

Order 97-6-1

Served: June 2, 1997



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

Issued by the Department of Transportation  
on the 2<sup>nd</sup> day of June, 1997

---

**1997/1998 U.S.-Brazil All-Cargo Charter Proceeding** : **Docket OST-97-2243**  
:   
:   
:

---

**Order Tentatively Allocating Charters**

**SUMMARY**

By this order we tentatively allocate the 750 U.S.-Brazil all-cargo charters available for the 1997-98 charter year as follows: Southern Air Transport (SAT)-180; Florida West-145; Air Transport International-83; Arrow Air-29; and Atlas Air-35. In addition, we propose to place 278 charters into a pool for *ad hoc* distribution and use under conditions discussed below.

**BACKGROUND**

Under the U.S.-Brazil Transport Agreement , as amended, U.S. carriers are entitled to operate 750 round-trip all-cargo charter flights per year (July through June). This is the first year that carriers have been able to operate this level of flights from the beginning of the charter year. For the 1996/97 charter year, U.S. carriers could operate 450 annual charters. Those charters were allocated by Order 96-7-15. Subsequently, in late October 1996, under the provisions of a Memorandum of Consultations between representatives of the United States and Brazil, an additional 300 charters became available for U.S. carrier all-cargo services. By Order 97-12-33, the Department allocated the additional charters to U.S. carriers.

By Notice served March 26, 1997, we instituted this proceeding to determine which U.S. carriers should be allocated the 750 all-cargo charters available for the 1997/1998 charter

year. We invited interested carriers to apply for specific advance allocations by April 7, 1997, supported by contracts and other information.<sup>1</sup> Answers to those applications were due April 14, 1997.<sup>2</sup>

Our notice indicated that should the number of charters requested exceed the number available, the Department would proceed to allocate the flights using show-cause procedures based on the applications received. We specifically noted that the U.S.-Brazil charters are very valuable and that we do not intend that they be wasted. In this regard, we stated that is our intent to review carefully our records as to whether allocations were used in the numbers awarded. To this end, we stated that should carriers that were allocated flights for the 1996/97 charter year fail to use their allotments or fail to return flights in a timely manner, the presumption would be that their awards for the 1997/1998 charter year, if any, might be reduced by the same number of charters they failed to use or return in the 1996/97 charter year.

### **Applications**

Ten carriers filed applications for allocation of a total of 1,392 charters. The number of charters requested by each carrier for the 1997/98 charter year, the number of allocated charters for the current charter year (1996/97), and the number of 1996/97 charters actually operated through April 1997, are as follows:

<u>Carrier</u>	<u>Request for 1997/1998</u>	<u>Advance Allocation 1996/1997</u>	<u>Total Used<sup>3</sup> 1996/1997</u>
Millon	208	102	86
Southern	260	156	145
Tower	30	83	30
Arrow	104	54	23
Florida West	208	78	109
ABX	20	20	13

<sup>1</sup> We indicated that applications should include (1) the number of flights requested; (2) the aircraft to be used, the payload capacity of those aircraft, and the availability of those aircraft for the proposed services; (3) the markets to be served; (4) the cargo to be carried; (5) whether the flights will be *ad hoc* or under contract for a series of flights with one or more charters; (6) evidence showing the likelihood that the flights will be operated, including the charter contract where available, noting that carriers may seek confidential treatment under our regulations (14 CFR 302.39) for any charter contracts filed; (7) whether a partial grant of the requested number of charters would affect the likelihood that such charters will be operated, and, if so, the minimum number of flights the applicants will accept; and (8) any other information the applicant believes would be useful to our determination.

<sup>2</sup> Five of the ten applicants submitted answers: SAT, Air Transport International (ATI), Arrow, World, and Atlas. Emery Worldwide Airlines also submitted an answer, although it is not an applicant for allocation of flights in the 1997/98 charter year.

