condition that they comply with the provisions of Section 399.88 of the Department's regulations regarding code-sharing operations and any amendments to those regulations that may be adopted by the Department, and the further condition that the foreign air transportation be sold in the name of the carrier holding out service in computer reservation systems and elsewhere; that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept all obligations established in the contract of carriage with the passenger; that the passenger liability of the operating carrier be unaffected; and that the operating carrier shall not permit the code of its U.S. code-sharing partner to be carried on any flight that enters, departs, or transits the airspace of any area for whose air space the Federal Aviation Administration has issued a flight prohibition.

Authorization of the code-share services may be withdrawn in any U.S.-Mexico city-pair market where another U.S. carrier proposes to operate services with its own aircraft (direct carrier services) and (1) additional designations are not available to authorize the proposed direct carrier service; and (2) the Department determines that the proposed direct carrier services would provide benefits and service options superior to the code-share operations in the market.

Answers to the Delta/Aeromexico application were filed by American and AeroCalifornia (jointly), Continental, and United Air Lines. Delta and Aeromexico filed a joint reply.

(See Next Page)

American and AeroCalifornia stated that they retained their view that the Department should encourage Mexico to liberalize the availability of code-share authority, and that the Department should make clear that by awarding the limited requests of each of the alliances on an incremental basis, it is not adopting the Mexican views on this matter. We will, in this regard, continue to work with the Mexican authorities on liberalization of the code-share regime for U.S.-Mexico services. In the meantime, however, awards of code-share authorizations have historically been granted on the basis of comity and reciprocity and we believe that it is in the public interest to follow that practice, on a limited basis, while this process continues. The fact that we have chosen this course of action with Mexico reflects our judgment at this time that such action will best promote our efforts to reach a satisfactory long-term solution to the code-sharing issues in the U.S. Mexico market.

Continental opposed the Delta/Aeromexico application to the extent it seeks Houston/New York-Mexico authority, arguing that grant of code-share authority in these markets may preclude or delay new direct-carrier service by Continental in these markets. Delta's January 16 and February 17 documents, requesting discrete city-pair markets, do not include requests for any Houston-Mexico markets. Therefore, that portion of Delta's application remains pending and we do not reach here the issue raised by Continental. With respect to the New York-Mexico markets, we have granted Delta certain authority (see last page). In each one of these markets, however, one U.S. carrier designation remains available, so nothing in our action forecloses the introduction of service by an additional U.S. carrier.

United argued that the Department must defer action on the Delta/Aeromexico requests to the extent that there are an insufficient number of designations available to satisfy all of the alliances seeking authorizations. Delta and Aeromexico maintained that the majority of the city-pair markets included in their application do not raise carrier selection issues and, thus, objected to United's request for deferral on their application. To the extent that there are insufficient Mexican carrier designations for services in certain markets, Delta and Aeromexico stated that it is up to the Government of Mexico, not the Department, to decide which Mexican-flag carriers should receive the limited designations for Mexico-U.S. routes.

Consistent with our standard practice with respect to U.S. carrier applications for Mexico, we have deferred action to the extent that Delta's exemption application to serve U.S.-Mexico markets is mutually exclusive with those of other U.S. carriers. Consistent with our standard practice with respect to Mexican carrier exemption applications, we have granted authorizations to the extent that the carrier held the necessary underlying authority and designation from Mexico to conduct the proposed services. To the extent such authority and designations were held, we granted the U.S. carrier code-share partner the necessary statement of authorization to engage in the code-share operations proposed ( see Order 97-7-31). Pursuant to the previously described standard practices, we deferred action on Delta's request for exemption authority and Aeromexico's request for a statement of authorization to serve the following markets: Dallas/Ft. Worth-Los Cabos/Mazatlan/ Chihuahua/Hermosillo/ Durango; Los Angeles-Los Cabos/Mazatlan/Ixtapa-Zihuatanejo/ Hermosillo/Durango; New York-Los Cobos/ Mazatlan/Ixtapa-Zihuatanejo/Hermosillo/Durango.<sup>1</sup>

