



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

Issued by the Department of Transportation
on the 5th day of June, 1998

Applications of

**Aero California S.A. de C.V.
(AeroCalifornia)**

American Airlines, Inc.

**American Airlines, Inc. and Aero California
S.A. de C. V.**

Compagnie National Air France (Air France)

**Air France and Continental Airlines, Inc./
Continental Express, Inc. (Continental)**

Air France and Delta Air Lines, Inc.

Continental Airlines, Inc.

**Dockets OST-97-2481
OST-97-2961**

**OST-97-2477
OST-97-2944**

Undocketed

OST-98-3739

Undocketed¹

Undocketed²

OST-98-3744*

*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 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.

¹ This Notice has been modified to clarify our granting of the statements of authorization for the proposed code-share services and to add a standard code-share condition that was inadvertently omitted. Consistent with the note above, parties should rely on the Notice in this confirming order rather than the Notice originally issued.

² This Notice has been modified to clarify our granting of the statements of authorization for the proposed code-share services. Consistent with the note above, parties should rely on the Notice included in this confirming order rather than the Notice originally issued.

Delta Air Lines, Inc.

OST-98-3740*

Northwest Airlines, Inc.

OST-98-3760*

**Northwest Airlines, Inc. and KLM Royal
Dutch Airlines**

OST-98-3759

United Air Lines, Inc.

OST-98-3732*

**United Air Lines, Inc. and Compania
Mexicana de Aviacion, S.A.**

OST-97-3237

US Airways, Inc.

OST-97-3034

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, foreign air carrier permit, and/or conditions attached.

We carefully considered the information set forth in each application described in the attached Notices of Action Taken, and we found that each of the proposed operations was consistent with the public interest and was consistent with an applicable bilateral aviation agreement and/or 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 1975.³

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 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 or dismissed 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.

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>*

³ On the basis of data officially noticeable, we found that each U.S. and foreign air carrier applicant for an operating exemption is qualified to provide the services authorized.

Appendix A

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).

(41301/40109) 12/96



AMENDED

NOTICE OF ACTION TAKEN

April 28, 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 AIRLINES, INC., filed 5/7/97 and 9/30/97 in Dockets OST-97-2477 and 97-2944; AERO CALIFORNIA S.A. de C.V. (AeroCalifornia), filed 5/7/97 and 10/1/97 in Dockets OST-97-2481 and 97-2961; and AMERICAN AIRLINES, INC., and AERO CALIFORNIA filed 5/7/97 and 9/30/97 (Undocketed)

By letter dated April 7, 1998, American and Aero California requested clarification of the Notice of Action Taken dated March 20, 1998 (in the matter of the docketed and undocketed cases captioned, above), with respect to the carriers' request for immediate action on discrete U.S.-Mexico city-pair markets. The carriers stated that their February 4 and 11 requests (addressed in the March 20 Notice) intended to also seek exemption authority for AeroCalifornia in the Boston-La Paz, Boston-Loreto, and Boston-Mazatlan markets, and statement of authorization authority to American to display Aero California's "JR" code on American's flights between Boston and Los Angeles for these Mexico-U.S. services. The attached clarification would:

XX Amend Exemption for Aero California, under 49 U.S.C. 40109, granted by Notice dated 3/20/98, to authorize the following service:

Scheduled foreign air transportation of persons, property, and mail between the terminal point Boston, Massachusetts, and the coterminal points La Paz, Loreto, and Mazatlan, Mexico. AeroCalifornia plans to operate the service under a code-share arrangement with American.

XX Amend Statement of Authorization for American Airlines, under Part 207 of the Department's regulations, granted by Notice dated 3/20/98, to:

Display AeroCalifornia's "JR" airline designator code on flights operated by American between Los Angeles and Boston for the carriage of AeroCalifornia's Mexico-Boston traffic described above.

No answers were filed to the carriers' April 7 letter.

Applicant reps: Carl Nelson for American (202) 496-5647 DOT Analyst: Linda Lundell (202) 366-2336
David Coburn for Aero California (202)429-8063 Allen Brown (202)366-2405

DISPOSITION

XX Granted Carriers' Clarification Request of April 7, 1998, for the operating authority, described above.

XX As to those requests granted, dismissed carriers' request for longer term authority.

(See Reverse Side)

The above actions were effective when taken: **April 27, 1998**. The exemption authority will expire **March 20, 1999**, or 90 days after final Department action on a corresponding foreign air carrier permit application, whichever occurs earlier; the statement of authorization authority will expire **6/14/98, both awards coextensive with the authorities granted to American and AeroCalifornia in the captioned dockets on March 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.)

