

Order 98-6-22

Served: June 25, 1998



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

Issued by the Department of Transportation
on the 14th day of May, 1998

Applications of

Continental Micronesia, Inc.

**Dockets OST-96-1200
OST-96-1201**

Federal Express Corporation

OST-98-3435

Northwest Airlines, Inc.

OST-98-3441

Polar Air Cargo, Inc.

OST-98-3491

United Air Lines, Inc.

OST-96-1131

United Parcel Service Co.

OST-98-3477

**for certificates of public convenience and necessity
under section 41102 of Title 49 U.S.C. and the orders
and regulations of the Department of Transportation
(U.S.-Japan)**

ORDER ISSUING CERTIFICATES

Summary

By this order we issue certificate authority to Continental Micronesia, Federal Express Corporation, Northwest Airlines, Polar Air Cargo, United Airlines, and United Parcel Service to provide combination and/or all-cargo service between the United States and Japan consistent with the new U.S.-Japan agreement.

Background

On January 30, 1998, the United States and Japan agreed to authorize new services between the United States and Japan.¹ The agreement between the United States and Japan, as set forth in the MOU represents a significant step toward a major liberalization of our aviation regime with Japan and provides for significant new opportunities for consumers and shippers to benefit from that liberalization. Among other things, the MOU provides that the three U.S. carrier “incumbent airlines”--Federal Express, Inc., Northwest Airlines, Inc. and United Air Lines, Inc.--may immediately operate services between any points in the United States and any points in Japan, and beyond, without limitation as to the number of flights that may be operated.² Furthermore, the MOU liberalizes the route rights of the U.S. carriers--Polar Air Cargo, Inc. and United Parcel Service Co.--that were providing all-cargo service in the U.S.-Japan market. Specifically, these carriers can now offer all-cargo service between any points in the United States and two unspecified points in Japan and beyond each of those points in Japan to one third country point (in the case of Polar) and two third country points (in the case of UPS). Lastly, the route rights formerly held by the “incumbent carriers” (Northwest and United) for Guam/Saipan-Japan markets are now encompassed by the broad route rights for these carriers and, thus, these rights for specific markets may now be used by “non-incumbent airlines,” such as Continental Micronesia, Inc.

Applications

The captioned applicants have applied for certificate authority to conduct services available under the MOU. Those applications are described in the Appendix to the order.

The applicants have filed and perfected each application as required by 14 CFR 201 and served it as required by 14 CFR 302.1705. Each application was summarized in the Federal Register, as cited in the Appendix, and was also summarized in the Department’s published weekly list of applications filed. These notices described the authority sought and gave interested persons an opportunity to submit evidence and objections to the award of the authority.

¹ 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 (MOU). The MOU became effective by an Exchange of Notes between the United States and Japan dated April 20, 1998. We will hereafter refer to the new accord as the MOU.

² In addition, a total of 90 additional weekly frequencies are available for U.S. carrier “non-incumbent” combination services, *i.e.*, services by the existing MOU carriers--American Airlines, Continental Airlines/Continental Micronesia/Air Micronesia, and Delta Air Lines--as well as one additional new entrant airline that may serve immediately, and a fifth airline that may enter the market on or after January 1, 2000. These rights are being considered in Docket OST-98-3419 (*1998 U.S.-Japan Combination Service Proceeding*) and, thus, are not at issue here.

Pleadings³

Northwest filed a consolidated answer to the applications of Federal Express and United, raising concerns about the award of blanket authority involving 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.

United filed a consolidated answer to the applications of Federal Express and Northwest. United does not oppose these applications, but notes that the three “incumbent carriers” are requesting the blanket intermediate and/or beyond authority in different forms. For instance, United originally sought the new authority by only seeking route integration authority to combine its Japan authority with its existing authority. Alternatively, the route proposals of Federal Express and Northwest for all-cargo service show blanket intermediate and/or beyond authority without any reference to route integration, as does Northwest’s proposal for combination service. Moreover, United states that Northwest proposes combination service to numerous intermediate and/or beyond countries in the Asia/Pacific region, including several limited-entry countries.⁴ United states that its wants the same flexibility as the other “incumbent carriers.” Finally, United requests that the comparable applications of both U.S. and Japanese carriers be granted at the same time so that one group does not have an unfair competitive advantage.