We note that United had also objected to the Delta/Aeromexico application with respect to the Dallas/Ft. Worth/Los Angeles/New York-Veracruz/Oaxaca markets. In December 1997, the U.S. and Mexico agreed that all U.S.-Mexico markets would be available for double-designation. No carriers are currently authorized in these markets. Therefore, the Delta/Aeromexico and United/Mexicana applications to serve these markets are not mutually exclusive, and, thus, there was no basis to withhold the authority requested by Delta/Aeromexico in its January 16 and February 17, 1998, requests.<sup>2</sup>  
(See Next Page)

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<sup>1</sup> Although in its response dated March 4, 1998, Delta stated that there is only one competing request for certain New York-Mexico markets, in fact, there are two competing requests--from United (Docket OST-97-3237) and American (Docket OST-97-2477).

<sup>2</sup> United has also requested code-share authority for the New York-Veracruz/Oaxaca markets (Docket OST-97-3237). However, United's January 8 document, in Docket OST-97-3237, requesting action on specific city-pair markets, did not include requests for the New York-Veracruz/Oaxaca markets. Therefore, that portion of United's application remains pending.

## ATTACHMENT

### AUTHORITY GRANTED ORALLY

Exemption authority for Delta to serve the following markets: Atlanta-Los Cabos/Mazatlan/Ixtapa-Zihuatanejo/La Paz/Oaxaca/Culiacan/Chihuahua/Hemosillo/Durango/Veracruz; Dallas/Ft. Worth-Ixtapa-Zihuatanejo/La Paz/Oaxaca/Culiacan/Veracruz; Los Angeles-La Paz/Oaxaca/Culiacan/Chihuahua/Veracruz; and New York-La Paz/Oaxaca/Culiacan/Chihuahua/Veracruz.

Statement of Authorization for Aeromexico under Part 212 to display Delta's airline designator code on flights operated by Aeromexico between Mexico City and Los Cabos, Mazatlan, Ixtapa-Zihuatanejo, La Paz, Oaxaca, Culiacan, Chihuahua, Hermosillo, Durango, and Veracruz for the carriage of Delta's U.S.-Mexico traffic described above.

Exemption authority for Aeromexico to serve between Mexico City and the coterminal points Charlotte, Raleigh/Durham, Greensboro, Greenville, Knoxville, and Birmingham (via Atlanta); between Mexico City and the coterminal points Colorado Springs, Denver, Memphis, Nashville, Reno, Salt Lake City, Cincinnati, Portland, and Seattle (via Dallas/Ft. Worth). Aeromexico is also authorized to serve between Mexico City and Portland via Los Angeles.

Statement of Authorization for Delta under Part 207 to display Aeromexico's airline designator code on flights operated by Delta: between Atlanta and the coterminal points Charlotte, Raleigh/Durham, Greensboro, Greenville, Knoxville, and Birmingham; between Dallas/Ft. Worth and the coterminal points Colorado Springs, Denver, Memphis, Nashville, Reno, Salt Lake City, Cincinnati, Portland and Seattle; and between Los Angeles and Portland for the carriage of Aeromexico's Mexico-U.S. traffic described above.

**RENEW**



**U.S. Department of  
Transportation**  
Office of the Secretary  
of Transportation

**NOTICE OF ACTION TAKEN**

**March 31, 1998**

*This serves as interim notice to the public of the action, described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.*

Application of: **Trans World Airlines, Inc.** filed **1/13/98** and amended **1/15/98** in Docket **OST-98-3325** for:

**XX** Exemption for two years under 49 U.S.C. 40109 to provide the following service:

Scheduled foreign air transportation of property and mail between Los Angeles, California, and Honolulu, Hawaii, on the one hand, and Auckland and Christchurch, New Zealand; Sydney, Melbourne, and Brisbane, Australia; London, England (via London's Heathrow Airport); and Frankfurt, Germany, on the other hand. TWA intends to operate the service under a code-share arrangement with Air New Zealand.