XX Exemption authority granted is consistent with the aviation agreement between the United States and Mexico. The code-share authority granted is consistent with the overall state of aviation relations with 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 (American)

XX Standard Exemption Conditions (attached) (AeroCalifornia)

Special Conditions/Remarks: The code-share operations authorized here are subject to compliance with section 399.88 of the Department's regulations regarding code-sharing operations and any amendments to those regulations that may be adopted by the Department, and the further condition that the foreign air transportation be sold in the name of the carrier holding out service in computer reservation systems and elsewhere; that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept all obligations established in the contract of carriage with the passenger; and that the passenger liability of the operating carrier be unaffected.

Authorization of the code-share services may be withdrawn in any U.S.-Mexico city-pair market where another U.S. carrier proposes to operate services with its own aircraft (direct carrier services) and (1) additional designations are not available to authorize the proposed direct carrier service; and (2) the Department determines that the proposed direct carrier services would provide benefits and service options superior to the code-share operations in the market.

CORRECTED COPY



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

NOTICE OF ACTION TAKEN

DOCKET OST-98-3739/Undocketed

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

Applicant: **Compagnie Nationale Air France (Air France)** Date Filed: April 14, 1998

Relief requested: (Docket OST-98-3739) Exemption from 49 U.S.C. § 41301 to conduct scheduled foreign air transportation of persons, property and mail between France and the United States, for a period of two years. Air France also requested the operational flexibility to, among other things, coterminize its U.S.-France services at various U.S. points; operate via intermediate and beyond points with full traffic rights where available; serve points on the routes in any combination and in any order; and transfer traffic from any of its services to any of its other services at any point on the routes.

Joint Application of: **Air France and Delta Air Lines, Inc.** Date Filed: April 16, 1998

Relief requested: (Undocketed) Statement of authorization under 14 CFR 212 to permit Air France to display Delta's designator code on flights operated by Air France between points in the United States and Paris, France; and between Paris and other points in France. Statement of authorization under 14 CFR 207 to permit Delta to display Air France's designator code on flights operated by Delta between points in France and points in the United States; and between U.S.-city pairs carrying Air France's international traffic.

Joint Application of: **Air France and Continental Airlines, Inc./Continental Express, Inc. (Continental)** Date Filed: April 16, 1998

Relief requested: (Undocketed) Statement of authorization under 14 CFR 212 to permit Air France to display Continental's designator code on flights operated by Air France between points in the United States and Paris, France; and between Paris and other points in France and points in Europe. Statement of authorization under 14 CFR 207 to permit Continental to display Air France's designator code on flights operated by Continental between points in France and points in the United States; and between U.S.-city pairs carrying Air France's international traffic.

Applicant representatives: (Air France) Michael Goldman 202-944-3305; (Delta) Robert Cohn 202-663-8060; (Continental/Continental Express) Lorraine Halloway 202-624-2538

Responsive pleadings: (Docket OST-98-3739) Northwest Airlines, Inc., and United Air Lines, Inc., filed answers stating that they did not object to Air France's request for exemption authority provided the Department granted simultaneous approval of their pending applications for U.S.-France and third-country code-share authority. United further stated that the Department should only permit carriers to operate intermediate and beyond service consistent with applicable bilateral agreements and, unless a carrier has been specifically authorized to operate with full traffic rights, impose a condition that intermediate and beyond points must be served only on a blind-sector basis. United also stated that if the
(See Reverse Side)

U.S. is prepared to permit Air France to serve both New York international airports, U.S. carriers should be permitted to code-share to both Paris airports; and that the Department should ensure that it has a means in place to monitor Air France's frequencies to the same extent that U.S. carriers will be monitored in France. Air France filed a reply stating that neither U.S. carrier has raised any issues on the merits of its application that should delay approval; and that prompt approval is required by the terms of the 1998 MOC. Air

France noted that it has served both JFK and Newark Airports for many years and that United's argument regarding code-share service to both Paris airports is unrelated to Air France's application and has no factual basis in the new U.S.-France agreement. Continental filed a reply stating that the Department should grant all pending exemption applications for U.S.-France authority at the same time, and that approval should not be delayed in order to consider the special conditions proposed by United since any authority awarded is normally circumscribed by the relevant bilateral agreements and the Department's standard exemption conditions.