Federal Express filed a reply to the answers of Northwest and United. It states that it has no objection to the grant of identical authority to all “incumbent carriers” as long as the authority is broad and does not specify cities.⁵

Decision

We find that approval of these applications is consistent with the public convenience and necessity. The certificate authority requested is consistent with the U.S.-Japan MOU and uses rights for which the United States has exchanged valuable operating rights for Japanese carriers.⁶

³ Certain pleadings with respect to the captioned applications were filed before the U.S. and Japan agreed to liberalize the U.S.-Japan aviation regime. As those pleadings are now moot, we need not address them here. Rather, we will limit our discussion to those pleadings filed since the new aviation accord. They are, however, reflected in the appendix to this order.

⁴ These countries are defined by the *IATA Passenger Tariff Coordinating Conferences Resolutions Manual* (July 1997) and are referred to in the MOU. United subsequently amended its application to seek the same intermediate/beyond authority as Northwest, in addition to its original route integration request.

⁵ Federal Express’ reply was accompanied by a motion for leave to an unauthorized document. We will grant the motion.

⁶ All the carriers hold corresponding exemption authority to serve the U.S.-Japan market, and where applicable, beyond Japan. Those authorities will expire in accordance with their own terms 90 days after we submit this order for review under 49 U.S.C. 41307. See Notices of Action Taken dated March 4 and 5, 1998: Continental Micronesia--OST 98-3450; Federal Express--OST-98-3436; Polar--OST-98-3492; and UPS--OST-98-3478; and Notices of Action Taken dated March 31, 1998: United--Docket OST-98-3624 and Northwest--Docket OST-98-
continues on next page

Moreover, all of the authority conferred here contributes to the variety of price and service options available to travelers and shippers.

Based on data officially noticeable under Rule 24(n) of the Department's regulations, we also find that all of the captioned applicants are citizens of the United States and fit, willing and able to provide the foreign air transportation authorized;⁷ and that to the extent that the service proposals here would exceed a near-term increase in annual fuel consumption in excess of 10 million gallons, and, thus, that award of such authority would constitute a "major regulatory action" under the Energy, Policy and Conservation Act of 1975, as defined by section 313.4(a)(1) of the Department's regulations, that the additional service to be provided under this authority and resulting public benefits outweigh any adverse effects that may be caused by the increased fuel consumption.

Finally, we find that there are no material, determinative issues of fact requiring resolution and, thus, that the public interest does not require an oral evidentiary hearing or a show-cause proceeding on any of these applications. Because the public convenience and necessity bases for granting these applications are clear, and the applications are not controversial, we find that it is appropriate to use simplified, Subpart Q procedures to grant the requested authority.⁸

Terms, Conditions, and Limitations

Although, as we said above, the MOU represents a significant step toward a major liberalization of our aviation regime with Japan, that regime still technically remains a limited-entry regime. Consequently, consistent with our standard practice for limited-entry countries, the certificates awarded will be of five years' duration under 49 U.S.C. 41102(c).⁹

The applicants in this case that seek broad authority have proposed various ways in which we could grant the authority available under the new aviation accord. Some have suggested naming specific points for service; others have suggested broad route descriptions with or without attendant route integration authority. We have decided that the interests of the public and the carriers are best served if we award authority that will enable the carriers to perform the full range of the services provided for in the MOU without reference to specific points that can be served. In this manner, the carriers will have the maximum flexibility possible to respond to the demands for service in the market, without the need to obtain additional authorization from the Department.

3653. Moreover, we recently granted United exemption authority between Chicago and Osaka. (Notice of Action Taken, dated February 13, 1998, Docket OST-98-3440.).

⁷ See Order 97-11-2 for Continental Micronesia, Order 97-10-8 for Federal Express, Order 95-9-23 for Northwest, Order 96-11-28 for Polar, Order 97-10-8 for United, and Order 96-11-24 for UPS.

⁸ 14 CFR 302.1701 *et seq.* Under Rule 29(b) we may, in our discretion, omit a tentative decision in proceedings under Subpart Q and proceed directly to a final decision.