<sup>3</sup> In addition to those used from program allocations, the total also includes additional charters from the charter pool.

<u>Carrier</u>	<u>Request for 1997/1998</u>	<u>Advance Allocation 1996/1997</u>	<u>Total Used 1996/1997</u>
ATI	204	n/a	44
Fine	104	n/a	0
Atlas	104	n/a	20
World	<u>150</u>	<u>n/a</u>	<u>0</u>
Totals	1,392	493	470

All but four applicants submitted contracts in support of these requests, which would be operated as “program,” or a series of regular charter flights, for one or more air freight forwarders, who would consolidate general freight from their individual customers.<sup>4</sup> The proposals indicate that the applicants would use a variety of aircraft: three plan to use DC-8 freighter aircraft; three, B-747 aircraft; and four, various aircraft including B-707, DC-8, DC-10, MD-11, L-1011. All carriers, except ATI, propose service from Miami to Manaus and Sao Paulo, with some carriers proposing service to additional Brazilian points.<sup>5</sup> Several carriers would serve other U.S. cities.<sup>6</sup>

Most of the applicants have participated in the U.S.-Brazil charter market. Six of the carriers operated charters from program allocations last year.<sup>7</sup> Two carriers operated charters from the *ad hoc* pool.<sup>8</sup> Five carriers indicated that grant of fewer frequencies than requested would damage or impair their proposed operations.<sup>9</sup>

### **Answers to Applications**

Six carriers--SAT, ATI, Arrow Air, Emery Worldwide Airlines, World, and Atlas--filed answers to the applications filed.

SAT, Emery and World support allocations based on past performance. ATI objects to allocations to carriers without charter contracts, arguing that those carriers as well as new entrants, should establish programs through the charter pool. Atlas maintains that allocations should be based on demonstrated ability to use the flights as set forth in each applicant’s service proposal, rather than past performance alone, and that the Department should take into consideration the public benefits of service with wide-body aircraft.

<sup>4</sup> Tower stated it does not have a firm contract for a series of charters with any one shipper but does have arrangements for numerous *ad hoc* charters; ABX stated it is in consultation with one or more shippers but provided no contract as evidence; World stated it has received numerous inquiries regarding its availability; and Millon made no mention of a contract.

<sup>5</sup> ATI only proposes service to Manaus. Tower would also serve Rio de Janeiro and Brasilia; Florida West, Rio de Janeiro and Porto Alegre; Fine, Rio de Janeiro. World did not specify which U.S. cities it would serve.

<sup>6</sup> Tower would serve New York, and ABX would serve Ft. Lauderdale.

<sup>7</sup> SAT, Tower, Florida West, Arrow, ABX, and Millon.

<sup>8</sup> ATI and Atlas.

<sup>9</sup> Florida West, ATI, Arrow, Atlas, and World.

Several carriers object to any allocation to Millon because it currently holds no Department authority to operate air service, and state that Millon could operate flights from the charter pool, should its authority be reinstated.

Emery urges us to retain at least 250 flights in the charter pool. SAT urges that no awards be given to carriers that have previously misused their allocations.

### **Tentative Allocation**

After carefully reviewing the applications before us, we have tentatively decided to allocate the majority of the available charters (472) to program operators and to maintain the balance (278) in a charter pool for distribution on a first-come, first-served basis.

In allocating Brazil all-cargo charters we have had three major objectives--to ensure that the flights are fully used, to satisfy to the extent possible the competing interests of shippers and carriers serving the market, and to ensure that all carriers, incumbents and new entrants, have access to the market. Thus, in all of our decisions we have allocated flights to accommodate the demonstrated need for regular patterns of service and reserved some charters to satisfy any demand for *ad hoc* flights in the market. We have also ensured that carriers with a history of successful operations in the market can continue to provide their programs and that new entrants are given an opportunity to serve and to develop programs of their own.