Joint application of: **Trans World Airlines, Inc.**, and **Air New Zealand Limited** filed **1/13/98**, **Undocketed** for:

**XX** Statements of Authorization for two years under 14 CFR Parts 212 and 207 for:

(1) Air New Zealand to display TWA's airline designator code for the transportation of cargo on flights operated by Air New Zealand between Los Angeles, on the one hand, and Auckland, Christchurch, Sydney, Frankfurt, and London's Heathrow Airport, on the other hand, and between Auckland, on the one hand, and Sydney, Melbourne, Brisbane, and Honolulu, on the other hand; and (2) Trans World Airlines to display ANZ's airline designator code on flights operated by TWA between Los Angeles, on the one hand, and Atlanta, Boston, Chicago, Dallas/Ft. Worth, Denver, Miami, New York, Orlando, San Francisco, St. Louis, and Washington, D.C., on the other hand, for the carriage of Air New Zealand's foreign air transportation cargo traffic.

Applicant reps.: **Richard J. Fahy, Jr. 202-457-4746** DOT Analyst: **John Quay 202-366-1052**  
**Susan Gotbetter 212-318-3121**

**DISPOSITION**

**XX** *Granted in Part (subject to conditions, see below)*

**XX** *Balance Dismissed (i.e., exemption authority and statement of authorization for service to London (Heathrow)).*

The above action with respect to TWA's exemption request was effective when taken: **March 31, 1998**, through **March 31, 2000**.

(See Reverse Side)



The above action with respect to the requests for statements of authorization was effective when taken: **March 31, 1998.**

**XX** Under assigned authority (14 CFR 385) by:

*Paul L. Gretch, Director  
Office of International Aviation  
(Petitions for review may be filed from now until  
10 days after the confirming order/letter issues.  
Filing of a petition shall not stay the effectiveness  
of this action.)*

**XX** Exemption authority granted is consistent with the air transport agreements between the United States and foreign countries involved. The code-share operations authorized are consistent with the air transport agreements between the United States, on the one hand, and New Zealand and Germany, on the other hand. The U.S.-Australia code-share operations authorized are consistent with the state of current aviation relations between the United States and Australia.

*Except to the extent exempted or waived, this authority is subject to the terms, conditions and limitations indicated: **XX** Holder's certificate of public convenience and necessity (Trans World Airlines)  
**XX** Standard exemption conditions (attached)*

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**Conditions:** The statements of authorization granted are subject to the following conditions:

(a) The statements of authorization will remain in effect only as long as (i) TWA and Air New Zealand continue to hold the necessary underlying authority to operate the code-share services at issue, and (ii) the code-share agreement providing for the code-share operations remains in effect.

(b) TWA and/or Air New Zealand must promptly notify the Department (Office of International Aviation) if the code-share agreement providing for the code-share operations is no longer effective or the carriers decide to cease operating any or all of the approved code-share services.

(c) The code-share operations conducted under this authority must comply with 14 CFR 399.88 of the Department's regulations and any amendments to the Department's regulations concerning code-share arrangements that may be adopted, and are expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out the service in computer reservation systems and elsewhere, and that the carrier selling such transportation (*i.e.*, the carrier shown on the waybill) accept all obligations in the contract of carriage with the shipper, and that the operator shall not permit the code of its U.S. code-sharing partner to be carried on any flight that enters, departs, or transits the airspace of any area for whose airspace the Federal Aviation Administration has issued a flight prohibition.

(d) In conjunction with the code-sharing operations authorized, the Joint Alliance Committee is authorized only to review, plan for implementation, and promote any aspect of the agreement, as well as to resolve disputes as referenced in Article 12.1 of the addendum to the code-share agreement.

