

Order 98-1-6

Served: January 14, 1998



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

Issued by the Department of Transportation
on the 8th day of January, 1998

Applications of	Dockets
Air Micronesia, Inc.	OST-97-2825
American Airlines, Inc.	Undocketed
Continental Airlines, Inc.	OST-97-3110
Delta Air Lines, Inc.	OST-97-3051 Undocketed OST-97-3203
Federal Express Corporation and Florida West International Airways, Inc.	OST-97-2764 OST-97-3091
Federal Express Corporation	OST-97-3115
Northwest Airlines, Inc.	OST-97-2209*
Polar Air Cargo, Inc.	OST-97-2939 OST-97-3162
Sunworld International Airlines, Inc.	OST-97-3043

*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 have 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 Lufthansa
German Airlines**

OST-97-3109

United Parcel Service Co.

OST-97-3178

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, 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 1975.¹

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 41301, where necessary 41504 or as noted in the attached

¹ On the basis of data officially noticeable under Rule 24(n) of the Department's regulations, we found that each U.S. and foreign air carrier applicant for an operating exemption is qualified to provide the services authorized.

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 385.50, 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)

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).

NEW



**U.S. Department of
Transportation**

Office of the Secretary
of Transportation

NOTICE OF ACTION TAKEN

November 28, 1997

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 Air Micronesia, Inc. filed 11/6/97 in Docket OST-97-2825 for:

XX *Exemption from Order 96-9-16; startup deadline:*

By Order 96-9-16 the Department issued Air Micronesia a certificate of public convenience and necessity to provide all-cargo service between Guam and Thailand via intermediate points in Palau and the Philippines (Route 704), and allocated it five weekly all-cargo frequencies for this service. By its terms, the certificate would expire April 1, 1997, unless Air Micronesia commenced service by that date. On March 28 and September 18, 1997, Air Micronesia applied for exemptions to extend its startup date to September 1 and November 30, 1997, respectively. By Notices of Action Taken dated March 28 and August 29, 1997, the Department granted the extensions. (See Orders 97-5-6 and 97-9-20). Air Micronesia seeks extension of the November 30 startup date to June 30, 1998. Air Micronesia states that because of existing economic conditions in Thailand, the optimum date to commence its operations is June 30, 1998.

Northwest Airlines filed an answer stating it did not oppose Air Micronesia's application as long as the Department granted Northwest's request for a similar extension on its U.S.-Thailand services (Docket OST-97-2209).

Applicant rep.: Steven A. Mirmina, 202-624-2817 DOT analyst: Sylvia Moore, 202-366-6519

DISPOSITION

XX *Granted (see below)*

The above action was effective when taken: November 28, 1997, through June 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.)*

Remarks: The 90-day dormancy period will begin June 30, 1998, Air Micronesia's proposed new startup date for its U.S.-Thailand service.

With respect to Northwest's comments, we contemporaneously granted short-term approval of Northwest's application in Docket OST-97-2209, pending completion by Northwest of a telephone poll of the parties served with its application. (Note: Following completion of the poll and in the absence of objections, we extended approval of Northwest's application to June 30, 1998. See Notice of Action Taken dated December 4, 1997, in Docket OST-97-2209.)

NEW



U.S. Department of
Transportation

Office of the Secretary
of Transportation

NOTICE OF ACTION TAKEN

December 8, 1997

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 11/21/97 in Undocketed for:

XX Statement of Authorization under 14 CFR Part 207 to:

Display South African Airways' "SA" designator code on flights operated by American in the following markets:

**Miami to/from:
Jacksonville
New Orleans
Raleigh/Durham
San Juan
Seattle/Tacoma
Tampa**

**New York (JFK) to/from:
Baltimore/Washington
Buffalo
Cleveland
Columbus
Pittsburgh
Raleigh/Durham
San Diego
San Juan**

American states that the code-sharing service in issue will be operated in conjunction with SAA's transatlantic flights between South Africa and its New York and Miami gateways and that the carriers propose to commence this additional code-sharing service in early 1998.