(Undocketed) The Regional Business Partnership (Newark) and the City of Houston and the Greater Houston Partnership (Houston) submitted answers in support of the Air France/Continental code-share application. United filed a consolidated answer incorporating by reference its pleading in Docket OST-98-3739, and stating that it had no objection to expeditious action on the code-share applications as long as United's pending requests to support its France code-share service are approved at the same time.

DISPOSITION

Action: We are granting Air France the full measure of authority necessary to conduct operations specified in Annex I and Annex II of the 1998 Memorandum of Consultations between the United States and France (1998 MOC).¹ The authority is subject to the conditions and limitations contained in Annexes I and II. As to service to intermediate and beyond points for which full traffic rights are not available under the provisions of Annexes I and II, Air France is limited to carriage of traffic on a blind-sector basis only. We are also granting Air France and Delta, and Air France and Continental the requested statements of authorization.

Action date: May 8, 1998

Effective dates of exemption authority granted: May 8, 1998 - May 8, 2000

Effective dates of statements of authorization granted: Indefinite (see Special Conditions, below)

Except to the extent exempted/waived, the exemption is subject to the following terms, conditions, and limitations:

Air France's foreign air carrier permit (Order 76-2-25), standard exemption conditions, and the 1998 MOC.

¹ On April 8, 1998, the United States and France signed a Memorandum of Consultations (MOC) and initialed the text of a framework for a new Air Transport Agreement (Agreement). The MOC also noted the intentions of each Party to permit immediately, on the basis of comity and reciprocity, operations consistent with the terms of the Agreement.

Special conditions:

(a) Air France and Delta, and Air France and Continental must notify the Department (Office of International Aviation, Room 6412) by letter, no later than 30 days before they begin any new code-share service under the code-share services authorized here. Such notice shall identify the market(s) to be served, which carrier will be operating the aircraft in the code-share market added, and the date on which the service will begin;

(b) The statements of authorization will remain in effect only as long as (i) Air France and Delta, and Air France and Continental continue to hold the necessary underlying authority to operate the code-share services at issue, and (ii) the code-share agreement providing for the code-share operations remains in effect;

(c) Air France and/or Delta, and Air France and/or Continental must promptly notify the Department (Office of International Aviation) if the code-share agreement providing for the code-share operations is no longer effective or the carriers decide to cease operating any or all of the approved code-share services;

(d) 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 (*i.e.*, the carrier shown on the ticket) accept all obligations established in its contract of carriage with the passenger; that the passenger liability of the operating carrier be unaffected; and that the operating carrier shall not permit the code of its U.S. 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; and

(e) The Air France/Continental statement of authorization is subject to the following further condition: The authority to operate to third countries is subject to the condition that any service provided under the statement of authorization shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, (i) nothing in the award of this blanket statement of authorization should be construed as conferring upon Continental rights (including code-share, fifth freedom intermediate and/or beyond rights) to serve markets where U.S. carrier rights are limited unless Continental 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 (ii) should there be a request by any carrier to use the limited-entry route rights that are included in Continental's authority by virtue of the blanket statement of authorization granted here, but that are not being used by Continental, the holding of such authority will not be considered as providing any preference for Continental in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

Remarks: With respect to the issue of airport access, we noted that we addressed this matter in acting on United's application in Docket OST-98-3732. We further noted that in the circumstances presented, we would be able adequately to monitor the frequency levels of Air France's U.S. operations under the new bilateral regime. Finally, by separate action, we concurrently approved the applications of United, Delta, Continental and Northwest to conduct U.S.-France operations (*see* Dockets OST-98-3732, OST-98-3740, OST-98-3744 and OST-98-3760).

(See Next Page)

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

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

NEW



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

NOTICE OF ACTION TAKEN

May 8, 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 **4/15/98** in Docket **OST-98-3744** for:

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

Scheduled foreign air transportation of persons, property, and mail between any point or points in the United States, and any point or points in France and its territories, directly and via intermediate points, and beyond France to any point or points in third countries, and to integrate this authority with Continental's existing certificate and exemption authority. Continental intends to operate this service pursuant to a code-share arrangement with Air France. Continental has requested the authority for an indefinite duration.