⁹ 14 CFR Part 399.120. We note that United requested that its authority be coextensive with that described for "incumbent carriers" in Tab A of the MOC. To the extent that United may be requesting a certificate of greater duration than that provided in our regulations, we dismiss its request.

Given the broad nature of the authority granted to third countries, however, we will add a condition that makes clear that our authorization of services to third countries includes only services 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.

It is our standard practice where service to more than one country is included on the same route segment to subject such operations to a condition that makes clear that all operations must comply with the relevant bilateral agreements with the countries involved and that the award of authority does not confer any authority in limited-entry markets unless and until the Department has completed the necessary carrier selection procedures to award the authority. In some cases, this condition is already included in the relevant certificate being amended. Where such a condition is not already included, or where we are issuing a new certificate, we will include the appropriate condition in the certificate authority granted here.

ACCORDINGLY,

1. We amend or issue in the form attached, certificates of public convenience and necessity to the applicants listed in the caption of this order;
2. We grant the motion of Federal Express Corporation for motion for leave to file an otherwise unauthorized document;
3. To the extent not granted, we deny all motions and requests in these dockets;
4. We will not entertain petitions for reconsideration of this order;¹⁰
5. Unless disapproved by the President of the United States under 49 U.S.C. 41307, this order and the attached certificates and certificate amendments shall become effective upon the 61st day after its submission for section 41307 review, or upon the date of receipt of advice from the President or his designee under Executive Order 12597 and implementing regulations that he or she does not intend to disapprove the Department's order under that section, whichever occurs earlier;¹¹ and

¹⁰ All parties have had a full opportunity to comment on the applications and no objections to those applications were filed.

¹¹ This order was submitted for section 41307 review on May 14, 1998. On June 19, 1998, we received notification that the President's designee, under Executive Order 12597 and implementing regulations, did not intend to disapprove the Department's order.

6. We will serve this order on the parties to the captioned dockets of this order, the Ambassador of Japan in Washington, DC, the U.S. Department of State (Office of Aviation Negotiations), and the Federal Aviation Administration.

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation
and International Affairs

(SEAL)

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

<u>Carrier</u>	<u>Dkt # Date filed</u>	<u>FR Cite</u>	<u>Authority Requested</u>	<u>Pleadings</u>
Continental Micronesia	OST-96-1200 3/28/96	61 FR (16020) 4/10/96	Scheduled combination service between Guam/Saipan and Niigata, Japan, and integrate this authority with its existing authority. Amend certificate for Route 171.	In 1996, Delta, Northwest, United and the Commonwealth of the Northern Mariana Islands filed answers. These pleadings are now moot in light of the 1998 MOU.
	OST-96-1201 3/28/96	61 FR (16020) 4/10/96	Scheduled combination service between Guam/Saipan and Okayama, Japan, and integrate this authority with its existing authority. Amend certificate for Route 171.	In 1996, Delta, Northwest, United and the Commonwealth of the Northern Mariana Islands filed answers. These pleadings are now moot in light of the 1998 MOU.
Federal Express	OST-98-3435 2/5/98	63 FR (7849) 2/17/98	Scheduled all-cargo service between any points in the United States, via any intermediate points, and any points in Japan, and beyond to any points outside of Japan. Amend certificate for Route 205-F.	Northwest and United filed answers that did not oppose the application but instead sought clarification of the authority to be granted. Federal Express filed a reply. We addressed these matters in the body of the order.
Northwest	OST-98-3441 2/6/98	63 FR (7849) 2/17/98	Scheduled combination service between any points in the United States, via specific intermediate points and any points in Japan, and beyond to specific points. Amend certificate for Route 129 or issue a new certificate. Scheduled all-cargo service between any points in the United States, via any intermediate points, and any points in Japan, and beyond to any points. Amend certificate for Route 129 or issue a new certificate.	United filed a consolidated answer that did not oppose the application but sought clarification. We addressed these matters in the body of the order.