No answers were filed to the application.

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

DISPOSITION

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

XX *Balance Deferred.*

The above action was effective when taken: December 8, 1997, through December 8, 1998 (coextensive with South African Airways exemption approval)

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 Republic of South Africa.**

(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

XX Standard Exemption Conditions (attached)

Special Remarks: The authority granted is coextensive with the duration of the exemption granted South African Airways on December 8, 1997.

Deferral: We deferred action on American's request for authority to code-share to/from Miami and Seattle/Tacoma, pending receipt and action on an application by South African Airways for authority to serve the South Africa-Seattle/Tacoma market.

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, 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.



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

NOTICE OF ACTION TAKEN

December 5, 1997

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 11/10/97 in Docket OST-97-3110 for:

XX Allocation for two years of seven U.S.-Peru combination frequencies to provide the following service:

Scheduled foreign air transportation of persons, property, and mail between Houston, Texas, and Lima, Peru. The City of Houston and the Greater Houston Partnership filed an answer in support of Continental's application.

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: December 4, 1997, through December 4, 1999

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 Peru.

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: 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.

NEW



**U.S. Department of
Transportation**

Office of the Secretary
of Transportation

NOTICE OF ACTION TAKEN

December 3, 1997

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 **Delta Air Lines, Inc.**, filed **10/27/97** in Docket **OST-97-3051 and Undocketed** for:

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

Scheduled foreign air transportation of persons, property, and mail between Atlanta, New York, and Miami, on the one hand, and Antigua and St. Lucia, on the other. Delta requests authority to integrate this exemption with all of Delta's existing certificate and exemption authority, consistent with international agreements. Delta intends to operate this service under a code-share arrangement with Air Jamaica Limited on flights operated by Air Jamaica.

XX *Statement of Authorization under 14 CFR Part 207 for two years to:*

Display Air Jamaica's "JM" designator code on Delta flights between Atlanta, on the one hand, and Boston, Cincinnati, Hartford, Memphis, and San Francisco, on the other, on a blind-sector basis, for carriage of Air Jamaica's Caribbean-U.S. traffic.

Delta plans to begin placing its code on Air Jamaica flights effective January 15, 1998, and Air Jamaica plans to begin placing its code on Delta flights effective March 28, 1998.

No answers to the application were filed.

Applicant rep.: **Robert E. Cohn 202-663-8060** DOT analyst: **Linda Senese, 202-366-2367**

DISPOSITION

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

XX *Balance Dismissed.*

*The above action was effective when taken: **December 3, 1997** through **December 3, 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 aviation agreements between the United States and Antigua and St. Lucia and the grant of the statements of authorization for code-share services is consistent with the overall aviation relationships between the United States and Jamaica, Barbados, Antigua and St. Lucia.**

(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

XX Standard Exemption Conditions (attached)

Special Remarks: The authority granted is coextensive with the duration of the statement of authorization and exemption granted Air Jamaica on December 3, 1997.

Dismissal: We dismissed Delta's application to the extent that it requested authority for a two-year period. It is our standard practice to grant such initial applications for a period of one year, and we followed that policy here. Our dismissal is without prejudice to Delta's filing for renewal of the authority at the appropriate time.

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, 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.

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 route integration authority requested should be construed as conferring upon Delta rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless Delta 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 Delta's authority by virtue of the route integration exemption granted here, but that are not then being used by Delta, the holding of such authority by route integration will not be considered as providing as preference for Delta in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

NEW



**U.S. Department of
Transportation**

Office of the Secretary
of Transportation

NOTICE OF ACTION TAKEN

December 9, 1997

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 **Delta Air Lines, Inc.** filed **12/4/97** in Docket **OST-97-3203** for:

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

Scheduled foreign air transportation of persons, property, and mail between Atlanta, Georgia, and Panama City, Panama, and authority to integrate this service with Delta's other services authorized by existing certificates and exemptions granted by the Department. Delta states that it plans to begin daily nonstop service with Boeing 757-200 aircraft on or about April 4, 1998 and plans to begin marketing the service as soon as possible.