The City of Houston and The Greater Houston Partnership and The Regional Business Partnership (Newark) filed answers in support of Continental's application. United Airlines filed an answer stating that it did not oppose the application, but that the public interest would be best served if all requests for broad U.S.-France exemption authority be subject to the condition that intermediate and beyond points may be served on a blind-sector basis only. Continental filed a reply opposing such a limitation, arguing that a specific condition is not necessary since under the authority granted all operations must be consistent with the U.S.-France agreement and the Agreement makes clear that such intermediate and beyond services may be operated on a blind-sector basis only (except where specifically authorized).

Applicant rep: **R. Bruce Keiner (202) 624-2500** DOT Analyst: **Sylvia Moore (202) 366-6519**

DISPOSITION

XX Granted in part (see below)

XX Balance dismissed (*i.e.*, request for longer-term authority)

The above action was effective when taken: **May 8, 1998,** through **May 8, 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 authority granted is consistent with the April 8, 1998 Memorandum of Consultations between the United States and France.¹

(See Reverse Side)

¹ On April 8, 1998, the United States and France signed a Memorandum of Consultations (MOC) and initialed the text of a framework for a new Air Transport Agreement (Agreement). The MOC also provided that each Party would permit operations consistent with the new Agreement on the basis of comity and reciprocity, pending finalization of the 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)

Special Conditions: The authority granted was made subject to the following conditions:

(a) The authority to operate via intermediate points and beyond France to third countries shall be limited to operations on a blind-sector basis only and 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.

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

(c) 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 (*i.e.*, the carrier shown on the ticket) accept all obligations established in its contract of carriage with the passenger; that the passenger liability of the operating carrier be unaffected; and that the operating carrier 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.

(d) The U.S.-France combination services operated by Continental must be operated within the level of services authorized Continental for U.S.-France combination services.

Remarks: Consistent with our standard practice for this type of application, we granted Continental's exemption authority for a period of two years, and dismissed its request for longer-term authority.

We decided to impose a condition regarding intermediate and beyond services, concluding that doing so would enhance the clarity of our decision without in fact detracting from the authority awarded to Continental.

NEW



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

NOTICE OF ACTION TAKEN

May 8, 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 Delta Air Lines, Inc. filed 4/14/98 in Docket OST-98-3740 for:

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

Scheduled foreign air transportation of persons, property, and mail between any point or points in the United States, and any point or points in France, directly and via intermediate points, and beyond France to any point or points in third countries, and to integrate this authority with Delta's existing certificate and exemption authority. Delta intends to operate this service pursuant to a code-share arrangement with Air France. Delta has requested the authority for an indefinite duration.

United filed an answer stating it did not object to Delta's application as long as the Department simultaneously approved United's U.S.-France application in Docket OST-98-3732 for combination services, including allocation of additional U.S.-France combination service frequencies. United also stated that the public interest would be best served if the broad U.S.-France exemption requests of all carriers were conditioned to make clear that intermediate and beyond services could be operated on a blind-sector basis only as set forth in the new Agreement. Delta filed a reply arguing that there was no basis to withhold authorization of Delta's unopposed application, while the Department completes carrier selection procedures involving some of United's combination service applications.

Applicant rep: Robert E. Cohn (202) 663-8060 DOT Analyst: Sylvia Moore (202) 366-6519

DISPOSITION

XX Granted in part (see below)

XX Balance dismissed (*i.e.*, request for longer-term authority)

The above action was effective when taken: May 8, 1998, through May 8, 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 authority granted is consistent with the April 8, 1998 Memorandum of Consultations between the United States and France.¹

¹ On April 8, 1998, the United States and France signed a Memorandum of Consultations (MOC) and initialed the text of a framework for a new Air Transport Agreement (Agreement). The MOC also

(See Reverse Side)

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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: The authority granted was made subject to the following conditions:

(a) The authority to operate via intermediate points and beyond France to third countries will be on a blind-sector basis and 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.

(b) 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 the award of the route integration authority granted 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 Delta a preference in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

(c) 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 (*i.e.*, the carrier shown on the ticket) accept all obligations established in its contract of carriage with the passenger; that the passenger liability of the operating carrier be unaffected; and that the operating carrier 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.

(d) The U.S.-France combination services operated by Delta must be operated within the level of services authorized Delta for U.S.-France combination services.

Remarks: Consistent with our standard practice for this type of application, we granted Delta's exemption authority for a period of two years, and dismissed its request for longer-term authority.

With respect to the issue raised by United, we contemporaneously granted United's application to operate scheduled combination services in the U.S.-France market.

provided that each Party would permit operations consistent with the new Agreement on the basis of comity and reciprocity, pending finalization of the Agreement.

