



Served: January 9, 1998

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

Issued by the Department of Transportation
on the 6th day of January, 1998

Applications of

VARIOUS FOREIGN AIR CARRIERS

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

Dockets	OST-95-298	OST-97-2487
	OST-95-386	OST-97-2847
	OST-95-414	OST-97-2931
	OST-95-550	OST-97-2962
	OST-96-1600	OST-97-3006
	OST-96-1670	Undocketed

ORDER

The foreign air carriers referenced in the attached Notices of Action Taken 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 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 our aviation relationship with the applicant's homeland, that each applicant was qualified to perform its proposed operations, and that each application should be approved.

For applicant carriers seeking initial operating authority, we determined, based on the record in those proceedings, that those carriers were financially and operationally qualified to conduct the services they proposed, and, unless otherwise noted, that they were substantially owned and effectively controlled by citizens of their respective homelands.

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.

ACCORDINGLY,

1. We confirm the actions described in the attached Notices of Action Taken, which granted the referenced foreign air carriers (1) exemptions from the provisions of sections 41301, and where necessary 41504, and/or other sections of Title 49 of the U.S. Code; and/or (2) relief or authorizations 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 Appendix A, 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 385.50, 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 document is available on the World Wide Web at:
<http://dms.dot.gov/general/orders/aviation.html>*

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).



**U.S. Department of
Transportation**
Office of the Secretary
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NOTICE OF ACTION TAKEN

DOCKET OST-95-298

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.

Applicant: **Transportes Aereos de Cabo Verde d/b/a TACV** Date Filed: September 3, 1997

Relief requested: RENEW exemption from 49 U.S.C. 41301 to conduct scheduled foreign air transportation of persons, property and mail between Ilha do Sal, Cape Verde, and Boston, MA, at a frequency of one flight per week, using aircraft wet-leased from a duly authorized and properly supervised U.S. or foreign carrier.

If renewal, date and citation of last action: September 5, 1996 (confirmed by Order 96-10-13)

Applicant representative: Aidan Jones 202-293-2386

Responsive pleadings: None

DISPOSITION

Action: **APPROVED** Action date: **OCTOBER 31, 1997**

Effective dates of authority granted: **OCTOBER 31, 1997, thru OCTOBER 31, 1998**

Basis for approval (bilateral agreement/reciprocity): Reciprocity

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

- Standard exemption conditions (attached)
 Foreign air carrier permit conditions (Order - -)

Special conditions: In the conduct of the services authorized, TACV may use only aircraft wet leased from a duly authorized and properly supervised U.S. or foreign air carrier that receives requisite authority under the provisions of 14 CFR 207, 208 or 212 of the Department's regulations.

Action taken by: Paul L. Gretch, Director
Office of International Aviation
under assigned authority (14 CFR 385)

(Petitions for review may be filed from now until 10 days after the service date of the confirming order/letter. Filing of a petition shall not stay the effectiveness of this action.)



**U.S. Department of
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NOTICE OF ACTION TAKEN

DOCKET OST-95-386

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.

Applicant: **Societe Nouvelle Air Martinique**

Date Filed: October 2, 1997

Relief requested: RENEW exemption from 49 U.S.C. 41301 to conduct scheduled foreign air transportation of persons, property and mail between Fort de France, Martinique, and San Juan, Puerto Rico; and charters pursuant to 14 CFR 212.

If renewal, date and citation of last action: October 2, 1996 (confirmed by Order 96-12-28)

Applicant representative: Susan Gotbetter 212-318-3121

Responsive pleadings: None

DISPOSITION

Action: **APPROVED**

Action date: **OCTOBER 30, 1997**

Effective dates of authority granted: **OCTOBER 30, 1997, thru OCTOBER 30, 1998**

Basis for approval (bilateral agreement/reciprocity): We found adequate reciprocity with France to support grant of this authority.