The 750 available charters for the 1997/98 charter year make it possible for us to meet all of these objectives. Given this larger number of flights available at the beginning of the charter year, we will be able to meet the expanding needs of incumbent carriers and also provide valuable opportunities for new carriers to establish program operations, and to meet the needs of *ad hoc* shippers in the market.

#### **A. Incumbent Carrier Services**

Based on our past experience and the record of this proceeding, it is clear that the primary demand for service in the Brazil market is for regular patterns of continuous service. With respect to program operations, we have found that past performance has been a reliable indicator of future operations.<sup>10</sup> Therefore, we propose to allocate a significant portion of the 750 flights--472 charters--to incumbent carrier services. These carriers have demonstrated their ability to use the flights allocated to them and we believe that it is in the public interest to facilitate continuation of these services.

Last year, when fewer flights were available at the beginning of the charter year, 450 versus the 750 available at the beginning of this charter year, we ensured that the carriers obtained at least the same number of flights allocated in the previous year, plus additional flights based on the number of flights operated in excess of their allocations. For example,

---

<sup>10</sup> See, e.g., Orders 96-6-43 and 96-12-33.

if a carrier had been allocated 52 flights for the 1995/96 charter year, but operated a total of 100 flights during the year (having obtained additional flights from the charter pool), then its 1996/97 allocation was  $52 + 1/2 (100-52)=76$ .

We propose to follow a similar approach this year. However, given the larger number of overall flights available and the demonstrated steady growth of incumbent U.S. carrier Brazil charter services,<sup>11</sup> we propose to increase the number of additional flights allocated to incumbent carriers at the beginning of the charter year. Specifically, we propose that incumbent carriers be allocated at least the number of flights we project they will operate during this charter year. In addition, we propose to increase their allocations by a number of flights equal to one-fourth the number of flights that they will have operated in excess of their current year allocation. For example, a carrier receiving an advance allocation of 100 flights for the 1996/97 charter year, and with projected year-end operations of 150 flights (having received additional flights from the charter pool during the year), would receive an allocation of 163 flights ( $150 + 1/4 (150-100)$ ). Under this proposal, based on the projected year-end operations, SAT would receive an allocation of 180 flights; Florida West, an allocation of 145 flights; ATI, an allocation of 83 flights; and Atlas, an allocation of 35 flights.<sup>12</sup> This will enable incumbent carriers to maintain the same level of operations performed during the current charter year, and will at the same time guarantee a modest expansion of those services in the next charter year.

For applicant carriers that operated fewer flights than in their advance allocation, we propose to allocate to them the same number of flights in the 1997/98 charter year that

<sup>11</sup> See, post flight reports for carriers filed with the Department and available to the public in the U.S. Air Carrier Licensing Division, Room 6412. These reports indicate that the number of Brazil charters operated by U.S. carriers has increased steadily since 1994, and that, generally speaking, carriers with historic operations in the market, e.g., SAT and FWIA, have expanded their services significantly since 1994 (in the 1994/95 charter year SAT operated 55 charters; thru April of the current charter year it has operated 145 charters; FWIA operated 36 charters in the 1994/95 charter year and 109 charters through April of the 1996/97 charter year).

<sup>12</sup> We have post-flight charter reports from carriers through April 1997 (i.e., for ten months of the charter year). To make our allocations, we are projecting year-end total flights operated based on the average number of flights carriers operated during the ten-month period. For example, SAT operated 145 flights for the ten-month period, for an average of 15 flights per month, rounding up to the next full flight. We, therefore, project a year-end total for SAT of 175 operated flights. The projected allocations are calculated as follows:

<u>Carrier</u>	<u>Projected Yr End Flights</u>	<u>Advance Allocation</u>
SAT	175	180: $175 + 1/4(175-156)$
FWIA	131	145: $131 + 1/4(131-78)$
ATI	66	83: $66 + 1/4(66-0)$
Atlas	28	35: $28 + 1/4(28-0)$