NEW



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

NOTICE OF ACTION TAKEN

May 8, 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 4/17/98 in Docket OST-98-3760 for:

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

Scheduled foreign air transportation of persons, property, and mail between any point or points in the United States, and any point or points in France, directly and via intermediate points, and beyond France to any point or points in third countries, and to integrate this authority with Northwest's existing certificate and exemption authority. Northwest states that in conjunction with this authority it intends to operate services pursuant to a code-share arrangement with KLM. Northwest does not seek authority in the New York-Paris market.

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: May 8, 1998, through May 8, 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 authority granted is consistent with the April 8, 1998 Memorandum of Consultations between the United States and France.¹

(See Reverse Side)

¹ On April 8, 1998, the United States and France signed a Memorandum of Consultations (MOC) and initialed the text of a framework for a new Air Transport Agreement (Agreement). The MOC also provided that each Party would permit operations consistent with the new Agreement on the basis of comity and reciprocity, pending finalization of the Agreement.

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: The authority granted was made subject to the following conditions:

- (a) The authority to operate via intermediate points and beyond France to third countries shall be limited to blind-sector operations only and 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.
- (b) 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 the award of the route integration authority granted should be construed as conferring upon Northwest rights (including fifth-freedom, intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless Northwest 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 Northwest's authority by virtue of the route integration exemption granted here, but that are not then being used by Northwest, the holding of such authority by route integration will not be considered as providing Northwest a preference in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.
- (c) 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 (*i.e.*, the carrier shown on the ticket) accept all obligations established in its contract of carriage with the passenger; that the passenger liability of the operating carrier be unaffected; and that the operating carrier 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.
- (d) The authority granted does not authorize services between New York and Paris.²
- (e) The U.S.-France combination services operated by Northwest must be operated within the level of services authorized Northwest for U.S.-France combination services.

² U.S. carrier services in the New York-Paris market are limited through 2003, and Northwest is not one of the U.S. carriers now designated for New York-Paris service.

NEW



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

NOTICE OF ACTION TAKEN

May 8, 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. and KLM ROYAL DUTCH AIRLINES**, filed **4/17/98** in Docket **OST-98-3759**:

XX Allocation to Northwest of U.S.-France third-country code-share opportunities to:

Conduct scheduled combination air services between the United States and France via the Netherlands on a blind-sector basis between the Netherlands and France under a code-share arrangement with KLM. Northwest states that this service will facilitate convenient on-line service between five cities in France and 14 U.S. gateways via Amsterdam, with continuing on-line connecting service to numerous additional points in the United States.

XX Statement of Authorization for KLM under 14 CFR Part 212 of the Department's regulations to:

Permit KLM to display the Northwest "NW" designator code on KLM flights between the Netherlands and France for the carriage of Northwest's U.S.-France traffic.

The applicants state that initially they will operate code-share services between Amsterdam and Lyon, Mulhouse, Nice, Paris (CDG), and Toulouse and that they will begin code-share operations as soon as they have secured the requisite government authorizations.

Continental Airlines and United Air Lines filed answers to Northwest's application. Continental did not oppose Northwest's application, but states that approval of all of the code-share applications, including the Continental/Air France application which is also pending, should be made at the same time and that since all of these applications are unopposed, they should be granted immediately. United noted that Northwest had applied for the one of the two available third-country code-share designations and because there are two opportunities available and only two applications, there was no need for carrier selection and the designations should be granted immediately to both United and Northwest. United also stated that the Air France code-share applications pending with Continental Airlines and Delta Air Lines should be granted contemporaneously with the U.S. carrier applications so that Air France and its partners do not get a head start over U.S. carrier third-country partnerships in operating U.S.-France code-share services.

Applicant rep: **Megan Rae Poldy (202) 842-3193** DOT Analyst: **Linda Senese (202) 366-2367**

DISPOSITION

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

The above action was effective when taken: **May 8, 1998**, and will remain in effect, subject to the conditions described below.