<u>Carrier</u>	<u>Dkt # Date filed</u>	<u>FR Cite</u>	<u>Authority Requested</u>	<u>Pleadings</u>
Polar Air Cargo	OST-98-3491 2/17/98	63 FR (10060) 2/27/98	Scheduled all-cargo service between any points in the United States, and two points in Japan, and beyond each of those points to one beyond point, and integrate this authority with its existing authority. Amend certificate for Route 727.	None
United	OST-96-1131 3/4/96 Amendments 2/6/98 and 2/25/98	61 FR (10840) 3/15/96 63 FR (7849) 2/17/98 63 FR (11472) 3/9/98	Scheduled combination service between any points behind the United States, any points in the United States, via specific intermediate points and any points in Japan, and beyond to specific points, and integrate this authority with its existing authority. Amend certificate for Route 130.	Northwest filed a consolidated answer to one of the amendments that sought the imposition of a condition. We addressed this issue in the body of the order. In 1996, American Airlines, Continental Airlines, Northwest, Delta Air Lines, Trans World Airlines, ACCESS, and the Washington Parties filed various pleadings. These pleadings are now moot in light of the 1998 MOU.
UPS	OST-98-3477 2/12/98 Supplement 2/26/98	63 FR (9625) 2/25/98	Scheduled all-cargo service between any points in the United States, and two points in Japan, and beyond each of those points to two beyond points, and integrate this authority with its existing authority. Issue new certificate.	None

Continental Micronesia, Inc.

Certificate Amendment for **Route 171**

Add the following new route segments:

15. Between the coterminal points Saipan, Commonwealth of the Northern Mariana Islands; and Guam, on the one hand; and Niigata, Japan, on the other.

16. Between the coterminal points Saipan, Commonwealth of the Northern Mariana Islands; and Guam, on the one hand; and Okayama, Japan, on the other.

Add the following new conditions to read as follows:

() The holder may combine services on this certificate with all services authorized by other Department of Transportation certificates or exemptions, provided, that such operations are consistent with the applicable bilateral aviation agreements; and provided further, that (a) nothing in the award of the route integration authority requested should be construed as conferring upon the holder additional rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless the holder first 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 the holder's authority by virtue of the route integration authority granted here, but that are not then being used by the holder, the holding of such authority by route integration will not be considered as providing any preference for the holder in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

() The authority on segments 15 and 16 shall expire on June 19, 2003, unless the Department earlier suspends, modifies, or deletes the authority.

This certificate amendment shall become effective June 19, 1998.

* This certificate, last reissued by Order 97-11-2, is amended to reflect new authority between Guam/Saipan and Niigata and between Guam/Saipan and Okayama.

Federal Express Corporation

Certificate Amendment for **Route 205-F**

Add the following new route segment:

4. Between any point or points in the United States, via any intermediate point or points, and any point or points in Japan, and any point or points beyond.

Add the following new conditions to read as follows:

() The authority granted to serve intermediate and beyond points in conjunction with Japan service on this certificate 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.

() The holder may combine services on this certificate with all services authorized by other Department of Transportation certificates or exemptions, provided, that such operations are consistent with the applicable bilateral aviation agreements; and provided further, that (a) nothing in the award of the route integration authority requested should be construed as conferring upon the holder additional rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless the holder first 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 the holder's authority by virtue of the route integration authority granted here, but that are not then being used by the holder, the holding of such authority by route integration will not be considered as providing any preference for the holder in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

() The authority on segment 4 shall expire on June 19, 2003, unless the Department earlier suspends, modifies, or deletes the authority.

Amend the following conditions to read as follows:

(3) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any order of the Department of Transportation issued under them. To the extent that the holder has authority to serve more than one country or points in more than one country on the same route segment, that authority does not confer upon the holder any additional rights (including fifth-freedom intermediate and/or beyond rights) in limited-entry markets unless the holder has been specifically designated to conduct such services and the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights. In such cases, the fact that the carrier may hold authority to serve the countries (points) at issue on the same segment will not be considered as providing any preference to the holder in a carrier selection proceeding.

(8) The holder's authority over segments 3 and 4 shall be limited to the transportation of property and mail only.

This certificate amendment shall become effective June 19, 1998.

* This certificate, last reissued by Order 89-5-10 and amended by Orders 90-7-50, 90-10-11 and 94-6-5, is further amended to reflect new authority between the United States and Japan.

