

Order 98-3-34

Served: April 6, 1998



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

Issued by the Department of Transportation
on the 31st day of March, 1998

Applications of	Dockets
Continental Micronesia, Inc.	OST-98-3450
Federal Express Corporation	OST-98-3436
Northwest Airlines, Inc.	OST-95-741*
	OST-95-837
	OST-96-990
	OST-96-2029
Polar Air Cargo, Inc.	OST-98-3492
Spirit Airlines, Inc.	OST-97-2146
	OST-97-2189
	OST-98-3404*
United Parcel Service Co.	OST-98-3478

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.

*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.

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. 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.

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.

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.

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>*

Appendix

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

March 4, 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 Micronesia, Inc. filed 2/9/98 in Docket OST-98-3450 for:

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

Scheduled foreign air transportation of persons, property, and mail between Guam and Saipan, on the one hand, and Niigata and Okayama, Japan, on the other. Continental Micronesia further requests authority to integrate this exemption with its existing certificate and exemption authority.

Applicant rep: R. Bruce Keiner, Jr. 202-624-2500 DOT analyst: Gerald Caolo 202-366-2406

DISPOSITION

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

*The above action was effective when taken: **March 4, 1998,** through **March 4, 1999,** (or until 90 days after final Department action on Continental Micronesia's certificate applications in Docket 96-1200 for Guam/Saipan-Niigata authority and Docket 96-1201 for Guam/Saipan-Okayama authority, 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 Exemption Authority granted is consistent with the U. S.-Japan Memorandum of Consultations of 1998.¹

(See Reverse Side)

¹ 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.

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

Holder's certificate of public convenience and necessity

Standard Exemption Conditions (attached)

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

Remarks: We noted Continental Micronesia's suggestion (application at 3, n. 3) regarding the switching of Japan points to facilitate the proposed Guam/Saipan-Niigata/Okayama services. We concluded that we need not reach that issue here for purposes of approving Continental Micronesia's application in this docket.

NEW



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

NOTICE OF ACTION TAKEN

March 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 **Federal Express Corporation** filed **2/5/98** in Docket **OST-98-3436** for:

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

Scheduled foreign air transportation of property and mail between any point or points in the United States directly and via intermediate points and any point or points in Japan and beyond Japan to any point or points in third countries.

Applicant rep: **Nathaniel P. Breed 202-663-8078** DOT analyst: **Gerald Caolo 202-366-2406**

DISPOSITION

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

*The above action was effective when taken: **March 5, 1998,** through **March 5, 2000** (or until 90 days after final Department action on Federal Express' certificate application in Docket 98-3435, 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 **Exemption Authority granted is consistent with the 1998 U. S.-Japan Memorandum of Consultations.**¹

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)

¹ 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.

Conditions: We made the authority granted subject to the following condition:

The authority granted to serve intermediate and beyond points in conjunction with Japan service is limited to countries with which the United States has signed open-skies agreements and/or countries for which the carrier holds authority to serve under certificates or exemptions issued by the Department, and for which it holds route integration authority, and all conditions attached to that authority. Federal Express already holds route integration authority to combine all of its authorized international authority. (See Order 98-1-23)

Pleadings: Northwest filed a consolidated answer to various applications of U.S. and Japanese carriers, including Federal Express' application at issue here. Northwest raised concerns about awarding blanket authority between the United States or Japan and third countries. It did not oppose the grant of such authority, but suggested that the authority be conditioned so that it would be consistent with relevant bilateral agreements and would exclude services to limited-entry countries until the Department has completed any necessary carrier selection procedures. The authority granted here is subject to the conditions imposed on the route integration authority granted Federal Express. That route integration authority requires compliance with all applicable bilateral aviation agreements and makes clear that the route integration authority does not confer on Federal Express any new limited-entry route rights unless and until the Department has first completed the necessary carrier selection procedures to award such authority. Northwest's concerns, therefore, have been addressed by the condition imposed on Federal Express' authority here and in previous actions by the Department.

RENEW



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

NOTICE OF ACTION TAKEN

March 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 Northwest Airlines, Inc. filed 11/19/97 and supplemented 11/20/97 in Docket OST-95-741 to:

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

Scheduled foreign air transportation of persons, property, and mail between points in the United States, on the one hand, and Dubai, United Arab Emirates; Accra, Ghana; Bahrain, Bahrain; and Sanaa, Yemen, on the other, via Amsterdam. Northwest intends to operate this service pursuant to a code-share arrangement with KLM Royal Dutch Airlines.