ATI and Atlas did not operate for the full ten-month period. ATI began operations in January 1997 and its year-end projection is based on its average operations over a four-month period. Thus, ATI operated 44 flights through April 1997 for an average of 11 flights per month. Its projected year-end operations therefore are  $44 + 22=66$  flights. Similarly, Atlas began operations in November 1996. It operated 20 flights through April for an average of four flights per month. Its projected year-end operations, therefore, are  $20 + 8=28$  flights.

they operated in the 1996/97 charter year.<sup>13</sup> Under this proposal, Arrow would receive an allocation of 29 flights. Arrow had been allocated a total of 54 flights, but has returned 25 flights, making its allocation 29 flights. Through April it operated 23 flights for a ten-month average of six flights per month and year-end projected operations of 29 flights.

The combined allocations to these five carriers would use 472 of the 750 available flights. Given the larger number of flights available at the beginning of the charter year, and the fact that with these allocations, 278 charters will remain available for new entrant services and *ad hoc* operations, we tentatively conclude that this modest expansion and renewal of incumbent carrier services is in the public interest and will not compromise the potential operations of new entrant carriers in the market.

Three other incumbent carriers--Tower, ABX, and Millon--have applied for advance allocations. However, we do not propose to grant an advance allocation to any of these carriers. Tower was granted an advance allocation of 83 flights (Orders 96-7-15 and 96-12-33). In granting the allocations, we made clear that all carriers were under a general obligation to return flights as soon as it appeared that they would not be operated, to ensure that these valuable rights are not wasted. To date, Tower has operated only 30 flights and has operated no charter flights in the market over the past six months. It has neither returned the remaining 53 flights to the Department nor notified the Department that it has plans to ensure use of the balance of its allocation. Thus, it appears that Tower will not use the majority of its allocation for the 1996/97 charter year, leading to waste of over 50 charter flights. Furthermore, we note that in our notice soliciting applications we made clear that to the extent incumbent carriers did not use their allocations or failed to return unused flights in a timely manner, their 1997/98 allocations would be reduced by the same number of flights wasted in the 1996/97 charter year. In these circumstances, and given that the number of flights Tower actually operated is considerably fewer than those that it will have wasted, we tentatively conclude that an advance allocation to Tower for the 1997/98 charter year is not warranted. However, Tower will be eligible for an allocation of flights from the charter pool. Since Tower has stated in this proceeding that it does not have a firm contract for its proposed services, we believe that access to the charter pool will meet its needs for services in the Brazil all-cargo market.

Similarly, ABX was allocated a total of 20 flights for the 1996/97 charter year. To date, it has operated only 13 flights and has projected year-end operations of only 17 flights, fewer than the required 20 flight minimum to qualify for an advance allocation.<sup>14</sup> Given the frequency of ABX's historic operations in the market, we tentatively conclude that its services can be met by distribution of flights from the charter pool.

---

<sup>13</sup> We are using the same formula for calculating year-end totals as described above.

<sup>14</sup> The 20-flight standard is consistent with the standard used in our streamlined procedures to determine which carriers qualified for receipt of an allocation as opposed to obtaining flights from the charter pool. See, Orders 92-6-46 and 92-9-22. It has also been the standard used in our allocation of charters where comparative selection procedures have been used. See, Orders 96-6-43 and 96-7-15.

Millon currently does not hold effective Department authority to operate charter air services. Therefore, it is not eligible for an allocation in this case, and we propose to dismiss its application. Should Millon subsequently obtain Department authority to operate charter services, it may obtain flights from the charter pool under the procedures established for new entrant carriers serving the market.