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

Standard exemption conditions (attached)

Foreign air carrier permit conditions (Order - -)

Special conditions/Partial grant/Denial basis/Remarks:

Action taken by: Paul L. Gretch, Director
Office of International Aviation
under assigned authority (14 CFR 385)

(Petitions for review may be filed from now until 10 days after the service date of the confirming order/letter. Filing of a petition shall not stay the effectiveness of this action.)



**U.S. Department of
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NOTICE OF ACTION TAKEN

DOCKET OST-95-414

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.

Applicant: **Emirates**

Date Filed: August 25, 1997

Relief requested: RENEW exemption from 49 U.S.C. 41301 and statement of authorization under 14 CFR 212 to conduct code-share operations with United Air Lines, Inc., for the carriage of persons, property and mail on the London-Dubai segment of United's U.S.-London-Dubai scheduled service.

If renewal, date and citation of last action: October 16, 1996 (confirmed by Order 96-12-28)

Applicant representative: R. Tenney Johnson 202-663-9030

Responsive pleadings: None

DISPOSITION

Action: **APPROVED, IN PART; REMAINDER DISMISSED**

Action date: **OCTOBER 29, 1997**

Effective dates of authority granted: **OCTOBER 29, 1997, thru OCTOBER 29, 1998**

Basis for approval (bilateral agreement/reciprocity): Reciprocity

Except to the extent exempted/waived, this authority is subject to the terms, conditions, and limitations indicated:
X Standard exemption conditions (attached)

Special 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 the computer reservations systems and elsewhere, that the carrier selling such transportation accept all obligations established in its contract of carriage with the passenger (*i.e.*, the ticket), and that the operator shall not permit the code of its U.S. air 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.

Partial grant: The applicant requested that the authority be effective for a period of two years. We dismissed that portion of the carrier's application to conduct the operations beyond October 29, 1998, without prejudice to refiling at a later date. The duration of this authority is consistent with our usual policy of granting interim exemption authority. (See, for example, Order 92-8-34.)

Action taken by: Paul L. Gretch, Director
Office of International Aviation
under assigned authority (14 CFR 385)

(Petitions for review may be filed from now until 10 days after the service date of the confirming order/letter. Filing of a petition shall not stay the effectiveness of this action.)



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NOTICE OF ACTION TAKEN

DOCKET OST-95-550

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.

Applicant: **Compania de Transporturi Aeriene Romane (TAROM)** Date Filed: October 3, 1997

Relief requested: RENEW exemption from 49 U.S.C. 41301 to conduct scheduled foreign air transportation of persons, property and mail between Bucharest and Chicago via Timisoara, at a frequency of one roundtrip flight per week;

If renewal, date and citation of last action: August 27, 1997, Order 97-8-19

Applicant representative: Constance O'Keefe 202-822-9070

Responsive pleadings: United Air Lines, Inc., and Delta Air Lines, Inc., filed answers noting that the Government of Romania continues to refuse to permit them to conduct services to Romania with their third-country code-share partners, but stating that, in view of upcoming bilateral negotiations between the United States and Romania, they have no objection to a 60-day renewal of TAROM's Chicago authority.

DISPOSITION

Action: **APPROVED IN PART, REMAINDER DEFERRED** Action date: **OCTOBER 20, 1997**

Effective dates of authority granted: **OCTOBER 20 - DECEMBER 20, 1997**¹

Remarks: We found that the public interest bases upon which we last renewed TAROM's Chicago authority remained valid and supported extension for another 60 days as we resume bilateral discussions with Romania in early December of this year to resolve outstanding aviation issues.

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

Foreign air carrier permit conditions (Order 85-2-72)

Action taken by: Paul L. Gretch, Director
Office of International Aviation
under assigned authority (14 CFR 385)

(Petitions for review may be filed from now until 10 days after the service date of the confirming order/letter. Filing of a petition shall not stay the effectiveness of this action.)