(See Reverse Side)

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 Memorandum of Consultations signed April 8, 1998, between the United States and France,¹ and 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 and U.S.-France exemption authority (Northwest)**
XX **Foreign Air Carrier Permit (KLM)**

Conditions: The authority granted here was made subject to the following conditions:

- (a) Northwest and/or KLM must notify the Department (Office of International Aviation, Room 6412) by letter, no later than 30 days before they begin any new code-share service under the code-share services authorized here. Such notice shall identify the market(s) to be served, which carrier will be operating the aircraft in the code-share market added, and the date on which the service will begin;
- (b) The authorities shall remain in effect as long as (i) the carriers' underlying authority to serve the markets at issue remains in effect and (ii) the underlying alliance agreement remains in effect and approved by the Department.
- (c) Northwest and/or KLM must notify the Department immediately if the alliance agreement under which these code-share services are operated is no longer in effect, or if the carriers decide to cease operating all or a portion of the code-share services under the alliance;
- (d) All operations conducted under this authorization must comply with the terms, conditions, and limitations of Order 93-1-11 (Northwest/KLM antitrust immunity order) and any subsequent order(s) of the Department regarding this alliance;
- (e) All operations 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 reservations systems and elsewhere; 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; that the passenger liability of the operating carrier be unaffected; and that the operator shall not permit the code of its U.S. 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; and
- (f) The code-share operations must not involve services in the New York-Paris market.²

¹ On April 8, 1998, the United States and France signed a Memorandum of Consultations (MOC) and initialed the text of a framework for a new Air Transport Agreement (Agreement). The MOC also provided that each Party would permit operations consistent with the Agreement on the basis of comity and reciprocity, pending finalization of the Agreement.

² U.S. carrier services in the New York-Paris market are limited through 2003, and Northwest is not one of the U.S. carriers now designated to serve New York.

Remarks: In response to the concerns raised by Continental and United, we have contemporaneously granted the United/Lufthansa third-country code-share application (Docket OST-98-3732), the Continental/Air France code-share application (Undocketed), and the Delta/Air France code-share application (Undocketed). We also contemporaneously granted related broad U.S.-France exemption authority to Continental, Northwest, Delta, United, and Air France in conjunction with their code-share operations.

NEW



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

NOTICE OF ACTION TAKEN

May 8, 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 **4/10/98** in Docket **OST-98-3732**¹ for:

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

Scheduled foreign air transportation of persons, property, and mail between any point or points in the United States, and any point or points in France, directly and via intermediate points, and beyond France to any point or points in third countries, and to integrate this authority with United's existing certificate and exemption authority. United states that in conjunction with this authority it intends to expand its code-share operations with its European partners.

Northwest filed an answer to United's application requesting that the Department promptly grant United's application along with Northwest's application in Docket OST-98-3760.

Applicant rep: **Joel Stephen Burton (202) 637-9130** DOT Analyst: **Sylvia Moore (202) 366-6519**

DISPOSITION

XX Granted (subject to conditions, see below)

The above action was effective when taken: **May 8, 1998,** through **May 8, 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 authority granted is consistent with the April 8, 1998 Memorandum of Consultations between the United States and France.²

¹ United's application also sought authority for allocation of seven U.S.-France combination service frequencies, allocation of U.S.-France third-country code-share opportunities, and exemption and designation to operate all-cargo service between the United States and France. Those requests are being handled separately. This notice concerns only United's request for broad U.S.-France exemption authority.

² On April 8, 1998, the United States and France signed a Memorandum of Consultations (MOC) and initialed the text of a framework for a new Air Transport Agreement (Agreement). The MOC also provided that each Party would permit operations consistent with the new Agreement on the basis of comity and reciprocity, pending finalization of the Agreement.

(See Reverse Side)

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)

Special Conditions: The authority granted was made subject to the following conditions:

(a) The authority to operate via intermediate points and beyond France to third countries will be on a blind-sector basis and 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.

(b) 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 the award of the route integration authority granted 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 United a preference in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

(c) 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 (*i.e.*, the carrier shown on the ticket) accept all obligations established in its contract of carriage with the passenger; that the passenger liability of the operating carrier be unaffected; and that the operating carrier 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.

(d) The authority granted does not authorize services between New York and Paris.³

(e) The U.S.-France combination services operated by United must be operated within the level of services authorized United for U.S.-France combination services.

³ U.S. carrier services in the New York-Paris market are limited through 2003, and United is not one of the U.S. carriers now designated for New York-Paris service.

NEW



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

NOTICE OF ACTION TAKEN

May 8, 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 **4/17/98** in Docket **OST-98-3732**¹:

XX Allocation of U.S.-France third-country code-share opportunities to:

Conduct scheduled combination air services between points in the United States and France via Germany on a blind-sector basis under a code-share arrangement with Lufthansa German Airlines. United states that initially it would offer code-share services to six points in France (Paris (CDG), Paris (ORY), Nice, Toulouse, Lyon and Marseille²) via three points in Germany (Frankfurt, Munich, and Dusseldorf). United states that it would not hold out code-share service between New York and Paris via points in Germany because it lacks the underlying route authority to offer service in that city pair.