As discussed above, we made clear in our notice instituting this proceeding that the U.S.-Brazil charters are very valuable and that we do not intend that they be wasted. Because of our concern over unused flights, we stated that we would review our records and should carriers that were allocated flights for the 1996/97 charter fail to use their allotments and fail to return flights in a timely manner, their awards for this charter year might be reduced by the same number they failed to use in the 1996/97 charter year. Consistent with this proposal, upon conclusion of the 1996/97 charter year, we propose to review our records and plan to reduce any allocation made here by the number of frequencies wasted by carriers having allotments and either not using them or not returning them for subsequent reallocation to other carriers.<sup>15</sup>

#### B. New Entrant Services

The new entrant applicants in this proceeding--Fine and World--urge us to grant them large blocks of flights to inaugurate competitive services in the Brazil market. While we appreciate the desire of these carriers for advance allocations, our experience has demonstrated that advance allocations to new entrant carriers have resulted in a significant level of waste of these valuable charter flights, and that the needs of new entrants are well met through maintaining a large charter pool.<sup>16</sup> Indeed, two new carriers, ATI and Atlas, instituted operations in the current charter year by relying on the charter pool, resulting in advance allocations for the 1997/98 charter year. Given our proposal to maintain 278 flights in the charter pool and, as discussed below, to retain the current charter pool procedures to permit new entrant carriers to apply for up to eight charter flights per month, we believe that carriers and shippers will have confidence that adequate flights are available from the charter pool for new carriers to institute competitive services in the market.

#### C. Charter Pool

We tentatively propose to place the remaining 278 charters available into a charter pool for distribution on a case-by-case basis. We believe that a charter pool of this size will facilitate operations by new entrant carriers, enabling them to commence regular patterns

---

<sup>15</sup> As we have projected year-end operations for each of the carriers granted an advance allocation, after a review of the actual year-end services by these carriers, it is possible that the allocations of SAT, ATI, Arrow, and Atlas may be reduced from the allocations proposed here. Should such circumstances occur, the number of charters subtracted from any allocation would be placed in the charter pool. Florida West has already used its full allocation of flights for the 1996/97 charter year and, thus, there would be no need to reduce its proposed allocation.

<sup>16</sup> See, Orders 96-6-43 at 5, and 96-12-33 at 5.

of service, and will ensure that carriers with an occasional need to operate services will also have access to the charter market.

Prior to the increase in the overall number of charters available, we limited carriers to no more than four flights from the charter pool each calendar month, facilitating operation of one weekly flight by each new carrier. When additional flights became available, we decided to increase this limit to eight flights a month for new entrant carriers (carriers without advance allotments or scheduled combination or all-cargo authority to serve the Brazil market), thereby expanding the opportunities for new entrant airlines to develop competitive services. Carriers with advance allotments continued to be precluded from using the charter pool until after the first six months of the charter year. After that period they were limited to four flights per month from the charter pool until they had exhausted 75 percent of their advance allocation, after which they could apply for up to eight flights per calendar month. Scheduled carriers serving the Brazil market were precluded from using the charter pool until the last two months of the charter year. Order 96-12-33.

We propose to apply the charter pool rules as set forth in Order 96-7-15 and modified by Order 96-12-33 for the 1997/98 charter year. We believe that the modified rules will afford new entrants maximum flexibility to establish program operations. This approach will also facilitate expanded operations by incumbent advance allotment carriers, but only after they have used the majority of their advance allocations, thereby safeguarding the opportunity for competition in the market by new entrant carriers.

