



Order 98-3-1
Served March 6, 1998

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

Issued by the Department of Transportation
on the 2nd day of March, 1998

Applications of

American International Airways, Inc.

Amerijet International, Inc.

Continental Airlines, Inc.

Federal Express Corporation

Polar Air Cargo, Inc.

Trans World Airlines, Inc.

United Air Lines, Inc.

United Parcel Service Co.

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

Dockets OST-97-3126

OST-95-557
OST-98-3383

OST-97-3272

OST-97-3261

OST-97-2265

OST-98-3382

OST-95-765
OST-98-3440

OST-97-2627

ORDER

The captioned U.S. air 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. air carriers (1) exemptions from the provisions of Section 41101 and where necessary 41504 or as noted in the attached notices, other sections of Title 49 U.S.C.; or (2) relief or authorizations as provided for under regulations or orders of the Department, to the applicants to perform the operations described in the attached Notices of Action Taken;
2. In the conduct of the service, each applicant was to adhere to the conditions set forth in the Appendix, 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.

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

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

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

By:

PAUL L. GRETCH
Director
Office of International Aviation

(SEAL)

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

U.S. Carrier
Standard Exemption Conditions

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

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

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

NEW



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

NOTICE OF ACTION TAKEN

January 16, 1998

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

Applications of American International Airways, Inc. filed 1/9/98 in Docket OST-97-3126 for:

XX Exemption from Order 97-1-17; startup deadline _____ :

By Order 97-8-20 the Department granted American International Airways exemption authority to provide scheduled all-cargo service in the U.S.-Ecuador market and allocated it three weekly all-cargo frequencies for this service. 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 AIA's frequency allocation would expire November 20, 1997, if AIA did not begin service by that date. On November 13, 1997, AIA applied for an exemption to extend its November 20, 1997, startup date to January 20, 1998. By Notice of Action Taken dated November 19, 1997, the Department granted the extension. (See Order 97-12-15.) AIA seeks extension of the January 20 startup date to April 20, 1998. AIA believes that the necessary approvals by the Ecuadorian authorities will be secured by April 20, 1998.

Applicant rep.: Mark W. Atwood (202) 463-2515 DOT analyst: Sylvia Moore, 202-366-6519

DISPOSITION

XX Granted (see below)

The above action was effective when taken: January 16, 1998, through April 20, 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.)

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: The 90-day dormancy period will begin April 20, 1998, AIA's proposed startup date for its U.S.-Ecuador service.

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

RENEW



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

NOTICE OF ACTION TAKEN

February 9, 1998

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

Applications of Amerijet International, Inc. filed 9/15/97 in Docket OST-95-557 to:

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

Scheduled foreign air transportation of property and mail between Miami, Florida, on the one hand, and Caracas, Maracaibo, and Valencia, Venezuela, on the other, via intermediate and beyond points named in the U.S.-Venezuela aviation agreement, and to integrate this authority with its existing exemption and certificate authority.

Applicant rep.: John L. Richardson, 202-496-1234 DOT analyst: Sylvia Moore, 202-366-6519

DISPOSITION

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

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

XX Under assigned authority (14 CFR 385) by:

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

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

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 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 Amerijet rights (including fifth freedom intermediate

(See Reverse Side)

and/or beyond rights) to serve markets where U.S. carrier entry is limited unless Amerijet notifies us of its intent to serve such a market and unless and until the Department has completed any necessary selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited entry route rights that are included in Amerijet's authority by virtue of the route integration exemption granted here, but that are not then being used by Amerijet, the holding of such authority by route integration will not be considered as providing any preference for Amerijet in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

Remarks: The U.S.-Venezuela aviation agreement does not provide for coterminization of Caracas and Maracaibo. These points may only be served as separate terminal points.

The authority for which Amerijet requested renewal expired November 21, 1997, but had been kept in force pursuant to the provisions of the Administrative Procedure Act, 5 U.S.C. 558(c), as implemented by 14 CFR Part 377, pending action on its timely filed renewal application.

NEW



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

NOTICE OF ACTION TAKEN

February 5, 1998

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

Application of AMERIJET INTERNATIONAL, INC., filed 1/26/98 in Docket OST-98-3383 for:

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

Scheduled foreign air transportation of property and mail in the following markets: Ft. Lauderdale-Cancun/Guadalajara/Mexico City/Merida; Ft. Lauderdale-Panama City; and Ft. Lauderdale-Caracas/ Maracaibo/Valencia. The carrier states that it seeks this authority to permit Amerijet to serve the terminal point Ft. Lauderdale, Florida, in addition to or as an alternative to Miami, Florida, wherever it is currently authorized to serve Miami as a terminal point in providing scheduled foreign air transportation of freight and mail. With respect to the U.S.-Mexico markets, Amerijet requests the authority to integrate services at the terminal point Ft. Lauderdale with its other U.S.-Mexico authority. Further, Amerijet requests relief from U.S.-Mexico dormancy conditions for its authorized Miami services while Amerijet concentrates some or all of its operations out of Ft. Lauderdale.