¹ Since the term of the authority we are granting here is for a period of fewer than 180 days, this authority is not a license with reference to an activity of a continuing nature under the provisions of 5 U.S.C. 558(c) as implemented by 14 CFR Part 377 of our regulations.



**U.S. Department of
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NOTICE OF ACTION TAKEN

DOCKET OST 95-550

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.

Applicant: **Compania de Transporturi Aeriene Romane (TAROM)** Date Filed: October 3, 1997
and November 20, 1997

Relief requested: RENEW exemption from 49 U.S.C. 41301 to conduct scheduled foreign air transportation of persons, property and mail between Bucharest and Chicago via Timisoara, at a frequency of one roundtrip flight per week.

If renewal, date and citation of last action: Notice of Action taken October 20, 1997, granting the authority through December 19, 1997, and deferring action on the remainder of TAROM's request.¹

Applicant representative: Constance O'Keefe 202-822-9070

Responsive pleadings: United Air Lines, Inc. and Delta Air Lines, Inc., had filed answers prior to our October 20 action in this Docket, noting that the Government of Romania continued to refuse to permit them to conduct services to Romania with their third-country code-share partners, but stating that, in view of the then-upcoming bilateral negotiations between the United States and Romania, they had no objection to a 60-day renewal of this authority.

DISPOSITION

Action: **DEFERRED PORTION APPROVED**

Action date: **DECEMBER 5, 1997**

Effective dates of authority granted: **DECEMBER 5, 1997 - DECEMBER 5, 1998**

Basis for approval: The United States and Romania held bilateral negotiations December 4-5, 1997, in Bucharest. A new U.S.- Romania Agreement has been initialed which addresses the concerns expressed by the U.S. carriers in this proceeding. Moreover, the Memorandum of Consultations signed by the delegations notes their Governments' express intention that their aeronautical authorities permit air carrier operations consistent with the terms of the new Agreement. Under these circumstances, we find that granting the deferred portion of TAROM's application, for a one-year term, is consistent with the public interest.

Except to the extent exempted, this authority is subject to the terms, conditions, and limitations of TAROM's foreign air carrier permit (Order 85-2-72).

Action taken by: Paul L. Gretch, Director, Office of International Aviation
under assigned authority (14 CFR 385.)

Petitions for review may be filed from now until 10 days after the service date of the confirming order/letter. Filing of a petition shall not stay the effectiveness of this action.

¹ In its November 20 filing, TAROM requests renewal of the authority we granted on October 3. However, in that October 3 action, we deferred action on the carrier's request to the extent not granted (*i.e.*, to conduct the operations beyond December 19, 1997). Thus, TAROM's November 20 filing was unnecessary, and we dismiss it here.



**U.S. Department of
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NOTICE OF ACTION TAKEN

DOCKET OST-96-1600

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.

Applicant: **State of Alaska in the matter of
Expanded Cargo Transfer Flexibility
at Alaskan International Airports**

Date Filed: September 17, 1997

Relief requested: RENEW exemption from 49 U.S.C. 41301 authorized by Order 96-11-2 granting certain blanket authority to foreign air carriers to conduct expanded cargo transfer activities at international airports in the State of Alaska.

If renewal, date and citation of last action: November 1, 1996, Order 96-11-2

Applicant representative: Morton V. Plumb, Jr. 907-266-2525

Responsive pleadings: None

DISPOSITION

Action: **APPROVED**

Action date: **NOVEMBER 3, 1997**

Effective dates of authority granted: **NOVEMBER 3, 1997, thru NOVEMBER 3, 1998**

Basis for approval (bilateral agreement/reciprocity): We found that the public interest bases upon we originally granted this authority remained valid and supported the requested renewal.

Except to the extent exempted/waived, this authority is subject to the terms, conditions, and limitations indicated in Order 96-11-2.