### **Forfeiture and Reallocation Procedures/Reporting Requirements**

We remain of the view that banking should be discouraged, particularly where, as here, there are clearly inadequate numbers of flights for fully satisfying the allotment requests and for ensuring a meaningful *ad hoc* pool. While some of the applicants already have signed contracts for all of the flights requested, some contractual changes will be inevitable given the limited number of flights available to each applicant. Therefore, we have tentatively decided to continue the conditions imposed on allocations since 1992: carriers must operate at least 40 percent of their allocation within the first six months of the charter year or forfeit a portion of their remaining balance for reallocation through the charter pool. Moreover, we emphasize that each carrier is under a general obligation to return charters promptly any time that program or *ad hoc* allotment plans change appreciably. We remind carriers that once they have applied to the Brazilian government for the operation of a charter, if plans for the operation of the charter change, it is the carrier's responsibility to notify both the U.S. and the Brazilian governments of any changes to original plans. Failure to do so could result in waste of the charter and affect the carrier's ability to continue serving the market. In previous years some U.S. carriers notified the U.S. government that a flight had been canceled or rescheduled but failed to notify the Brazilian government in writing; thus, the Brazilian and U.S. records did not coincide, and the resulting discrepancy threatened the smooth flow of U.S. carrier charter services. In order to prevent such problems in the future, both governments must be notified in writing as soon as it is known that a flight will be changed and/or canceled.

As we have in the past, we propose to require all carriers allocated flights or receiving flights from the pool to report on their operations for the preceding month by the tenth day of each month.

### **Motions for Confidential Treatment**

SAT, Florida West, Fine, ATI, and Atlas have filed Rule 39 motions for confidential treatment of their contracts and other specific charter documents submitted in this docket. We have reviewed the documents under the disclosure guidelines of Rule 39 and have determined that they warrant confidential treatment. Because of the commercially sensitive nature of the information in these documents, including the names of charterers and various contractual details, we have determined that the documents fall within the Freedom of Information Act exemption for proprietary information and would adversely affect the competitive position of an air carrier in foreign air transportation under section 40115 of Title 49 of the United States Code.

### **ACCORDINGLY,**

1. We tentatively allocate 750 U.S.-Brazil all-cargo round-trip charters for the period July 1, 1997, through June 30, 1998 as follows:

Southern Air Transport, Inc.	180
Florida West International Airways, Inc.	145 <sup>17</sup>
Air Transport International L.L.C.	83
Arrow Air, Inc.	29
Atlas Air, Inc.	35
Charter Pool	<u>278</u>
	750

2. We tentatively conclude that the carrier allocations in paragraph 1 should be subject to the following condition:

Where fewer than 40 percent of a carrier's allocated charters have been used or been committed for use by firm contracts during the six-month period ending December 31, 1997, the remaining charter allocations exceeding the number equal to the number of those already operated or committed in the preceding six months would be forfeited and placed in the charter pool;

---

<sup>17</sup> Florida West's underlying certificate authority to operate charters expires on August 6, 1997. Should that authority not be renewed, any charters remaining in Florida West's allocation would be returned to the charter pool for allocation to other carriers through the charter pool procedures.

3. We tentatively establish a charter pool subject to the following conditions:

(a) Distributions would be made to eligible applicants on a first-come, first-served basis with operations under such distributions limited to eight per month for each new entrant applicant; and four per month for each incumbent carrier applicant until such time after January 1, 1998, that the incumbent has operated 75 per cent or more of its total allocated flights, at which time it may apply for up to eight flights per month;<sup>18</sup>

(b) Carriers holding scheduled combination or all-cargo authority in the U.S.-Brazil market would not be eligible applicants until after April 30, 1998;

(c) Except as conditioned by (b) above, carriers receiving allocations in this proceeding would not be eligible applicants until after December 31, 1997;

(d) Applications to operate charters may be filed no earlier than 30 days in advance of the flight date;

(e) Applications must identify (i) the number of flights requested, (ii) proposed flight dates, including a four-day service window; (iii) the charterer(s), (iv) the city-pair markets involved by direction, (v) the type of aircraft to be used, and (vi) the type of cargo to be transported. Copies of the charter contract or some form of written evidence of the charter commitment is required at the time a charter is requested;

4. We tentatively propose to require that each carrier allocated charters in this proceeding inform the U.S. Air Carrier Licensing Division (X-44), Office of International Aviation, by letter no later than January 2, 1998, of the number of charters it has operated or has committed by firm contracts. For charters under contract, carriers shall indicate the charterer(s), dates, city-pair markets, and nature of traffic and must submit evidence of signed contracts for those charters;