Applicant rep.: **Robert E. Cohn, 202-663-8060** DOT analyst: **Linda Senese, 202-366-2367**

DISPOSITION

XX *Granted.*

*The above action was effective when taken: **December 9, 1997,** through **December 9, 1999***

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 Panama.

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)

Special Remarks: 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 our award of the route integration authority requested should be construed as conferring upon Delta rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless Delta notifies us of its intent to serve such a market and unless and until the Department has completed

(See Reverse Side)

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 Delta's authority by virtue of the route integration exemption granted here, but that are not being used by Delta, the holding of such authority by route integration will not be considered as providing any preference for Delta in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

We acted on this application before expiration of the 15-day answer period with the consent of all parties served with the application.

NEW



**U.S. Department of
Transportation**

Office of the Secretary
of Transportation

NOTICE OF ACTION TAKEN

November 26, 1997

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 **Federal Express Corporation and Florida West International Airways, Inc.** filed **11/6/97** in Dockets **OST-97-2764** and **OST-97-3091** for:*

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

Florida West to continue to provide scheduled all-cargo service between the United States and Colombia for a period of six months following the termination of Florida West's U.S.-Colombia certificate authority in Docket OST-97-2764, or until commencement of such service by Federal Express, whichever is sooner.

The Joint Applicants state that the requested exemption authority is necessary in order to avoid any interruption in the provision of the U.S.-flag all-cargo service between the U.S. and Colombia pursuant to the route transfer approved by the Department in Order 97-10-23. In this regard, they state that under the terms of the Department's order, Florida West's Colombia certificate authority would expire and Federal Express' Colombia certificate authority would become effective on November 28, 1997. The carriers state that the exemption would enable Florida West to continue its existing U.S.-Colombia service while Federal Express pursues an application for grant of requisite operating authority from the Government of Colombia, a process that Federal Express will not be able to commence until after Federal Express' newly issued U.S.-Colombia certificate for Route 748 has become effective. The Joint Applicants request that the requested six-month period of the transitional service exemption begin November 28, 1997, the effective date of the certificate actions.

No answers were filed to the application.

*Applicant reps.: **Marshall S. Sinick 202-626-6651** DOT analyst: **Linda Senese, 202-366-2367**
Nathaniel P. Breed, Jr. 202-663-8078*

DISPOSITION

XX *Granted*

*The above action was effective when taken: **November 26, 1997, through May 26, 1998, or upon Federal Express' inauguration of service, whichever occurs earlier.***

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 Authority granted is consistent with the aviation agreement between the United States and Colombia.

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)

NEW



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

NOTICE OF ACTION TAKEN

November 28, 1997

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 Federal Express Corporation filed 11/12/97 in Docket OST-97-3115 for:

XX Exemption from Order 97-2-20; startup deadline:

By Order 97-2-20 the Department granted Federal Express Corporation five weekly wide-body frequencies to expand its U.S.-Brazil all-cargo operations. That award was subject to the condition that it will expire automatically and the frequencies revert to the Department for reallocation if they are not used for a period of 90 days. Under the terms of the order 1.5 frequencies would expire on June 28, 1997, and the remaining 3.5 frequencies would expire on June 30, 1997, if Federal Express did not begin service by those dates. On May 28, 1997, Federal Express sought an exemption from the June 30 start-up date to September 1, 1997. The Department granted Federal Express' request by Notice of Action Taken dated June 23, 1997. (See Order 97-7-16.) Federal Express began service with four of the five frequencies during the week of September 28, 1997.¹

Federal Express seeks exemption from that condition to the extent necessary to extend its proposed start-up date for the fifth frequency until February 28, 1998. Federal Express states that it needs to delay inauguration of this frequency until it can increase its capacity beyond Sao Paulo.