Action taken by: Paul L. Gretch, Director
Office of International Aviation
under assigned authority (14 CFR 385)

(Petitions for review may be filed from now until 10 days after the service date of the confirming order/letter. Filing of a petition shall not stay the effectiveness of this action.)



**U.S. Department of
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NOTICE OF ACTION TAKEN

DOCKET OST-96-1670

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.

Applicant: **Transnet Limited d/b/a South African Airways** Date Filed: October 30, 1997

Relief requested: RENEW exemption from 49 U.S.C. 41301 to conduct scheduled foreign air transportation of persons, property and mail between Johannesburg/Cape Town and Philadelphia/Boston/Washington/Houston/San Francisco/Dallas-Ft. Worth/Chicago/Atlanta/Orlando, via New York/Miami. SAA intends to serve these 9 points beyond New York/Miami pursuant to a code-sharing arrangement with American Airlines, Inc.

If renewal, date and citation of last action: September 11, 1996 (confirmed by Order 96-10-13)

Applicant representative: Anita Mosner 202-342-5200

Responsive pleadings: The applicant requested expedited action on its application and informed us that it had polled the parties served with its application and that none indicated any objection to a shortened answer period or to its application.

DISPOSITION

Action: **APPROVED, IN PART; REMAINDER DISMISSED** Action date: **OCTOBER 30, 1997**

Effective dates of authority granted: **OCTOBER 30, 1997, thru OCTOBER 30, 1998**

Basis for approval (bilateral agreement/reciprocity): U.S.-South Africa Air Transport Agreement

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

Standard exemption conditions (attached)

Special conditions: Consistent with the terms of the U.S.-South Africa Agreement, South African Airways may conduct the authorized services only pursuant to a code-sharing arrangement with a U.S. airline. Code-share operations must comply with the rules for airline designator code-sharing set forth in 14 CFR 399.88 of the Department's regulations, and the further condition that the foreign air transportation in question be sold in the name of the carrier holding out the service whether in computer reservations systems or elsewhere and 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 (*i.e.*, the ticket).

Partial grant: The applicant requested that the authority be effective for a period of two years. We dismissed that portion of the carrier's application to conduct the operations beyond October 30, 1998, without prejudice to refileing at a later date. The duration of this authority is consistent with our usual policy of granting interim exemption authority. (See, for example, Order 92-8-34.)

Action taken by: Paul L. Gretch, Director
 Office of International Aviation
 under assigned authority (14 CFR 385)

(Petitions for review may be filed from now until 10 days after the service date of the confirming order/letter. Filing of a petition shall not stay the effectiveness of this action.)



**U.S. Department of
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NOTICE OF ACTION TAKEN

Docket OST-97-2487

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.

Applicant: **ALM 1997 Airline, N.V.**

Date Filed: May 7, 1997

Relief requested: --Exemption from 49 U.S.C. 41301 to exercise the currently-authorized permit and exemption authority previously issued to ALM Antillean Airlines, its predecessor company: (1) between the Netherlands Antilles, via the intermediate points Santo Domingo/Port-au-Prince/Kingston/Montego Bay/Santo Domingo/Havana, and the coterminal points Miami/New York/San Juan; and charters pursuant to 14 CFR 212 of the Department's regulations [Order 81-11-99]; (2) Curacao-Aruba-Fort Lauderdale [Order 96-12-28, Docket OST-96-1814]; (3) Curacao/Bonaire-Aruba-Atlanta [Order 96-10-13, Docket OST-96-1720]; and (4) Curacao/Bonaire-Puerto Plata-Miami [Order 96-10-13, Docket OST-95-377]. --Exemption from 49 U.S.C. 41301 to add authority to serve Aruba as an intermediate point on services authorized by Order 81-11-99.