Applicant rep: John L. Richardson (202)496-1234 DOT Analyst: Linda L. Lundell (202)366-2336

DISPOSITION

XX *Granted (in part)*
XX *Balance Dismissed As Moot*

The above action was effective when taken: February 5, 1998, through February 5, 2000, or until 90 days after final Department action on a corresponding certificate application, 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.)

XX Authority granted is consistent with the aviation agreement between the United States and Mexico; the United States and Panama; and the United States and Venezuela.

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)

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

We dismissed, as moot, the carrier's request for relief from certain dormancy provisions as it relates to the carrier's Miami-Mexico services. By Order 96-11-24 (in the matter of U.S.-Mexico all-cargo certificates), we provided for the type of relief Amerijet requests here for certain seasonal/intermittent all-cargo services (see Condition #12, Amerijet's Route 570). Specifically, we requested all carriers authorized to provide scheduled all-cargo U.S.-Mexico services to notify the Department of any markets that would be served on a seasonal/intermittent basis. We also stated that we would publish a listing of such markets in the Department's Weekly List of Applications Filed. Consistent with this procedure, we listed Miami as an intermittent gateway for Amerijet's all-cargo services to Mexico in the Department's Weekly List of Applications Filed, for the week ended January 30, 1998.

We acted on this application without awaiting 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

January 7, 1998

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

Application of CONTINENTAL AIRLINES, INC., filed 12/19/97 in Docket OST-97-3272 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 (1) the terminal point Houston, Texas, and the terminal point Merida, Mexico; (2) the terminal point Houston, Texas, and the terminal point Tampico, Mexico; and (3) the terminal point Houston, Texas, and the terminal point Veracruz, Mexico.

Applicant rep: R. Bruce Keiner, Jr. (202)624-2500 DOT Analyst: Linda L. Lundell (202)366-2336

DISPOSITION

XX Granted (see below)

The above action was effective when taken: December 24, 1997, through December 24, 1999, or until 90 days after final Department action on a corresponding certificate application, 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.)

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

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

Special Conditions/Remarks: The U.S.-Mexico authority granted is subject to the dormancy notice requirements set forth in condition 7 of Appendix A of Order 88-10-2. Consistent with our standard practice, the dormancy notice period will begin April 5, 1998, Continental's proposed start-up date for this service.

We acted on this application without awaiting 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

February 19, 1998

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

Application of Federal Express Corporation filed 12/17/97 in Docket OST-97-3261 for:

XX *Exemption from dormancy condition:*

By Order 96-9-16 the Department allocated Federal Express five weekly frequencies to expand its U.S.-Thailand all-cargo operations, in addition to one frequency previously allocated to Federal Express. 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, Federal Express' frequency allocation would expire on April 1, 1997, if Federal Express did not begin service by that date. On February 25, 1997, Federal Express sought an exemption to extend its startup date to September 1. By Notice of Action Taken dated March 21, 1997, the Department granted the extension. (See Order 97-5-6). Federal Express is currently operating five frequencies, and most recently operated its sixth frequency on November 15, 1997.

Federal Express seeks an exemption from the 90-day dormancy condition so as to delay startup of its sixth frequency until June 30, 1998. Federal Express states that because of Thailand's current troubled economy, the optimum date to commence its operations for the sixth frequency is June 30, 1998. Alternatively, Federal Express proposes that the Department modify the terms of the 90-day dormancy condition so as to eliminate the automatic termination and reversion provision and replace it with a mandatory notification provision under which there would be no need to take the allocation away from the original carrier until another interested carrier applied for the frequency. As a second alternative, Federal Express proposes that the Department eliminate the 90-day dormancy condition for the 6th frequency, so that use of that frequency by Federal Express is discretionary.

Northwest Airlines, Inc. and Air Micronesia, Inc. filed answers in support of Federal Express' alternative proposals, provided that all carriers allocated Thailand frequencies are granted the same relief. Polar Air Cargo filed an answer, objecting only to Federal Express' request for elimination of the automatic termination and reversion provisions on all of Federal Express' allocated frequencies. Polar argued that any unused or underutilized frequencies should be returned to the Department for reallocation.

(See Reverse Side)

Federal Express filed a consolidated reply, arguing that all commenting carriers support some modification of the dormancy condition. To the extent Polar objected, Federal Express stated that Polar misunderstood its proposed modification; and that under its proposal any unused frequencies potentially would be available for reallocation, the only difference being that they would not be available automatically as under the current dormancy provision.