Northwest Airlines, Inc.

Certificate Amendment for **Route 129**

Add the following new route segment:

4. Between any point or points in the United States, via any intermediate point or points, and any point or points in Japan, and any point or points beyond.

Add the following new conditions to read as follows:

() The authority granted to serve intermediate and beyond points in conjunction with Japan service on segment 4 of this certificate 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.

() The holder may combine services on this certificate with all services authorized by other Department of Transportation certificates or exemptions, provided, that such operations are consistent with the applicable bilateral aviation agreements; and provided further, that (a) nothing in the award of the route integration authority requested should be construed as conferring upon the holder additional rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless the holder first 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 the holder's authority by virtue of the route integration authority granted here, but that are not then being used by the holder, the holding of such authority by route integration will not be considered as providing any preference for the holder in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

() The holder acknowledges that the authority on segment 4 of this certificate is granted to determine if the holder's projected services, efficiencies, methods, rates, fares, charges, and other projected results will, in fact, materialize and remain for a sustained period of time, and to determine whether the holder will provide the innovative and low-priced air transportation it proposed in its application for this authority.

() The authority on segment 4 shall expire on June 19, 2003, unless the Department earlier suspends, modifies, or deletes the authority.

Amend the following condition to read as follows:

(3) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any order of the Department of Transportation issued under them. To the extent that the holder has authority to serve more than one country or points in more than one country on the same route segment, that authority does not confer upon the holder any additional rights (including fifth-freedom intermediate and/or beyond rights) in limited-entry markets unless the holder has been specifically designated to conduct such services and the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights. In such cases, the fact that the carrier may hold authority to serve the countries (points) at issue on the same segment will not be considered as providing any preference to the holder in a carrier selection proceeding.

This certificate amendment shall become effective June 19, 1998.

* This certificate, issued by Order 90-6-44 and amended by Orders 92-3-38, is further amended to reflect new combination and all-cargo authority between the United States and Japan.



Certificate of Public Convenience and Necessity

For Route

727

(as reissued)

This Certifies That

Polar Air Cargo, Inc.

is authorized, subject to the provisions of Subtitle VII of Title 49 of United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign air transportation of property and mail.

This Certificate is not transferable without the approval of the Department of Transportation.

By Direction of the Secretary

**Issued by Order 98-6-22
On May 14, 1998
Effective on June 19, 1998**

**Charles A. Hunnicutt
Assistant Secretary for Aviation
and International Affairs**

Terms, Conditions and Limitations

Polar Air Cargo, Inc. for **Route 727**

is authorized to engage in 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 point.

This authority is subject to the following conditions:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.
- (2) The holder is not authorized to carry passengers (other than cargo attendants accompanying the freight shipments).
- (3) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any order of the Department of Transportation issued under them. To the extent that the holder has authority to serve more than one country or points in more than one country on the same route segment, that authority does not confer upon the holder any additional rights (including fifth-freedom intermediate and/or beyond rights) in limited-entry markets unless the holder has been specifically designated to conduct such services and the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights. In such cases, the fact that the carrier may hold authority to serve the countries (points) at issue on the same segment will not be considered as providing any preference to the holder in a carrier selection proceeding.
- (4) The authority granted to serve intermediate and beyond points in conjunction with Japan service on this certificate 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.

- (5) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.
- (6) The holder's authority is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA).
- (7) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).
- (8) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of 49 U.S.C. or the Department's regulations shall be sufficient grounds to revoke this certificate.
- (9) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(n)), it must first comply with the requirements of 14 CFR 204.5.
- (10) In the event that the holder ceases all operations for which it was found "fit, willing, and able," its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.
- (11) The holder may combine services on this certificate with all services authorized by other Department of Transportation certificates or exemptions, provided, that such operations are consistent with the applicable bilateral aviation agreements; and provided further, that (a) nothing in the award of the route integration authority requested should be construed as conferring upon the holder additional rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless the holder first 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 the holder's authority by virtue of the route integration authority granted here, but that are not then being used by the holder, the holding of such authority by route integration will not be considered as providing any preference for the holder in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

*As reissued by
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(12) The holder acknowledges that this certificate is granted to determine if the holder's projected services, efficiencies, methods, rates, fares, charges, and other projected results will, in fact, materialize and remain for a sustained period of time, and to determine whether the holder will provide the innovative and low-priced air transportation it proposed in its application for this authority.