Applicant representative: Bruce Rabinovitz 202-637-9000

Responsive pleadings: None

DISPOSITION

Action: **APPROVED IN PART**

Action date: **OCTOBER 14, 1997**

Effective dates of authority granted: **OCTOBER 14, 1997, thru OCTOBER 14, 1998**

Remarks: We have decided to approve the applicant's request to exercise the authority that ALM Antillean currently holds. We are deferring action on its request for new authority to serve Aruba.

We found that our actions were consistent with the public interest. We further found that the applicant is operationally and financially qualified to conduct the proposed services, properly licensed, and substantially owned and effectively controlled by the Government and citizens of the Netherlands Antilles. Finally, the FAA has advised us that it knows of no reason to withhold this authority.

We note that when the CAB issued ALM Antillean's permit in 1981 (Order 81-11-99), it did so based on the 1957 U.S.-Netherlands Air Transport Agreement, as modified by a 1980 Memorandum of Understanding (MOU). The 1980 MOU is no longer in effect. Therefore, our aviation relations are governed solely by the 1957 Agreement which encompasses operations from the Netherlands Antilles to Miami via intermediate points, and nonstop to New York. The remaining authority currently held by ALM Antillean is extra-bilateral. Nevertheless, we found that comity and reciprocity support grant of ALM 1997's request to

continue these currently-authorized extra-bilateral operations. We are continuing to review ALM 1997's request to expand its authority beyond that held by its predecessor, and we will deal with that remaining portion of its request by separate action.

Finally, the applicant requested that the authority be effective for a period of two years. We dismissed that portion of the carrier's application to conduct the operations beyond October 14, 1998, without prejudice to refiling at a later date. The duration of this authority is consistent with our usual policy of granting interim authority. (See, for example, Order 92-8-34.)

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

X Standard exemption conditions (attached)

Action taken by: Paul L. Gretch, Director
Office of International Aviation
Under assigned authority (14 CFR 385)

(Petitions for review may be filed from now until 10 days after the service date of the confirming order/letter. Filing of a petition shall not stay the effectiveness of this action.)



**U.S. Department of
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NOTICE OF ACTION TAKEN

DOCKET OST-97-2487

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.

Applicant: **ALM 1997 Airline, N.V.**

Date Filed: May 7, 1997

Relief requested: Exemption from 49 U.S.C. 41301 to exercise the currently-authorized permit and exemption authority previously issued to ALM Antillean Airlines, its predecessor company: (1) between the Netherlands Antilles, via the intermediate points Santo Domingo/Port-au-Prince/Kingston/Montego Bay/Havana, and the coterminal points Miami/New York/San Juan; and charters pursuant to 14 CFR 212 of the Department's regulations [Order 81-11-99]; (2) Curacao-Aruba-Fort Lauderdale [Order 96-12-28, Docket OST-96-1814]; (3) Curacao/Bonaire-Aruba-Atlanta [Order 96-10-13, Docket OST-96-1720]; and (4) Curacao/Bonaire-Puerto Plata-Miami [Order 96-10-13, Docket OST-95-377].

Exemption from 49 U.S.C. 41301 to add authority to serve Aruba as an intermediate point on services authorized by Order 81-11-99.

Applicant representative: Bruce Rabinovitz 202-637-9000

Responsive pleadings: None

DISPOSITION

Action: **APPROVED IN PART, REMAINDER DISMISSED**

Action date: **OCTOBER 24, 1997**

Effective dates of authority granted: **OCTOBER 24, 1997, through OCTOBER 14, 1998**

Basis for approval (bilateral agreement/reciprocity): Reciprocity with the Netherlands Antilles

Except to the extent exempted/waived, this authority is subject to the terms, conditions, and limitations of our standard exemption conditions (attached)

Remarks: By Notice of Action Taken dated October 14, 1997, we granted ALM 97 that portion of the authority described above that its predecessor, ALM Antillean, then held, and deferred action on ALM 97's request for new authority to serve Aruba (that is, on services authorized by ALM Antillean's foreign air carrier permit, Order 81-11-99). We have now decided to grant ALM 97 exemption authority to serve Aruba as an intermediate point on its otherwise-authorized scheduled services to Miami, and to dismiss, without prejudice, its request to serve Aruba on flights serving New York and San Juan. We are basing this action on informal advice from the carrier's counsel that, at this time, ALM 97 needs expanded Aruba intermediate authority only on its Miami route. We find that our action is consistent with the public interest in view of our overall aviation relationship with the Netherlands Antilles.