United further requests that this application serve as the required notice under the blanket statement of authorization granted Lufthansa by Order 98-4-8 of the United/Lufthansa U.S.-Germany-France “via third-country” code-share service.³

American Airlines, Continental Airlines, and Northwest Airlines filed answers to United’s application, and United filed a consolidated reply. Northwest urges immediate approval of United’s application as well as its own third-country code-share application, stating that Northwest and United are the only two applicants for the two available third-country code-share service opportunities. American and Continental do not object to United’s application, but state that its proposal to operate to both Paris airports is contrary to the

¹ United’s application also sought authority for allocation of seven U.S.-France combination service frequencies, broad U.S.-France exemption authority and exemption and designation to operate all-cargo service between the United States and France. Those requests are being handled separately. This notice concerns only United’s request for allocation of one of the two available opportunities to serve France under third-country code-share arrangements.

² United notes that to the extent Air France may seek to code share to more than one airport serving a U.S. city or cities, United should also be permitted to do so in Paris.

³ By Order 98-4-8, the Department granted United and Lufthansa blanket statements of authorization to engage in code-sharing services between the United States and Germany via third countries and beyond both the United States and Germany. That authorization was subject to certain conditions, one of which requires advance notification to the Department of any proposed services involving limited-entry markets. The blanket authorization also makes clear that such services cannot be provided unless and until the Department has completed any necessary carrier selection procedures for the award of the authority at issue.

(See Reverse Side)

2

MOC. Continental further states that the Continental/Air France and Delta/Air France code-share applications which include service to Newark and New York's JFK Airport are not relevant to the restriction on United's Paris code-share services as the MOC does not address French carrier code-share service at JFK and Newark, but rather code-share services at LaGuardia and Ronald Reagan Washington National Airport. United, in its reply, states that notwithstanding the specific provisions of the MOC, Air France's request to serve both Newark and JFK highlights the need for a liberal and uniform approach to the issue, and maintains that if the U.S. is prepared to permit Air France to serve both New York international airports, U.S. carriers should be permitted to code-share to both Paris airports, particularly so long as Orly is used for international operations.

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: May 8, 1998, and will remain in effect, subject to the conditions described below.

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 Memorandum of Consultations signed April 8, 1998, between the United States and France,⁴ and the aviation agreement between the United States and Germany.

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 and U.S.-France exemption authority**

Conditions: The authority granted here was made subject to the conditions imposed on Lufthansa's blanket statement of authorization in Order 98-4-8,⁵ as well as the following conditions:

⁴ On April 8, 1998, the United States and France signed a Memorandum of Consultations (MOC) and initialed the text of a framework for a new Air Transport Agreement (Agreement). The MOC also provided that each Party would permit operations consistent with the Agreement on the basis of comity and reciprocity, pending finalization of the Agreement.

⁵ We note that we have made a limited conforming change to one of the conditions of Order 98-4-8, so as to reflect current standard language. That condition in its entirety, now reads, as amended: "All operations 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 reservations and elsewhere; that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept all obligations established in its contract of

(a) the code-share service operated to Paris must be limited to services operated through Charles de Gaulle Airport; and

(b) the code-share operations must not involve services in the New York-Paris market.⁶

Remarks: We have contemporaneously issued notices approving the applications of Northwest and KLM for third country code-share services and Continental and Air France and Delta and Air France for U.S.-France code-sharing services.

Regarding United's request to serve both Paris airports, under the provisions of the April 1998 MOC, U.S. carrier code-share services to Paris are limited, as United acknowledges, to the airport through which the U.S. carrier operates its own transatlantic services, which in this case is Charles de Gaulle. We accordingly limited United's proposed code-share services with Lufthansa. While we appreciate the issues raised by United, those issues were specifically explored in the recent aviation negotiations. Taking into account the background of the provisions of the MOC on this matter, we determined that in the circumstances presented, it would not be consistent with the public interest to impose a restriction on Air France's code-share services at Newark and JFK. We emphasize, however, that, consistent with the statements of the U.S. delegation reflected in the MOC, we are prepared, in light of the French position on this issue, to limit Air France's code-share services at LaGuardia and Ronald Reagan Washington National Airport.

carriage with the passenger; that the passenger liability of the operating carrier be unaffected; and that the operator shall not permit the code of its U.S. 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."