(e) We may amend, modify, or revoke the authority granted at any time without hearing at our discretion.

(See Next Page)

**Dismissal:** We dismissed TWA's request for exemption authority to serve London (Heathrow) and the joint applicants' request for code-share authority to London (Heathrow). Such service is not provided for under the current United States-United Kingdom bilateral aviation agreement.



**U.S. Department of  
Transportation**  
Office of the Secretary  
of Transportation

**RENEW & AMEND**

**NOTICE OF ACTION TAKEN**

**March 30, 1998**

*This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.*

Application of United Air Lines, Inc. filed 2/27/98 in Docket OST-96-1348 to:

**XX** Renew for two years exemption under 49 U.S.C. 40109 to provide the following service:

**Scheduled foreign air transportation of persons, property, and mail between points in the United States, and Manchester, England; and to integrate this authority with its U.S.-Germany certificate authority on Route 57 in order to operate U.S.-Manchester via Munich. United intends to operate this service pursuant to a code-share arrangement with Lufthansa German Airlines.**

**XX** Amend exemption to:

**Permit United to serve Manchester via points in other countries which United is authorized to serve, in addition to points in Germany. United intends to operate these services pursuant to authorized code-share arrangements with other code-share partners in addition to Lufthansa. In conjunction with this amendment, United seeks authority to integrate its service to Manchester with its existing certificate and exemption authority to facilitate the routings proposed.**

Applicant rep.: Joel Stephen Burton, 202-637-9130 DOT analyst: Sylvia Moore, 202-366-6519

*DISPOSITION*

The above action was effective when taken: March 20, 1998, through March 20, 2000

**XX** Under assigned authority (14 CFR 385) by:

*Paul L. Gretch, Director  
Office of International Aviation  
(Petitions for review may be filed from now until  
10 days after the confirming order/letter issues.  
Filing of a petition shall not stay the effectiveness of  
this action.)*

**XX** Exemption authority granted is consistent with the U.S.-U.K. Memorandum of Consultations dated June 5, 1995, and the aviation agreement between the United States and the Federal Republic of Germany.

*Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:*

- XX** Holder's certificate of public convenience and necessity
- XX** Standard Exemption Conditions (attached)

(See Reverse Side)

**Conditions:** The code-sharing operations conducted under this authority must comply with 14 CFR 399.88 of the Department's regulations and any amendments to the Department's regulations concerning code-share arrangements that may be adopted, and are expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service in computer reservation systems and elsewhere; that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept all obligations established in its contract of carriage with the passenger; that the passenger liability of the operating carrier be unaffected; and that the operating carrier shall not permit the code of its U.S. carrier code-sharing partner to be carried on any flight that enters, departs, or transits the airspace of any area for whose airspace the Federal Aviation Administration has issued a flight prohibition.

The route integration authority requested is granted subject to the condition that any service provided under this exemption shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, (a) nothing in the award of the route integration authority requested should be construed as conferring upon United rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless United notifies us of its intent to serve such a market and unless and until the Department has completed any necessary selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in United's authority by virtue of the route integration exemption granted here, but that are not then being used by United, the holding of such authority by route integration will not be considered as providing any preference for United in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.



**U.S. Department of  
Transportation**  
Office of the Secretary  
of Transportation

## NOTICE OF ACTION TAKEN

**March 30, 1998**

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*This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.*

Application of **United Air Lines, Inc.**, filed **2/24/98** in Docket **OST-96-1554** to:

**XX** Renew for two years exemption under 49 U.S.C. 40109 to provide the following services:

**Scheduled foreign air transportation of persons, property, and mail between a point or points in the United States, on the one hand, and Almaty, Kazakhstan; Kiev, Ukraine; Minsk, Belarus; Tashkent, Uzbekistan; Tallinn, Estonia; Vilnius, Lithuania; Asmara, Eritrea; Dar es Salaam, Tanzania; Malta; Tunis, Tunisia; and Thessaloniki, Greece, on the other hand, and authority to permit services involving all these points to be operated via all points in Germany. United plans to operate this service pursuant to a code-share arrangement with Lufthansa German Airlines.**