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

DISPOSITION

XX *Granted (extension through June 30)*

XX *Balance Dismissed*

The above action was effective when taken: February 13, 1998, *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.)*

Conditions: The 90-day dormancy period will begin June 30, 1998, Federal Express' proposed startup date for its sixth U.S.-Thailand all-cargo frequency.

Remarks: It is the Department's intention that unused frequencies be made available to interested carriers on an immediate basis and not held until another carrier should seek to use them.

We dismissed that portion of Federal Express' application that sought modification of the 90-day dormancy condition. The purpose of the current dormancy condition, with its automatic termination provision, is to ensure that the Department will be able to exercise fully its powers to reallocate frequencies that are not currently being used and, thus, to ensure that we will be able to make full use of our rights under our bilateral aviation agreements with foreign countries. (Cf. Order 96-3-28 regarding service between the United States and South Africa). Adoption of Federal Express' proposed condition would not be consistent with achieving these important policy objectives.

NEW



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

NOTICE OF ACTION TAKEN

February 23, 1998

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

Application of Polar Air Cargo, Inc. filed 2/18/98 in Docket OST-97-2265 for:

XX Exemption from Order 97-1-17; startup deadline:

By Order 97-1-17 the Department granted Polar Air Cargo exemption authority to provide scheduled all-cargo service in the U.S.-Philippine market. That authority was subject to the condition that Polar Air inaugurate service within 90 days from the issue date of the order (January 24, 1997) or the authority would expire. Since then, on various dates the Department has extended the date on which Polar must commence service, pending receipt of the necessary operating licenses from the Philippines. (See Orders 97-6-16, 97-9-20, 97-11-19, and 98-1-23.) The last action extended the startup deadline through March 6, 1998. Polar seeks further extension of the March 6 startup date to May 5, 1998. Polar believes that grant of the necessary approvals by the Philippine authorities should be secured by May 5, 1998.

Applicant rep.: Jeffrey A. Manley (202) 637-9057 DOT analyst: Sylvia Moore, 202-366-6519

DISPOSITION

XX *Granted*

The above action was effective when taken: February 23, 1998, through May 5, 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: 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

February 19, 1998

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

Application of Trans World Airlines, Inc. filed 1/26/98 in Docket OST-98-3382 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 New York, New York, on the one hand, and Delhi and Calcutta, India; and Karachi, Pakistan, on the other. TWA further requests authority to integrate this exemption with authority under its existing certificate for Route 147. TWA intends to operate between New York, on the one hand, and Delhi and Calcutta, India; Karachi, Pakistan; Aqaba, Jordan; Doha, Qatar; and Bahrain, on the other, under a code-share arrangement with Alia-The Royal Jordanian Airline on flights operated by Alia.

Applicant reps: Richard J. Fahy, Jr. 202-457-4764 DOT analyst: Gerald Caolo 202-366-2406

DISPOSITION

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

XX *Balance dismissed (for authority beyond May 28, 1999)*

The above action was effective when taken: February 19, 1998, through May 28, 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 Exemption authority granted between the United States and Jordan, India, and Pakistan is consistent with the aviation agreements between the United States and these foreign countries, and the authority granted between the United States and Bahrain and Qatar is consistent with the 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: The code-sharing operations conducted under this authority must comply with 14 CFR 399.88 of the Department's regulations and any amendments to the Department's regulations concerning code-share arrangements that may be adopted and are expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service in computer reservation systems and elsewhere, 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 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 TWA rights (including fifth freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless TWA 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 TWA's authority by virtue of the route integration exemption granted here, but that are not then being used by TWA, the holding of such authority by route integration will not be considered as providing any preference for TWA in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

Remarks: TWA's authority on Route 147 generally authorizes service between New York, New York, and St. Louis, Missouri, on the one hand, and numerous countries in Europe, the Near East and the Far East, including Bahrain, Jordan, and Qatar, on the other. See Orders 91-4-47 and 89-8-30.

The authority granted here will be operated in conjunction with TWA's existing exemption authority to provide code-share service with Alia between New York and Amman, Jordan, via the Netherlands. See Order 97-7-16. Thus, we made the authority granted here coextensive with the duration of the above exemption authority. The balance of the carrier's request (*i.e.*, for approval for two years rather than through May 28, 1999) was dismissed without prejudice to refiling for renewal at the appropriate time.

This authority granted here is coextensive with the Statement of Authorization granted to Alia and TWA on February 20, 1998.