5. We tentatively propose to require each carrier allocated flights or receiving flights from the charter pool to notify the U.S. Air Carrier Licensing Division (X-44), Office of International Aviation, no later than the tenth of each month (or until its charters are exhausted, whichever occurs earlier) of: (1) the number of Brazil all-cargo charters operated during the preceding month; (2) the city-pairs served by direction; (3) the date of each flight; (4) the charterer(s); (5) the type of aircraft used; (6) the type of cargo carried; and (7) the number of charters for which Brazilian authority was obtained for that month which subsequently were canceled or rescheduled.<sup>19</sup> Carriers allocated charters shall

---

<sup>18</sup> A new entrant airline is defined as a U.S. carrier that was not granted an allocation of flights in this proceeding, but does not hold scheduled authority to serve the U.S.-Brazil market; an incumbent carrier is a carrier that has been allocated flights in this proceeding.

<sup>19</sup> Reports on flights operated from the charter pool under a Notice of Consistency should also identify the date of the Notice granting the flights. A statement should be included as well as verifying that the Government of Brazil has been notified in writing of changes and/or cancellations of flights.

notify the Department and the Government of Brazil whether or not any charters have been operated by the carrier during the month.<sup>20</sup> After April 30, 1998, each carrier allocated flights from the charter pool would be required to report such operations no later than seven days after operation of each flight obtained from the charter pool.

6. We tentatively delegate to the Director, Office of International Aviation, the authority to administer distribution of flights from the charter pool proposed in this order and, where deemed in the public interest, to waive the restrictions on the charter pool;

7. We direct SAT, Florida West, ATI, Arrow, and Atlas to notify the Department within ten days of the date of service of this order whether they will accept an allocation of fewer than the number of flights requested in their initial applications.

8. We direct all interested parties objecting to the tentative decisions described in this order to file an original and 5 copies of their objections with the Department, Dockets, in Docket OST-97-2243, U.S. Department of Transportation, 400 Seventh Street, S.W. Room PL-401, Washington, DC 20590, no later than ten calendar days from the date of service of this order; answers to such objections shall be filed no later than five calendar days thereafter;<sup>21</sup>

9. If timely and properly supported objections are filed, we will accord full consideration to the matters or issues raised by the objections before we take further action;<sup>22</sup>

10. In the event that no objections are filed, we will deem all further procedural steps to be waived and we will enter an order finalizing our tentative allocations and procedures;

11. We grant the motions of Southern Air Transport, Florida West, Fine, Air Transport International, and Atlas Air for confidential treatment under Rule 39 of charter contract documents filed in Docket OST-97-2243;

12. We tentatively dismiss the application of Millon Air, Inc. in this docket; and

13. We will serve a copy of this order on ABX, Inc.; Arrow Air, Inc.; Atlas Air, Inc.; Air Transport International, L.L.C.; Emery Worldwide Airlines, Inc.; Florida West International Airways, Inc.; Fine Airlines, Inc.; Millon Air, Inc.; Southern Air Transport,

---

<sup>20</sup> Carriers are advised that they must follow the Brazilian government's procedures for notification of change or cancellation or be subject to forfeiture of those frequencies by the Brazilian government.

<sup>21</sup> All pleading should be unbound without tabs on 8½" X 11" paper using dark (not green) ink to facilitate use of the Department's Docket imaging system.

<sup>22</sup> As we are providing for answers to this tentative decision, we will not entertain petitions for reconsideration of our tentative procedures/allocations in this order.

Inc.; Tower Air, Inc.; World Airways, Inc.; the Ambassador of Brazil in Washington, DC, and the U.S. Department of State (Office of Aviation Negotiations).

By:

**PATRICK V. MURPHY**  
Deputy Assistant Secretary for Aviation  
and International Affairs

(SEAL)

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