**XX** Amend exemption to:

**Permit United to serve these countries from the United States via points in other countries that United is authorized to serve in addition to Germany. United intends to operate these services pursuant authorized code-share arrangements with code-share partners in addition to Lufthansa. In conjunction with this amendment, United seeks authority to integrate these services with its existing certificate and exemption authority to facilitate the routings proposed. United seeks expedited action on its request because it proposes to offer code-share service to Tallinn via Copenhagen and Stockholm effective March 29, 1998.**

Applicant rep.: **Joel Stephen Burton 202-637-9130** DOT analyst: **Linda Senese, 202-366-2367**

### DISPOSITION

**XX** *Granted, subject to conditions. (See below)*

*The above action was effective when taken: **March 20, 1998,** through **March 20, 2000***

**XX** *Under assigned authority (14 CFR 385) by:*

*Paul L. Gretch, Director  
Office of International Aviation  
(Petitions for review may be filed from now until  
10 days after the confirming order/letter issues.  
Filing of a petition shall not stay the effectiveness of  
this action.)*

(See Reverse Side)

**XX Exemption authority granted is consistent with the 1990 U.S.-U.S.S.R. aviation agreement which governs air services between the United States and Kazakhstan and Belarus; the aviation agreement between the United States and Greece and between the United States and Uzbekistan; and the overall state of aviation relations between the United States and Estonia, Lithuania, Eritrea, Tanzania, Malta, and Tunisia.**

*Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:*

**XX Holder's certificate of public convenience and necessity**

**XX Standard Exemption Conditions (attached)**

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**Conditions:** The authority granted is subject to the following conditions:

(1) The route integration authority granted is subject to the condition that any service provided under this exemption shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, (a) nothing in the award of the route integration authority requested should be construed as conferring upon United rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless United notifies us of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in United's authority by virtue of the route integration exemption granted here, but that are not then being used by United, the holding of such authority by route integration will not be considered as providing any preference for United in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

(2) The code-sharing operations conducted under this authority must comply with 14 CFR 399.88 of the Department's regulations and any amendments to the Department's regulations concerning code-share arrangements that may be adopted and are expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service in computer reservation systems and elsewhere; that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept all obligations established in its contract of carriage with the passenger; that the passenger liability of the operating carrier be unaffected; and that the operating carrier shall not permit the code of its U.S. carrier code-sharing partner to be carried on any flight that enters, departs, or transits the airspace of any area for whose airspace the Federal Aviation Administration has issued a flight prohibition.

**Remarks:** United has been allocated 3.5 weekly frequencies for its U.S.-Ukraine third-country code-share services. (Order 95-7-36, July 12, 1995, and renewed August 29, 1996. See Order 96-9-11). We subjected the authority to serve Kiev set forth in this notice to the frequency limitations and conditions set forth in Order 96-9-11.



**U.S. Department of  
Transportation**  
Office of the Secretary  
of Transportation

## RENEW & AMEND

### NOTICE OF ACTION TAKEN

March 30, 1998

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*This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.*

Application of United Air Lines, Inc. filed 2/27/98 in Docket OST-96-1560 to:

**XX** Renew for two years exemption under 49 U.S.C. 40109 to provide the following service:

Scheduled foreign air transportation of persons, property, and mail between points in the United States, on the one hand, and Baku, Azerbaijan; and Ashkhabad, Turkmenistan; on the other, via Frankfurt, Germany, and to integrate this authority with its U.S.-Germany certificate authority on Route 57. United plans to operate this service pursuant to a code-share arrangement with Lufthansa German Airlines.