Action taken by: Paul L. Gretch, Director
Office of International Aviation,
under assigned authority (14 CFR 385).

(Petitions for review may be filed from now until 10 days after the service date of the confirming order/letter. Filing of a petition shall not stay the effectiveness of this action.)



U.S. Department of
Transportation

Office of the Secretary
of Transportation

NOTICE OF ACTION TAKEN

DOCKET OST-97-2847 & UNDOCKETED

CORRECTED COPY¹

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.

Applicant: **Air New Zealand** (Docket OST-97-2847) Date Filed: August 22, 1997
Relief requested: Exemption from 49 U.S.C. 41301 to conduct scheduled foreign air transportation of persons, property and mail from points behind New Zealand, via New Zealand and intermediate points in the South Pacific, to a point or points in the United States, for a period of one year.

Applicant: **Air New Zealand** (Undocketed) Date Filed: August 22, 1997
Relief requested: Statement of authorization under 14 CFR 212 of the Department's regulations to permit it to display the airline designator code of United Air Lines on Air New Zealand flights between (1) Los Angeles and Papeete, French Polynesia; (2) Honolulu and Nadi, Fiji; and (3) Honolulu and Rarotonga, Cook Islands; for a period of two years.

Applicant: **United Air Lines, Inc.** (Undocketed) Date Filed: August 25, 1997
Relief requested: Statement of authorization under 14 CFR 207 of the Department's regulations to permit it to display the designator code of Air New Zealand on United flights between (1) any points within the United States, in conjunction with code-share services held out by Air New Zealand between New Zealand and the United States (either nonstop or via intermediate points); and (2) Los Angeles and Vancouver, Canada; for a period of two years.

Applicant representatives: Air New Zealand - Susan Gotbetter 212-318-3121;
United - Joel Stephen Burton 202-637-9130

Responsive pleadings:² On September 4 and 17, 1997, American Airlines, Inc., filed consolidated answers to all three applications, urging the Department to require the applicants to discuss and produce all documents that address the potential expansion of the Star Alliance to include Air New Zealand, and urging the Department to review the competitive effects of the Star Alliance before approving any United services that involve current or potential partners of the Star Alliance. In responsive pleadings, the applicants stated that Air New Zealand has not been, and may never be, invited to join the Star Alliance; that the Department has already requested and reviewed information regarding the Star Alliance in Docket OST-96-1434; and there is nothing further to investigate.

DISPOSITION

Action: **EXEMPTION APPROVED;** Action date: **OCTOBER 17, 1997**
STATEMENTS OF AUTHORIZATION APPROVED IN PART, REMAINDER DISMISSED³

Effective dates of authority granted: **OCTOBER 17, 1997, thru OCTOBER 17, 1998**

¹ This Notice corrects the description of the Relief Requested in United's application.

² We granted all motions for leave to file.

³ We made the duration of the statement of authorizations coextensive with Air New Zealand's request for underlying exemption authority, *i.e.*, one year.

Remarks: Approval here is in keeping with established Department policy and precedent. First, the exemption authority sought by Air New Zealand and the code-share statements of authorization are fully consistent with the 1997 U.S.-Air New Zealand "open skies" Air Transport Agreement. Furthermore, the Department's recent findings relating to the Star Alliance in Order 97-9-21, as applied to the record in this proceeding, are a basis for us to conclude that we could proceed on the present applications without the need to secure further materials or information from the applicants, and that the concerns raised by American did not warrant our undertaking the review it proposed or otherwise delaying approval of the present requests. Against this background, we found that favorable action here was consistent with the public interest.