RENEWAL



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

NOTICE OF ACTION TAKEN

January 23, 1998

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

Application of **United Air Lines, Inc.** filed **12/8/97** and supplemented **1/12/98** in Docket **OST-95-765** to:

XX Renew allocation for seven weekly frequencies for the following service:

Scheduled foreign air transportation of persons, property, and mail between Chicago and Hong Kong.

United requests that the renewal extend for a period of two years from its current expiration date of February 14, 1998, or until January 1, 2000, when the bilaterally agreed limit on Chicago-Hong Kong frequencies expires. It originally stated that it planned to continue to use the frequency allocation on a seasonal basis from June through October. United subsequently supplemented its application to indicate that the carrier's plans had changed, and that effective June 10, 1998, United will operate a daily service between Chicago and Hong Kong and will continue that level of services throughout the year.

No answers were filed to the application.

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

DISPOSITION

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

*The above action was effective when taken: **January 23, 1998** through **January 1, 2000***

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

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

XX **Authority granted is consistent with the U.S.-Hong Kong Memorandum of Understanding, signed September 29, 1995.**

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**

(See Reverse Side)

Condition: Consistent with our standard practice, the frequency allocation renewed here 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 90 days. The 90-day dormancy period will begin June 10, 1998, United's proposed startup date for year-round service in the market.

NEW



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

NOTICE OF ACTION TAKEN

February 13, 1998

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

Application of **United Air Lines, Inc.** filed **2/6/98** in Docket **OST-98-3440** 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 Chicago, Illinois, and Osaka, Japan. United stated that it planned to begin these services in early July 1998 and requested expeditious issuance of the exemption in order to start marketing these services February 16, 1998.

On February 10, 1998, counsel for United informed the Department that it had polled the parties on the service list attached to its application and that, with the exception of American, no party had indicated any objection.¹ American stated that it would object to the granting of United's requests unless the Department also granted either American's waiver request in Docket OST-98-3431 (seeking Chicago-Tokyo pre-sale authority) or its Chicago-Tokyo exemption in Docket 98-3418.

The City of Chicago filed in support of United's application.

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

DISPOSITION

XX *Granted.*

The above action was effective when taken: **February 13, 1998,** *through* **February 13, 2000,** *(or until 90 days after final Department action on United's certificate application in Docket OST-96-1131, 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.)*

¹ TWA and Delta responded that they took no position.

XX Exemption authority granted is consistent with the U.S.-Japan Memorandum of Consultations of 1998.²

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: As noted in the Department's February 3, 1998, Notice regarding U.S.-Japan Combination Services, U.S.-Japan rights for incumbent carriers (United and Northwest) are unrestricted. The Notice went on to say that: "To the extent these carriers do not currently hold all of the authority that they need, they should file appropriate applications which we will process on an expedited basis." We found that United's application was plainly within the purview of the applications contemplated by our Notice, and we accordingly concluded that grant of the authority is consistent with the public interest. Regarding the position expressed by American, on February 13, 1998, we granted American's request in Docket 98-3418.

We acted on this application without awaiting expiration of the 15-day answer period for the reasons stated above, and with the consent of the parties served, as noted.

² On January 30, 1998, delegations of the United States and Japan signed a Memorandum of Consultations (MOC) that included attached understandings regarding the elements to be included in a Memorandum of Understanding. The delegations also agreed that the provisions of those understandings would be in effect provisionally upon signing of the MOC, pending conclusion of an interim agreement.

NEW



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

NOTICE OF ACTION TAKEN

February 10, 1998

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

Application of UNITED PARCEL SERVICE CO. filed 6/25/97 in Docket OST-97-2627 for:

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

Scheduled foreign air transportation of property and mail between (1) San Antonio, Texas, and Mexico City, Mexico, and (2) Houston, Texas, and Guadalajara, Mexico. UPS also requested authority to integrate service over these routes with its existing Mexico authority.

Applicant rep: David L. Vaughn (202) 955-9864 DOT Analyst: Linda L. Lundell (202) 366-2336

DISPOSITION

XX *Granted Houston-Guadalajara portion (see below)*

The above action was effective when taken: February 10, 1998, through February 10, 2000, or until 90 days after final Department action on a corresponding certificate application, 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.)*

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

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

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

XX **Standard Exemption Conditions attached**

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

On July 30, 1997, we orally granted the San Antonio-Mexico City portion of UPS' application (Order 97-8-17), and deferred action on the Houston-Guadalajara request. At the time UPS filed its application, the Houston-Guadalajara market was a single-designation route under the U.S.-Mexico Air Transport Agreement (DHL Airways, Inc., is currently designated and serves the route). We subsequently obtained approval from the Mexican aviation authorities for double-designation services on the route, making it possible to grant UPS' request for exemption authority to serve the Houston-Guadalajara route. With this action, no issues remain outstanding in Docket OST-97-2627.