**XX** Amend exemption to:

Permit United to serve Baku and Ashkhabad via points in other countries which United is authorized to serve, in addition to points in Germany. United intends to operate these services pursuant to authorized code-share arrangements with code-share partners in addition to Lufthansa. In conjunction with this amendment, United seeks authority to integrate its service to Baku and Ashkhabad with its existing certificate and exemption authority to facilitate the routings proposed.

Applicant rep.: Joel Stephen Burton, 202-637-9130 DOT analyst: Sylvia Moore, 202-366-6519

#### DISPOSITION

The above action was effective when taken: March 27, 1998, through March 20, 2000

**XX** Under assigned authority (14 CFR 385) by:

Paul L. Gretch, Director  
Office of International Aviation  
(Petitions for review may be filed from now until  
10 days after the confirming order/letter issues.  
Filing of a petition shall not stay the effectiveness of  
this action.)

**XX** Exemption authority granted is consistent with the 1990 U.S.-U.S.S.R. Agreement, which governs air services between the United States, on the one hand, and Azerbaijan and Turkmenistan, on the other, and the aviation agreement between the United States and the Federal Republic of Germany.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

**XX** Holder's certificate of public convenience and necessity

**XX** Standard Exemption Conditions (attached)

(See Reverse Side)

**Conditions:** The code-sharing operations conducted under this authority must comply with 14 CFR 399.88 of the Department's regulations and any amendments to the Department's regulations concerning code-share arrangements that may be adopted, and are expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service in computer reservation systems and elsewhere; that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept all obligations established in its contract of carriage with the passenger; that the passenger liability of the operating carrier be unaffected; and that the operating carrier shall not permit the code of its U.S. carrier code-sharing partner to be carried on any flight that enters, departs, or transits the airspace of any area for whose airspace the Federal Aviation Administration has issued a flight prohibition.

The route integration authority requested is granted subject to the condition that any service provided under this exemption shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, (a) nothing in the award of the route integration authority requested should be construed as conferring upon United rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless United notifies us of its intent to serve such a market and unless and until the Department has completed any necessary selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in United's authority by virtue of the route integration exemption granted here, but that are not then being used by United, the holding of such authority by route integration will not be considered as providing any preference for United in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.





NEW

## NOTICE OF ACTION TAKEN

March 20, 1998

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Joint application of UNITED AIR LINES, INC., and COMPANIA MEXICANA de AVIACION, S.A., filed 12/12/97 in Docket OST-97-3237 for:

XX Exemption authority under 49 U.S.C. 40109  
XX Statements of Authorizations under Part 207/212 of the Department's regulations to provide the following service:

**Scheduled foreign air transportation of persons, property, and mail between various points in the United States and various points in Mexico, to allow for expansion of the code-share services between United Air Lines, Inc. (United), and Compania Mexicana de Aviacion S.A. de C.V. (Mexicana). On January 8, 1998, United filed a reply to answers submitted to its application, requesting immediate action on the following authorities:**

**Exemption authority for United in the Chicago-Morelia, Chicago-Leon, Chicago-Durango, Denver-Zacatecas, and San Francisco-Morelia markets.**

**Statement of Authorization for Mexicana under Part 212 of the Department's regulations to display United's airline designator code on flights operated by Mexicana in the following markets: Chicago-Morelia, Chicago-Leon, Chicago-Durango, Denver-Zacatecas, and San Francisco-Morelia.**

**Statement of Authorization for Mexicana under Part 212 of the Department's regulations to display United's airline designator code on flights operated by Mexicana between United's Mexican gateways (Cancun, Cozumel, Durango, Guadalajara, Leon, Los Cabos, Mazatlan, Merida, Mexico City, Morelia, Puerto Vallarta, and Tijuana) and Zacatecas for the carriage of United's Denver-Zacatecas traffic.**

**The carriers requested that the authorities be granted coextensive with the authorities currently held by the carriers for U.S.-Mexico code-share services (i.e., exemption authority, through 6/24/99; statement of authorization, through 6/14/98).**