Conditions: Air New Zealand must adhere to the applicable terms, conditions and limitations of its foreign air carrier permit (Order 90-10-50). 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 the computer reservations systems and elsewhere, that the carrier selling such transportation accept all obligations established in its contract of carriage with the passenger (*i.e.*, the ticket), and that the operator shall not permit the code of its U.S. air 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.

Action taken by: Paul L. Gretch, Director
Office of International Aviation
under assigned authority (14 CFR 385)

(Petitions for review may be filed from now until 10 days after the service date of the confirming order/letter. Filing of a petition shall not stay the effectiveness of this action.)



**U.S. Department of
Transportation**

Office of the Secretary
of Transportation

NOTICE OF ACTION TAKEN

DOCKET OST 97-2931

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.

Applicant: **Ghana Airways Limited**

Date Filed: September 24, 1997

Relief requested: RENEW exemption from 49 U.S.C. 41301 to conduct scheduled combination foreign air transportation between Accra, Ghana, and New York, NY.

Date and citation of last action: September 25, 1996 (confirmed by Order 96-10-13)

Applicant representative: Malcolm Bengé 202-298-8660

Responsive pleadings: None

DISPOSITION

Action: **APPROVED IN PART; REMAINDER DISMISSED**

Action date: **OCTOBER 31, 1997**

Effective dates of authority granted: **OCTOBER 31, 1997, thru OCTOBER 31, 1998**

Basis for approval (bilateral agreement/reciprocity)/Remarks: Reciprocity

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

Standard exemption conditions (attached)

Foreign air carrier permit conditions (Order - -)

Partial grant/Remarks: The applicant requested that the authority be effective for a period of two years. We dismissed that portion of the carrier's application to conduct the operations beyond October 31, 1998, without prejudice to refiling at a later date. The duration of this authority is consistent with our usual policy of granting interim authority. (See, for example, Order 92-8-34.)

Action taken by: Paul L. Gretch, Director
Office of International Aviation
under assigned authority (14 CFR 385)

(Petitions for review may be filed from now until 10 days after the service date of the confirming order/letter. Filing of a petition shall not stay the effectiveness of this action.)



**U.S. Department of
Transportation**

Office of the Secretary
of Transportation

NOTICE OF ACTION TAKEN

DOCKET OST-97-2962

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.

Applicant: **TRANSNET LIMITED**
d/b/a SOUTH AFRICAN AIRWAYS

Date Filed: October 1, 1997

Relief requested: Exemption from 49 U.S.C. 41301 to serve Frankfurt, Germany, as an intermediate point on authorized scheduled all-cargo services between between Johannesburg and New York; and a statement of authorization under 14 CFR 212 to block space to Lufthansa Cargo A.G. on Frankfurt-New York services.

Applicant representative: Anita Mosner

Responsive pleadings: On October 3, 1997, SAA informed us that it had polled the parties served with its application and that there were no objections to its request.

DISPOSITION

Action: **APPROVED**

Action date: **OCTOBER 8, 1997**

Effective dates of authority granted: **OCTOBER 8, 1997, thru OCTOBER 8, 1998**

Basis for approval (bilateral agreement/reciprocity): The U.S.-South Africa Air Transport Agreement encompasses grant of the exemption authority. Comity and reciprocity support grant of the statement of authorization.

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

- Standard exemption conditions (attached)
 Foreign air carrier permit conditions (Order - -)

Special conditions/Partial grant/Denial basis/Remarks:

Action taken by: Paul L. Gretch, Director
Office of International Aviation
under assigned authority (14 CFR 385)

(Petitions for review may be filed from now until 10 days after the service date of the confirming order/letter. Filing of a petition shall not stay the effectiveness of this action.)



