



**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.**

Issued by the Department of Transportation  
on the 20th day of February 1997

**Interamericana de Aviacion, C.A.**

**Violations of 49 U.S.C. § 41301 and  
14 CFR Part 212**

**CONSENT ORDER**

This order concerns violations by Interamericana de Aviacion, C.A. (Interamericana), a Venezuelan air carrier, of 49 U.S.C. §41301 and 14 CFR Part 212 in connection with a number of flights it operated between Bogota, Colombia and Miami in 1996 without requisite economic authority from the Department. The flights, in which Interamericana acted as wet lessor, were performed on behalf of Aero Transcolombiana de Carga (ATC), a Colombian carrier with permit authority in the Colombia-Miami market. Interamericana, however, has no authority to provide service in the U.S.-Colombia market and its service in this instance violated both 49 U.S.C. §41301 and Part 212 of the Department's rules (14 CFR Part 212).<sup>1</sup> Interamericana's flights for ATC were outside the scope of its exemption authority, which is limited to service between its homeland and the U.S., and violated a condition on its authority which makes its effectiveness contingent on compliance with all Department rules. Part 212 requires that foreign carriers obtain prior approval from the Department for all such fifth freedom operations, approval which Interamericana failed to seek and receive.

In mitigation, Interamericana states that its failure to seek and obtain the requisite authority was in no way intentional as demonstrated by the fact that the carrier immediately, voluntarily and without any prompting from the Department made full disclosure of all relevant facts upon discovering that it had inadvertently overlooked the Department's regulatory requirements. Interamericana further notes

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<sup>1</sup> Interamericana's exemption authority, originally conferred by Order 88-7-7, remains in effect, allowing non-scheduled cargo service between Venezuela and Miami, by way of the Dominican Republic, Costa Rica, and Haiti.

that its failure to apply for prior authorization was attributable to the fact that its personnel were unaware that the U.S. Government exerted jurisdiction over wet leases between two non-U.S. carriers, and that Interamericana has never before been subject to any Departmental penalty or consent order.

Notwithstanding these mitigating factors, the Office of Aviation Enforcement and Proceedings (Enforcement Office) believes that Interamericana's violations of its permit authority warrant enforcement action. In order to avoid litigation, and without admitting or denying the violations described above, Interamericana has agreed to the issuance of this order to cease and desist and the findings made below. By this order, Interamericana is assessed \$60,000 in compromise of potential civil penalties otherwise assessable under 49 U.S.C. §43601, based on its violations of 49 U.S.C. § 41301 and 14 CFR Part 212. Of this amount, \$30,000 shall be paid over two years, in accordance with the schedule set forth in the ordering paragraphs below. The remaining \$30,000 shall be suspended during the two-year payment period and shall be forgiven at the end of that period unless Interamericana fails to comply with the payment provisions or commits other violations of 49 U.S.C. § 41301, 14 CFR Part 212, or this order during the period, in which case the entire unpaid portion of the \$30,000 assessed penalty shall become due and payable immediately. The Enforcement Office believes that the assessment of this civil penalty is warranted in light of the number of violations in question and this order will provide an incentive to all foreign air carriers to comply fully with the requirements of 49 U.S.C. §41301 and 14 CFR Part 212 in the future.

This order is issued under the authority contained in 49 CFR 1.57a and 14 CFR 385.22.

ACCORDINGLY,

1. Based on the above discussion, we approve this settlement and the provisions of this order as in the public interest;
2. We find that Interamericana de Aviacion, C.A., violated 49 U.S.C. §41301 and 14 CFR Part 212 by engaging in unauthorized wet lease service on behalf of Aero Transcolombiana de Carga, Ltda., between Miami and points in Colombia during the period May to August 1996;
3. We order Interamericana de Aviacion, C.A., to cease and desist from further violations of 49 U.S.C. §41301 and 14 CFR Part 212;
4. Interamericana de Aviacion, C.A., is assessed \$60,000 in compromise of civil penalties that might otherwise be assessed for the violations found in ordering paragraph 2 of this order of which \$30,000 shall be paid according to the following

schedule: \$5,000 shall be paid within 15 days of the service date of this order; \$25,000 shall be paid in two installments of \$12,500 each, the first one year (365 days) from the service date of this order and the second two years (730 days) following the service date. The remaining \$30,000 of the penalty assessed in this order shall be suspended for two years following the service date of this order and shall be forgiven at that time unless Interamericana fails to comply with the payment provisions of this order or commits other violations of 49 U.S.C. §41301, 14 CFR Part 212 or this order, during that period, in which case the entire unpaid portion of the assessed penalty shall become due and payable immediately and Interamericana may be subject to further enforcement action; and

5. Payments according the schedule stated above shall be made by wire transfer through the Federal Reserve Communications System, commonly known as "Fed wire," to the account of the U. S. Treasury in accordance with the attached instructions. Failure to pay the penalty as ordered will subject Interamericana to the assessment of interest, penalty and collection charges under the Debt Collection Act, and possible enforcement action for failure to comply with this order.

This order will become a final order of the Department 10 days after its service unless a timely petition for review is filed or the Department takes review on its own motion.

**By:**

ROSALIND A. KNAPP  
Deputy General Counsel

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