⁶ U.S. carrier services in the New York-Paris market are limited through 2003, and United is not one of the U.S. carriers now designated to serve New York.



CORRECTED COPY*

NEW

NOTICE OF ACTION TAKEN

April 28, 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.

Joint application of UNITED AIR LINES, INC., and COMPANIA MEXICANA de AVIACION, S.A.
de C.V., filed 12/12/97 in Docket OST-97-3237 for:

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

Scheduled foreign air transportation of persons, property, and mail between the terminal points Chicago, Illinois, and San Francisco, California, on the one hand, and Morelia, Mexico, on the other.

XX Statement of Authorization for Mexicana under Part 212 of the Department's regulations to:

Display United's airline designator code on flights operated by Mexicana in the Chicago-Morelia and San Francisco-Morelia markets.

The carriers requested that the authorities be granted coextensive with the authorities currently held by the carriers for U.S.-Mexico code-share services (i.e., exemption authority, through 6/24/99; statement of authorization, through 6/14/98).

Applicant reps: Joel S. Burton for United (202) 637-9130 DOT Analysts: Linda Lundell (202) 366-2336
Robert D. Papkin for Mexicana (202)626-6601 Allen Brown (202)366-2405

DISPOSITION

XX Granted (subject to conditions, see below)

The above action was effective when taken: **April 28, 1998**. The exemption authority will expire **6/24/99**, or 90 days after final Department action on a corresponding certificate application, whichever occurs earlier. The statement of authorization for Mexicana will expire **6/14/98**.

(See Reverse Side)

* Corrects Notice of Action Taken dated April 27, 1998. An incorrect issue date appeared at the top of that notice. The correct date is April 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.)

XX Exemption authority granted is consistent with the aviation agreement between the United States and Mexico. The code-share authority granted is consistent with the overall state of aviation relations with 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 (United)

XX Standard Exemption Conditions (attached) (United)

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

The code-share operations authorized here are subject to the condition that the operations comply with section 399.88 of the Department's regulations regarding code-sharing operations, and the further condition that the foreign air transportation be sold in the name of the carrier holding out service in computer reservation systems and elsewhere; that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept all obligations established in the contract of carriage with the passenger; that the passenger liability of the operating carrier be unaffected; and that the operating carrier shall not permit the code of its U.S. code-sharing partner to be carried on any flight that enters, departs, or transits the airspace of any area for whose air space the Federal Aviation Administration has issued a flight prohibition.

Authorization of the code-share services may be withdrawn in any U.S.-Mexico city-pair market where another U.S. carrier proposes to operate services with its own aircraft (direct carrier services) and (1) additional designations are not available to authorize the proposed direct carrier service; and (2) the Department determines that the proposed direct carrier services would provide benefits and service options superior to the code-share operations in the market.

Remarks: For related earlier action on this joint application, see Notice of Action Taken dated March 20, 1998.

NEW



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

NOTICE OF ACTION TAKEN

May 8, 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 US Airways, Inc. filed 10/21/97 in Docket OST-97-3034 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 Pittsburgh, Pennsylvania, and Paris, France.

The Allegheny County Department of Aviation filed an answer in support of US Airways' application. Northwest Airlines and United Air Lines filed answers stating that there is no bilateral agreement authorizing the service and the Department should deny US Airways' request until such time as the United States and France reach a new aviation agreement. US Airways filed a reply stating that approval of its application is supported by comity and reciprocity. All of these pleadings were filed before conclusion of the April 8, 1998 Memorandum of Consultations referred to below.

Applicant rep.: Donald T. Bliss, 202-383-5300 DOT analyst: Sylvia Moore, 202-366-6519

DISPOSITION

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

The above action was effective when taken: May 8, 1998, through May 8, 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 authority granted is consistent with the April 8, 1998 Memorandum of Consultations between the United States and France.¹

(See Reverse Side)

¹ On April 8, 1998, the United States and France signed a Memorandum of Consultations (MOC) and initialed the text of a framework for a new Air Transport Agreement (Agreement). The MOC also provided that each Party would permit operations consistent with the new Agreement on the basis of comity and reciprocity, pending finalization of the Agreement.

*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 U.S.-France combination services operated by US Airways must be operated within the level of services authorized US Airways for U.S.-France combination services.

Remarks: We determined that the concerns raised by Northwest and United had been superseded in light of the April 8, 1998 U.S.-France MOC.