**U.S. Department of
Transportation**

Office of the Secretary
of Transportation

NOTICE OF ACTION TAKEN

DOCKET OST-97-3006

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.

Applicant: **FINNAIR OY**

Date Filed: October 14, 1997

Relief requested: Exemption from 49 U.S.C. 41301 to conduct scheduled foreign air transportation of persons, property and mail from points behind Finland, via Finland and intermediate points, to points in the United States and beyond, and other services encompassed in the U.S.-Finland "open skies" agreement.

Applicant representative: John Richardson 202-496-1234

Responsive pleadings: None

DISPOSITION

Action: **APPROVED**

Action date: **OCTOBER 24, 1997**

Effective dates of authority granted: **OCTOBER 24, 1997, thru OCTOBER 24, 1999**

Basis for approval (bilateral agreement/reciprocity): U.S.-Finland Air Transport Agreement, as amended

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

Standard exemption conditions (attached)

Foreign air carrier permit conditions (Order 81-4-91)

Special conditions/Partial grant/Denial basis/Remarks:

Action taken by: Paul L. Gretch, Director
Office of International Aviation
under assigned authority (14 CFR 385)

(Petitions for review may be filed from now until 10 days after the service date of the confirming order/letter. Filing of a petition shall not stay the effectiveness of this action.)



U.S. Department of
Transportation

Office of the Secretary
of Transportation

NOTICE OF ACTION TAKEN

UNDOCKETED

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.

Applicant: **Air Canada & Scandinavian Airlines System (SAS)**

Date Filed: July 3, 1997

Relief requested: Statement of authorization under 14 CFR 212 to permit SAS's airline designator code to be displayed on certain Air Canada transborder flights that would connect with SAS transatlantic flights at SAS's Newark and Seattle gateways; and to permit the Air Canada code to be displayed on certain SAS U.S.-Scandinavia flights that connect with Air Canada's transborder services at Newark and Seattle. (All Air Canada-SAS code-share passengers will have a Canada-Scandinavia or Scandinavia-Canada routing, and none will originate in or be destined for the United States.)

Applicant representatives: Air Canada - Anita Mosner 202-342-5200
SAS - Michael Goldman 202-944-3305

DISPOSITION

Action: **APPROVED**

Action date: **NOVEMBER 19, 1997**

Effective dates of authority granted: **NOVEMBER 19, 1997, thru NOVEMBER 19, 1999**

Remarks: Delta Air Lines, Inc., and Northwest Airlines, Inc., filed answers urging the Department to obtain written assurances that the Government of Canada will grant U.S. carriers similar operating rights between the United States and third countries via Canada before granting the requested authority. By Order 97-9-6, September 5, 1997, we deferred action on the applicants' request, while we pursued further discussions with the Government of Canada on the subject of the operation of third-country code shares. During U.S.-Canada bilateral consultations held on November 18, 1997, the two delegations reached *ad referendum* agreement, memorialized in an Agreed Minute, that their Governments would allow cooperative marketing arrangements between each other's airlines and third-country airlines. This understanding provides, among other things, for the third-country code share operations at issue on the record of this proceeding.

Except to the extent exempted/waived, this authority is subject to the terms, conditions, and limitations indicated: foreign air carrier permit conditions (Orders 74-11-79 and 96-6-45), and the requirement that the subject foreign air transportation be sold in the name of the carrier holding out such service in computer reservation systems and elsewhere, and that the carrier selling such transportation accept all obligations established in its contract of carriage with the passenger (that is, the ticket), and that all of the carriers comply with the rules for airline designator code-sharing set forth in section 399.88 of the Department's regulations and any amendments to the Department's regulations concerning code-share arrangements that may be adopted.

Action taken by: Paul L. Gretch, Director
Office of International Aviation
under assigned authority (14 CFR 385)

(Petitions for review may be filed from now until 10 days after the service date of the confirming order/letter. Filing of a petition shall not stay the effectiveness of this action.)