This certificate shall become effective June 19, 1998. It shall expire five years thereafter, unless the Department earlier suspends, modifies, or deletes the authority.

* This certificate, originally issued by Order 96-11-28, is reissued to reflect additional authority between the United States and Japan and to incorporate new standard conditions applicable to U.S. carriers.

United Air Lines, Inc.

Certificate Amendment for **Route 130**

Add the following new route segment:

10. Between any point or points in the United States, via any intermediate point or points, and any point or points in Japan, and any point or points beyond.

Add the following new conditions to read as follows:

() The authority granted to serve intermediate and beyond points in conjunction with Japan service on segment 10 of this certificate 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.

() The authority on segment 10 shall expire on June 19, 2003, unless the Department earlier suspends, modifies, or deletes the authority.

This certificate amendment shall become effective June 19, 1998.

* This certificate, last reissued by Order 92-3-38 and amended by Orders 94-7-13 and 97-10-8, is further amended to reflect new combination and all-cargo authority between the United States and Japan.



Certificate of Public Convenience and Necessity

**For Route
581
(as reissued)**

This Certifies That

United Parcel Service Company

is authorized, subject to the provisions of Subtitle VII of Title 49 of United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign air transportation of property and mail.

This Certificate is not transferable without the approval of the Department of Transportation.

By Direction of the Secretary

**Issued by Order 98-6-22
On May 14, 1998
Effective on June 19, 1998**

**Charles A. Hunnicutt
Assistant Secretary for Aviation
and International Affairs**

Terms, Conditions and Limitations

United Parcel Service Company, Inc. for **Route 581**

is authorized to engage in 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 points.

This authority is subject to the following conditions:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.
- (2) The holder is not authorized to carry passengers (other than cargo attendants accompanying the freight shipments).
- (3) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any order of the Department of Transportation issued under them. To the extent that the holder has authority to serve more than one country or points in more than one country on the same route segment, that authority does not confer upon the holder any additional rights (including fifth-freedom intermediate and/or beyond rights) in limited-entry markets unless the holder has been specifically designated to conduct such services and the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights. In such cases, the fact that the carrier may hold authority to serve the countries (points) at issue on the same segment will not be considered as providing any preference to the holder in a carrier selection proceeding.
- (4) The authority granted to serve intermediate and beyond points in conjunction with Japan service on this certificate 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.
- (5) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.
- (6) The holder's authority is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA).

- (7) The holder shall at all times remain a “Citizen of the United States” as required by 49 U.S.C. 40102(a)(15).
- (8) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of 49 U.S.C. or the Department’s regulations shall be sufficient grounds to revoke this certificate.
- (9) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(n)), it must first comply with the requirements of 14 CFR 204.5.
- (10) In the event that the holder ceases all operations for which it was found “fit, willing, and able,” its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.
- (11) The holder may combine services on this certificate with all services authorized by other Department of Transportation certificates or exemptions, provided, that such operations are consistent with the applicable bilateral aviation agreements; and provided further, that (a) nothing in the award of the route integration authority requested should be construed as conferring upon the holder additional rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless the holder first 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 the holder’s authority by virtue of the route integration authority granted here, but that are not then being used by the holder, the holding of such authority by route integration will not be considered as providing any preference for the holder in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

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(12) The holder acknowledges that this certificate is granted to determine if the holder's projected services, efficiencies, methods, rates, fares, charges, and other projected results will, in fact, materialize and remain for a sustained period of time, and to determine whether the holder will provide the innovative and low-priced air transportation it proposed in its application for this authority.

This certificate shall become effective June 19, 1998. It shall expire five years thereafter, unless the Department earlier suspends, modifies, or deletes the authority.

* This certificate, originally issued by Order 90-8-57, is reissued to reflect additional authority between the United States and Japan and to incorporate new standard conditions applicable to U.S. carriers.