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

DISPOSITION

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

The above action was effective when taken: March 19, 1998, through March 19, 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 **The exemption authority granted is consistent with the overall state of aviation relations between the United States, on the one hand, and United Arab Emirates, the United Kingdom, Bahrain, and Yemen, on the other.**

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, 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. 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.

Remarks: The authority for which Northwest requested renewal expired January 18, 1998, 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 Northwest's timely filed renewal application.

RENEW



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

NOTICE OF ACTION TAKEN

March 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 Northwest Airlines, Inc. filed 11/20/97 in Docket OST-95-837 to:

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

Scheduled foreign air transportation of persons, property, and mail between points in the United States, on the one hand, and Doha, Qatar, and Muscat, Oman, on the other, via Amsterdam. Northwest intends to operate this service pursuant to a code-share arrangement with KLM Royal Dutch Airlines.

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

DISPOSITION

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

The above action was effective when taken: March 19, 1998, through March 19, 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 **The exemption authority granted is consistent with the state of overall aviation relations between the United States and Qatar and the United States and Oman.**

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, 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. 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.

Remarks: The authority for which Northwest requested renewal expired February 2, 1998, 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 Northwest's timely filed renewal application.

RENEW



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

NOTICE OF ACTION TAKEN

March 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 Northwest Airlines, Inc. filed 1/6/98 in Docket OST-96-990 to:

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

Scheduled foreign air transportation of persons, property, and mail between points in the United States, on the one hand, and Freetown, Sierra Leone; Kilimanjaro and Dar es Salaam, Tanzania; and Harare, Zimbabwe, on the other, via Amsterdam. Northwest intends to operate this service pursuant to a code-share arrangement with KLM Royal Dutch Airlines.

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

DISPOSITION

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

The above action was effective when taken: March 19, 1998, through March 19, 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 **The exemption authority granted is consistent with the overall state of aviation relations between the United States, on the one hand, and Sierra Leone, Tanzania, and Zimbabwe, on the other.**

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, 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. 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.

Remarks: The authority for which Northwest requested renewal expired March 6, 1998, 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 Northwest's timely filed renewal application.

Northwest did not seek to renew authority to serve Conakry, Guinea; Tunis, Tunisia; and Lilongwe, Malawi. (See Orders 94-4-30, 95-2-48, and 96-3-17.)

NEW



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

NOTICE OF ACTION TAKEN

March 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 Northwest Airlines, Inc. filed 1/16/98 in Docket OST-96-2029 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 points in the United States, and Abidjan, Côte d'Ivoire, via Amsterdam. Northwest intends to operate this service pursuant to a code-share arrangement with KLM Royal Dutch Airlines.

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

DISPOSITION

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

The above action was effective when taken: March 19, 1998, through March 19, 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 **The exemption authority granted is consistent with the aviation agreement between the United States and Côte d'Ivoire.**

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, 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. 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.

NEW



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

NOTICE OF ACTION TAKEN

March 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 **Polar Air Cargo, Inc.** filed **2/17/98** in Docket **OST-98-3492** for:

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

Scheduled foreign air transportation of property and mail between any point or points in the United States and two points in Japan and beyond each of those points to one third country point. Polar further requests authority to integrate this exemption with its existing certificate and exemption authority.

Applicant rep: **Jeffrey A. Manley 202-637-9057** DOT analyst: **Gerald Caolo 202-366-2406**

DISPOSITION

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

*The above action was effective when taken: **March 5, 1998,** through **March 5, 2000,** (or until 90 days after final Department action on Polar's certificate application in Docket 98-3491, 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 1998 U. S.-Japan Memorandum of Consultations.** ¹

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)

¹ 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.

Conditions: We made the authority granted subject to the following conditions:

(1) Before the carrier conducts its initial operations under this authority, and before the carrier subsequently changes any of the foreign points under this authority, the carrier shall notify the Department (Director, Office of International Aviation) of the points in Japan and points beyond Japan that it proposes to serve, so that the Department can notify the Japanese Government of the point selections as required by the 1998 MOC;

(2) Any service provided under the route integration authority granted shall be consistent with all applicable agreements between the United States and the foreign countries involved, and further

(a) nothing in our award of the route integration authority granted 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 Polar a preference in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue; and

(3) The authority granted to serve third countries beyond Japan is limited to countries with which the United States has signed open-skies agreements and/or countries for which the carrier holds authority to serve under certificates or exemptions issued by the Department, and for which it holds route integration authority by virtue of either the present action or other action of the Department.