Applicant rep.: Nathaniel P. Breed, Jr. 202-663-8078 DOT analyst: Sylvia Moore, 202-366-6519

DISPOSITION

XX Granted (see below)

The above action was effective when taken: November 28, 1997, through February 28, 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.)

Remarks: The 90-day dormancy period will begin February 28, 1998, Federal Express' proposed new start-up date for its fifth frequency in the U.S.-Brazil market.

We acted on this application without awaiting expiration of the 15-day answer period with the consent of all parties served.

¹ Under the terms of Order 97-7-16, the frequencies would not become dormant and revert to the Department until November 30, 1997.

NEW



**U.S. Department of
Transportation**

Office of the Secretary
of Transportation

NOTICE OF ACTION TAKEN

December 4, 1997

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 Northwest Airlines, Inc. filed 11/25/97 in Docket OST-97-2209 for:

XX Exemption from Order 96-9-16; startup deadline:

By Order 96-9-16 the Department issued Northwest Airlines three weekly frequencies to expand its U.S.-Thailand all-cargo operations, and confirmed the allocation of two previously awarded frequencies. That award was 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. Under the terms of the order, Northwest's frequency allocation would expire on April 1, 1997, if Northwest did not begin service by that date. On March 12, 1997, Northwest sought an exemption to extend its startup date to September 1. By Notice of Action Taken dated March 28, 1997, the Department granted the extension. (See Order 97-5-6). Northwest is currently operating four frequencies and seeks an exemption to the extent necessary to extend its proposed startup date for the fifth frequency until June 30, 1998. Northwest states that because of Thailand's current economic conditions, the optimum date to commence its operations for the fifth frequency is June 30, 1998.

Applicant rep.: Megan Rae Poldy, 202-842-3193 DOT analyst: Sylvia Moore, 202-366-6519

DISPOSITION

XX *Granted (see below)*

*The above action was effective when taken: November 28, 1997, through June 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.)*

Remarks: The 90-day dormancy period will begin June 30, 1998, Northwest's proposed new startup date for its fifth U.S.-Thailand all-cargo frequency.

*We acted on this application without awaiting expiration of the 15-day answer period with the consent of all parties served. In this regard Northwest notified the Department that it could not reach all of the parties before expiration of its current startup exemption. We granted Northwest interim authority on November 28, 1997, through December 5, 1997, to provide additional time for Northwest to complete its poll of parties served. On December 3 Northwest informed the Department that it had reached all parties served and obtained no objections to its application. On December 3, 1997, we extended approval of the startup exemption for the fifth frequency to June 30, 1998.

NEW



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

NOTICE OF ACTION TAKEN

November 25, 1997

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 **Polar Air Cargo, Inc.** filed **9/25/97** in Docket **OST-97-2939** for:

XX Allocation of three U.S.-South Africa all-cargo frequencies

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

Scheduled foreign air transportation of property and mail between points in the United States and Amsterdam, the Netherlands; Egypt; Ethiopia; Uganda; Kenya; Zimbabwe; and South Africa; and to integrate this authority with authority under its existing certificates of public convenience and necessity and exemptions.

Applicant rep.: **Alfred J. Eichenlaub, 202-637-9034** DOT analyst: **Gerald Caolo, 202-366-2406**

DISPOSITION

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

*The above action was effective when taken: **November 25, 1997,** through **November 25, 1999***

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 U.S.-South Africa Air Transport Agreement and also, the Agreement between the United States and the Netherlands. The authority granted with respect to service between Egypt and the United States is covered by the Agreement between the two countries, and service beyond Egypt is extrabilateral but consistent with the overall state of aviation relations between the United States and Egypt. Finally, the authority granted to Ethiopia, Kenya, Uganda and Zimbabwe is consistent with overall state of aviation relations between the United States and these countries.