Applicant reps: Joel S. Burton for United (202)637-9130 DOT Analysts: Linda Lundell (202) 366-2336

Robert D. Papkin for Mexicana (202)626-6601

Allen Brown (202)366-2405

(See Reverse Side)

## DISPOSITION

**XX Granted Carriers' Requests of January 8, 1998, with respect to Leon, Durango, and Zacatecas, described above.**

**XX Balance of the application deferred.**

The above action was effective when taken: 3/20/98. The exemption authority will expire 6/24/99, or 90 days after final Department action on a corresponding certificate application, whichever occurs earlier. The statement of authorization for Mexicana will expire 6/14/98.

**XX Under assigned authority (14 CFR 385) by:**

**Paul L. Gretch, Director**  
**Office of International Aviation**  
 (Petitions for review may be filed from now until  
 10 days after the confirming order/letter issues.  
 Filing of a petition shall not stay the effectiveness  
 of this action.)

**XX Exemption authority granted is consistent with the aviation agreement between the United States and Mexico. The code-share authority granted is consistent with the overall state of aviation relations with Mexico.**

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

**XX Holder's certificate of public convenience and necessity (United)**  
**XX Standard Exemption Conditions (attached) (United)**

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**Special Conditions/Remarks:** The U.S.-Mexico exemption authority granted United is subject to the dormancy notice requirements set forth in condition 7 of Appendix A of Order 88-10-2.

In the interest of administrative efficiency, and consistent with our standard practice regarding U.S.-Mexico code-share authorities, the code-share authorities granted here have been awarded coextensive with the duration of the code-share authorities already held by the carriers for other U.S.-Mexico code-share services. (See Statements of Authorization granted December 18, 1997 to United and Mexicana, as well as Delta Air Lines and American Airlines and their respective code-share partners). Because the authority granted here is for a period of less than 180 days, APA rights will not apply.

The code-share operations authorized here are subject to the condition that the operations comply with section 399.88 of the Department's regulations regarding code-sharing operations, and the further condition that the foreign air transportation be sold in the name of the carrier holding out service in computer reservation systems and elsewhere; that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept all obligations established in the contract of carriage with the passenger; that the passenger liability of the operating carrier be unaffected; and that the operating carrier shall not permit the code of its U.S. code-sharing partner to be carried on any flight that enters, departs, or transits the airspace of any area for whose air space the Federal Aviation Administration has issued a flight prohibition.

Authorization of the code-share services may be withdrawn in any U.S.-Mexico city-pair market where another U.S. carrier proposes to operate services with its own aircraft (direct carrier services) and (1) additional designations are not available to authorize the proposed direct carrier service; and (2) the Department determines that the proposed direct carrier services would provide benefits and service options superior to the code-share operations in the market.

(See Next Page)

Delta and American and AeroCalifornia (jointly) filed answers to United's request. Delta does not oppose United's application, except to the extent that there are insufficient designations available to accommodate all of the carriers' requests. United's application for the markets included in its request for immediate action was not mutually exclusive with the applications of the other U.S.-carrier applicants for U.S.-Mexico code-share authority.

American and AeroCalifornia's answer, filed with respect to the Denver-Zacatecas market granted by this notice, stated that they did not object provided that their own requests for certain U.S.-Mexico code-share authorities were also granted. We contemporaneously granted the requests of these carriers to the extent possible (Dockets OST-97-2944, 97-2477, 97-2961, and 97-2481).

American and AeroCalifornia also stated that they retained their view that the Department should encourage Mexico to liberalize the availability of code-share authority, and that the Department should make clear that by awarding the limited requests of each of the alliances on an incremental basis, it is not adopting the Mexican views on this matter. We will, in this regard, continue to work with the Mexican authorities on liberalization of the code-share regime for U.S.-Mexico services. In the meantime, however, awards of code-share authorizations have historically been granted on the basis of comity and reciprocity and we believe that it is in the public interest to follow that practice, on a limited basis, while this process continues. The fact that we have chosen this course of action with Mexico reflects our judgment at this time that such action will best promote our efforts to reach a satisfactory long-term solution to the code-sharing issues in the U.S. Mexico market.