RENEW



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

NOTICE OF ACTION TAKEN

March 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.

Application of Spirit Airlines, Inc. filed 1/8/98 in Docket OST-97-2146 to:

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

Scheduled foreign air transportation of persons, property, and mail between Atlantic City, New Jersey, and Bermuda.

Applicant rep.: Anita M. Mosner 202-342-5200 DOT analyst: Sylvia Moore, 202-366-6519

DISPOSITION

XX *Granted*

The above action was effective when taken: March 6, 1998, through March 6, 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 the United Kingdom.**

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)**

RENEW



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

NOTICE OF ACTION TAKEN

March 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.

Application of Spirit Airlines, Inc. filed 1/16/98 in Docket OST-97-2189 to:

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

Scheduled foreign air transportation of persons, property, and mail between Newark, New Jersey, and Bermuda.

Applicant rep.: Anita M. Mosner 202-342-5200 DOT analyst: Sylvia Moore, 202-366-6519

DISPOSITION

XX *Granted*

The above action was effective when taken: March 6, 1998, through March 6, 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 the United Kingdom.**

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

March 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.

Application of Spirit Airlines, Inc. filed 1/29/98 in Docket OST-98-3403 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 a point or points in the United States, and a point or points in Canada.

Applicant rep.: Anita M. Mosner 202-342-5200 DOT analyst: Sylvia Moore, 202-366-6519

DISPOSITION

XX *Granted*

The above action was effective when taken: March 9, 1998, through March 9, 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 Canada.**

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: Spirit has previously been found to be a citizen of the United States and fit, willing and able to provide scheduled interstate air transportation of persons, property, and mail as a certificated air carrier under section 41102 of Title 49 U.S.C. (see Order 91-8-58). The foreign air transportation services authorized here are not markedly different in terms of aircraft size or stage length from the carrier's current scheduled interstate operations under its existing certificate authority. We, therefore, found that Spirit is qualified to provide the proposed air transportation services for the period covered by the exemption.

REVISED



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

NOTICE OF ACTION TAKEN

March 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 United Parcel Service Co. filed 2/12/98 and Supplemented 2/25/98 in Docket OST-98-3478 for:

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

Scheduled foreign air transportation of property and mail between any point or points in the United States and two points in Japan and beyond each of those points to two third country points.

Applicant rep: David L. Vaughan, Jr. 202-955-9864 DOT analyst: Gerald Caolo 202-366-2406

DISPOSITION

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

The above action was effective when taken: March 5, 1998, through March 5, 2000, (or until 90 days after final Department action on UPS' certificate application in Docket 98-3477, 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 1998 U. S.-Japan Memorandum of Consultations.¹

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)

¹ 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.

Remarks: When we initially approved this application on March 3, 1998, we limited our approval to the points included in the carrier's service proposal. We have subsequently determined to award the authority at issue on a broader basis and, accordingly, we sua sponte revised UPS' authorization.

In addition to the authority requested, we also sua sponte granted the carrier authority to integrate its Japan services with its other services authorized by certificate or exemption.

Conditions: We made the authority granted subject to the following conditions:

(1) Before the carrier conducts its initial operations under this authority, and before the carrier subsequently changes any of the foreign points under this authority, the carrier shall notify the Department (Director, Office of International Aviation) of the points in Japan and points beyond Japan that it proposes to serve, so that the Department can notify the Japanese Government of the point selections as required by the 1998 MOC;

(2) Any service provided under the route integration authority granted shall be consistent with all applicable agreements between the United States and the foreign countries involved, and further
(a) nothing in our award of the route integration authority granted should be construed as conferring upon UPS rights (including fifth freedom, intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless UPS 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 UPS' authority by virtue of the route integration exemption granted here, but that are not then being used by UPS, the holding of such authority by route integration will not be considered as providing UPS a preference in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue; and

(3) The authority granted to serve third countries beyond Japan is limited to countries with which the United States has signed open-skies agreements and/or countries for which the carrier holds authority to serve under certificates or exemptions issued by the Department, and for which it holds route integration authority by virtue of either the present action or other action of the Department.