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: Consistent with our standard practice, the frequency allocation granted for South Africa services 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. The 90-day dormancy period will begin April 15, 1998, Polar's proposed start-up date.

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 Polar rights (including fifth freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless Polar 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 Polar's authority by virtue of the route integration exemption granted here, but that are not then being used by Polar, the holding of such authority by route integration will not be considered as providing any preference for Polar in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

Remarks: Polar initially plans to offer service between New York, New York, and Johannesburg, South Africa, via Amsterdam, the Netherlands; Cairo, Egypt; Addis Ababa, Ethiopia; Nairobi, Kenya; Harare, Zimbabwe; and Entebbe/Kampala, Uganda. Under the U.S.-South Africa bilateral agreement, a total of four intermediate or beyond points are available for local traffic rights on all-cargo services until April 1, 1998, when that number will increase to five. Polar initially plans to use Amsterdam, Cairo, Nairobi, and Harare as intermediates with local traffic rights between those points and South Africa.

NEW



**U.S. Department of
Transportation**

Office of the Secretary
of Transportation

NOTICE OF ACTION TAKEN

November 28, 1997

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 **Polar Air Cargo, Inc.** filed **11/25/97** in Docket **OST-97-3162** for:

XX Exemption from Order 96-9-16; startup deadline:

By Order 96-9-16 the Department issued Polar Air Cargo a certificate of public convenience and necessity to provide scheduled all-cargo service between a point or points in the United States and a point or points in Thailand (Route 705), and allocated it two weekly frequencies for these services. By its terms, the certificate would expire April 1, 1997, unless Polar commences service by that date. On March 11, 1997, Polar filed for an exemption to extend the startup of its second frequency to September 1, 1997. The Department granted Polar's application by Notice of Action Taken dated March 28, 1997 (see Order 97-5-6). Polar seeks an exemption to the extent necessary to extend its proposed startup date for the second frequency to June 30, 1998. Polar states that because of existing economic conditions in Thailand, the optimum date to commence its operations for the second frequency is June 30, 1998.

Applicant rep.: **Alfred Eichenlaub, 202-637-9034** DOT analyst: **Sylvia Moore, 202-366-6519**

DISPOSITION

XX *Granted (see below)*

The above action was effective when taken: **November 28, 1997,** through **June 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.)

Remarks: The 90-day dormancy period will begin June 30, 1998, Polar's proposed new startup date for its second U.S.-Thailand all-cargo frequency.

We acted on this application without awaiting expiration of the 15-day answer period with the consent of all parties served.

NEW



**U.S. Department of
Transportation**

Office of the Secretary
of Transportation

NOTICE OF ACTION TAKEN

December 2, 1997

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 Sunworld International Airlines, Inc. filed 10/23/97 in Docket OST-97-3043 for:

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

Scheduled foreign air transportation of persons, property, and mail between Cincinnati, Ohio, and St. Croix, U.S. Virgin Islands, on the one hand, and St. Maarten, Netherlands Antilles, on the other.

Vacation Travel International, Inc. filed an answer urging the Department to dismiss or defer action on Sunworld's application until the Department has reached a decision on Sunworld's pending certificate renewal applications in Dockets OST-95-666 and OST-95-667. Sunworld filed a reply stating that it has previously established its fitness as an air carrier, and that Vacation Travel's objection is merely an attempt to "gain economic leverage over Sunworld in connection with an isolated commercial incident that occurred almost 9 months ago." (Reply of Sunworld, at 2; emphasis in original).

Applicant rep.: Josh Romanow, 202-775-9864 DOT analyst: Sylvia Moore, 202-366-6519

DISPOSITION

XX *Granted in part (see remarks)*

XX *Balance dismissed*

The above action was effective when taken: December 2, 1997, through December 2, 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 Netherlands.