NEW



**U.S. Department of  
Transportation**  
Office of the Secretary  
of Transportation

## NOTICE OF ACTION TAKEN

March 30, 1998

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*This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.*

Joint Application of United Air Lines, Inc. and Lufthansa German Airlines filed 2/12/97 in Docket OST-98-3476 for:

XX *Exemption for United for two years from 49 U.S.C. section 41109 to provide the following service:*

**Scheduled foreign air transportation of persons, property, and mail between points in the United States, on the one hand, and Sarajevo, Bosnia; and Zagreb, Croatia, on the other, via points in Germany, and to integrate these services with United's existing certificate and exemption authority.**

XX *Statement of Authorization for Lufthansa under Part 212:*

**To display United's "UA" airline designator code on flights operated by Lufthansa between points in Germany and Sarajevo and Zagreb.**

Applicant reps: Joel Burton (202) 637-9130 (United) DOT Analyst: Sylvia Moore (202) 366-6519  
J. Edward Cox (202) 663-6000 (Lufthansa)

### DISPOSITION

XX *Granted (Subject to conditions, see below)*

*The above action with respect to United's exemption authority was effective when taken: March 27, 1998,  
through March 20, 2000;*

*The above action with respect to Lufthansa's statement of authorization was effective when taken:  
March 27, 1998*

XX *Under assigned authority (14 CFR 385) by: Paul L. Gretch, Director  
Office of International Aviation  
(Petitions for review may be filed from now  
until 10 days after the confirming order/letter  
issues. Filing of a petition shall not stay the  
effectiveness of this action.)*

XX **Authority granted is consistent with the aviation agreement between the United States and the Federal Republic of Germany, and the overall state of aviation relations between the United States, on the one hand, and Bosnia and Croatia, on the other.**

*Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:*

XX **Holder's certificate of public convenience and necessity (United)**

XX **Holder's foreign air carrier permit (Lufthansa)**

(See Reverse Side)

**Conditions:** The exemption authority granted is subject to the following condition:

(1) The route integration authority granted is subject to the condition that any service provided under this exemption shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, (a) nothing in the award of the route integration authority requested should be construed as conferring upon United rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless United notifies us of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in United's authority by virtue of the route integration exemption granted here, but that are not then being used by United, the holding of such authority by route integration will not be considered as providing any preference for United in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

The statement of authorization granted is subject to the following conditions:

- (1) The statement of authorization will remain in effect only as long as (a) United Air Lines and Lufthansa German Airlines continue to hold the necessary underlying authority to operate the code-share services at issue and, (b) the alliance agreement providing for the code-share operations remains in effect and approved by the Department.
- (2) United Air Lines and/or Lufthansa German Airlines must promptly notify the Department (Office of International Aviation) if the alliance agreement providing for the code-share operations is no longer effective or the carriers decide to cease operating any or all of the approved code-share services.
- (3) All operations must comply with the limitations and conditions governing antitrust immunity in Order 96-5-27.
- (4) The code-sharing operations conducted under this authority must comply with 14 CFR 399.88 of the Department's regulations and any amendments to the Department's regulations concerning code-share arrangements that may be adopted and are expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service in computer reservation systems and elsewhere; that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept all obligations established in its contract of carriage with the passenger; that the passenger liability of the operating carrier be unaffected; and that the operating carrier shall not permit the code of its U.S. code-sharing partner to be carried on any flight that enters, departs, or transits the airspace of any area for whose airspace the Federal Aviation Administration has issued a flight prohibition.
- (5) We may amend, modify, or revoke the authority granted at any time without hearing at our discretion.