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)

Remarks: Consistent with Department practice in comparable cases, we granted Sunworld's application to the extent it seeks authority to serve St. Maarten from Cincinnati and St. Croix as proposed in its application. We dismissed, without prejudice, its exemption request to the extent it sought broader U.S.-St. Maarten authority from unnamed U.S. cities.

We were not prepared to withhold the requested authority based on the answer filed by Vacation Travel. Sunworld has previously been found fit to provide scheduled foreign air transportation (Order 96-8-10). The fitness issues raised by Vacation Travel are under consideration in Sunworld's certificate renewal proceeding (Dockets OST-95-666 and 95-667) and are appropriately considered there rather than in this case. Pending final Department action in those cases, the existing fitness determination remains in effect, and we found that grant of this bilaterally provided for authority was consistent with the public interest. Should the Department subsequently determine Sunworld is not fit to provide scheduled foreign air transportation, then we would, of course, proceed to revoke the exemption authority granted here.

NEW



**U.S. Department of
Transportation**

Office of the Secretary
of Transportation

NOTICE OF ACTION TAKEN

December 4, 1997

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 11/10/97 and amended 11/17/97 in Docket OST-97-3109 for:

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

Scheduled foreign air transportation of persons, property, and mail between a point or points in the United States, on the one hand, and Riga, Latvia; Sanaa, Yemen; Casablanca, Morocco; and Addis Ababa, Ethiopia, on the other. United further requests authority to integrate this exemption with authority under its existing certificate and exemption authority. United intends to operate this service under a code-share agreement with Lufthansa German Airlines on flights operated by Lufthansa between Germany the above points.

XX *Statement of Authorization under 14 CFR Part 212 to:*

Display United's "UA" designator code, on a blind-sector basis, on flights operated by Lufthansa between points in Germany and Riga, Sanaa, Casablanca and Addis Ababa.

*Applicant reps: Joel Stephen Burton (UA) 202-637-9130 DOT analyst: Gerald Caolo 202-366-2406
James Campbell (Lufthansa) 202-663-6336*

DISPOSITION

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

The above action was effective when taken: December 4, 1997, through December 4, 1999

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 between the United States and Latvia, Yemen, Ethiopia and Morocco is consistent with the overall state of aviation relations between the United States and these countries.**

(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

XX Standard Exemption Conditions (attached)

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, 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, and that the operator 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 code-share operations authorized are subject to the terms, conditions, and limitations contained in Order 96-5-27.

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 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.

NEW



**U.S. Department of
Transportation**

Office of the Secretary
of Transportation

NOTICE OF ACTION TAKEN

December 4, 1997

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 Parcel Service Co.** filed **12/1/97** in Docket **OST-97-3178** for:

XX Exemption from Order 96-9-16; startup deadline:

By Order 96-9-16 the Department allocated United Parcel Service six weekly all-cargo frequencies for services in the U.S.-Thailand market. That award was 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. Under the terms of the order UPS' frequency allocation would expire on April 1, 1997, if UPS did not begin service by that date. UPS commenced service with one of the six frequencies by the April 1 startup date. On March 14, 1997, UPS filed for an exemption to extend the startup of five frequencies to September 1, 1997. The Department granted UPS' application by Notice of Action Taken dated March 28, 1997 (see Order 97-5-6). UPS seeks an exemption to the extent necessary to extend its proposed startup date for five frequencies to June 30, 1998. UPS states that because of existing economic conditions in Thailand, the optimum date to commence its operations for the five frequencies is June 30, 1998.

Applicant rep.: **David L. Vaughan, 202-955-9864** DOT analyst: **Sylvia Moore, 202-366-6519**

DISPOSITION

XX *Granted (see below)*

The above action was effective when taken: **December 3, 1997,** through **June 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.)

Remarks: The 90-day dormancy period will begin June 30, 1998, UPS' proposed new startup date for its five U.S.-Thailand all-cargo frequencies.

We acted on this application without awaiting expiration of the 15-day answer period with the consent of all parties served.