



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

Issued by the Department of Transportation
on the 28th day July, 1998

Served: July 28, 1998

In the matter of

U.S.-TOKYO AIR SERVICES

Undocketed

ORDER TO SHOW CAUSE

Summary

By this order we have tentatively decided to award the 22 available slots for U.S.-Tokyo services as follows: Polar Air Cargo, Inc.(Polar)--16 slots; United Parcel Service (UPS)--2 slots; Delta Air Lines, Inc.--2 slots ; and American Airlines--2 slots (winter season only). We will afford interested parties until July 31, 1998, to file objections to our tentative decision and until 3 p.m. EDT August 4, 1998, to file answers to any objections.

Background

Under the April 1998 U.S.-Japan Memorandum of Understanding, the United States and Japan agreed to expand the opportunities for combination and all-cargo air services in the U.S.-Japan and beyond markets.¹ Recognizing the clear public interest reasons for implementing the valuable rights under the accord as quickly as possible, the Department awarded new authority to combination and all-cargo carriers for services pursuant to the MOU.² On June 26, 1998, the Department was notified by Japanese authorities that 22 additional weekly slots at Tokyo's Narita Airport would be available, beginning with the 1998/99 winter season, for services by U.S. carriers, and requested that the United States notify Japan no later than August 12 regarding which U.S. carrier services would be authorized to use the available slots.³ By Notice dated July 8, 1998, the Department requested that all carriers authorized to serve Tokyo and interested in award of the available slots file information with respect to their current and proposed operations so that we could meet Japan's request. We required that this information be filed by July 13 and that any answers to this information be filed by July 16.

Responses to DOT Notice

¹ On January 30, 1998, delegations of the United States and Japan signed a Memorandum of Consultations that attached understandings regarding the elements to be included in a Memorandum of Understanding. The MOU was formally concluded by an Exchange of Notes dated April 20, 1998.

² See Orders 98-5-17 and 98-3-34, and Notices of Action Taken dated March 31, 1998 with respect to the award of carrier authorities.

³ Two of the 22 slots are available for winter season operations only. A slot is required for each take-off and landing and, thus, two slots would be required for each round-trip operation.

Nine U.S. carriers filed responses to the Department's notice. The requests are summarized below:

Carrier Market	Slots Needed	Carrier Priority
American	New York-Tokyo	14
	Boston-Tokyo	14
	San Jose-Tokyo	2
Delta	Honolulu-Tokyo	12
	Los Angeles-Tokyo	2
Continental/ Continental Micronesia ⁴	Houston-Tokyo	14
	Honolulu-Tokyo	8
Trans World Airlines	St. Louis-Tokyo ⁵	14
Hawaiian	Maui-Tokyo ⁶	14
Polar Air	Anchorage-Tokyo-Manila	20
UPS	Tokyo-Taipei	6
TOTAL		106

American states that the combination awards granted by Order 98-5-17 were given for 1998 services, and that its proposal to commence New York-Tokyo service has the earliest startup date (November 1, 1998) and, thus, should be given first priority. Delta maintains that its requests should be given priority because it is the only combination carrier without a relationship with either an incumbent U.S. or Japanese airline. In this regard, Delta states that it is the only applicant without the ability to serve Honolulu and that such access is necessary for it to compete in the market. Delta further states that, unlike continental U.S. passengers, absent direct service, Honolulu passengers do not have other options for service to Japan. Continental states that it is the only carrier proposing to begin service at a new gateway and that the other carriers already serve Tokyo from more gateways than Continental. Continental Micronesia states that additional Honolulu-Tokyo flights are necessary for Continental Micronesia to maintain its Micronesia/Honolulu-Japan services. Polar argues that it is the only applicant without access to Tokyo and that such access is critical to Polar's competitive position in the market. While Polar seeks a total of 20 slots for its U.S.-Tokyo-Manila services, it states that it could operate an economic service with 16 slots and would accept such an award in this case. UPS argues that additional slots are needed for it to implement the important beyond-Tokyo rights now available under the U.S.-Japan aviation accord and also states that it would accept an award of fewer slots to augment its services.

Trans World Airlines, Inc. and Hawaiian Airlines, Inc. also filed responses. Neither carrier has plans to commence Tokyo operations during the 1998/99 winter season, but both urge the Department to ensure that slots are available so that they will be able to inaugurate Tokyo services in the future. TWA notes that it needs such assurances in order to make the capital investment necessary for its St. Louis-Tokyo service which it plans to begin in June 1999.

⁴ Services operated by Continental Airlines and its affiliates, Continental Micronesia and Air Micronesia, are provided under one designation.

⁵ TWA was granted certificate authority to serve the St. Louis-Tokyo market by Order 98-5-17.

⁶ The Department tentatively awarded authority to Hawaiian to serve the Maui-Tokyo market for services beginning in January 2000 by Order 98-3-15. The Department has not yet finalized that award.

Federal Express Corporation also filed a response to the Department's Notice describing its current and proposed all-cargo operations in the U.S.-Japan market, but does not seek award of any of the 22 available slots.

Answers to the responses were filed by American, Continental/Continental Micronesia, Delta, Polar, UPS, the City of Houston and the Greater Houston Partnership, Massport, the City of San Jose and the San Jose International Airport, the State of Hawaii, and the Port Authority of New York and New Jersey.⁷

The combination carrier parties argue that nonstop U.S.-Tokyo combination services are more valuable than U.S.-Tokyo and beyond-Tokyo cargo services and, thus, that the available slots should be awarded to the combination service proposals. The cargo carrier parties, on the other hand, contend that the Department should give priority to cargo services in this case. In support of this position, UPS argues that cargo operations serve more customers than passenger services and, thus, provide greater economic benefits; Polar contends that all of the incumbent combination carrier parties already obtained slots earlier this year and all have a major alliance in hand.

All carriers with 1998/99 winter season proposals argue against using the available slots for future services by TWA or Hawaiian, arguing that we should address the slot needs of these carriers when they are in a position to operate their services. A number of parties also object to any award to American in light of its relationship with JAL and to Continental or Continental Micronesia in light of their relationship with Northwest.

Each of the Civic Parties strongly supports the requests of the carrier(s) proposing service from its city, citing the benefits that such service would bring to the economy of the region served.

Tentative Decision

We have tentatively decided to award the 22 available Narita slots as follows: 16 slots to Polar for Anchorage-Narita-Manila services; 2 slots to UPS for Tokyo-Taipei services; 2 slots to Delta for Los Angeles-Tokyo services; and 2 slots (winter season only) to American for San Jose-Tokyo services.

The new aviation accord between the United States and Japan signed this year represents a significant step toward a more liberalized aviation regime with Japan and makes possible, for the first time in many years, the opportunity to expand combination and all-cargo services between the United States and Japan, as well as in important beyond-Japan markets.

The traveling public has already realized important new services under the accord's provisions for combination services. American and Delta both have inaugurated services from their major hubs, American from Chicago and Delta from Atlanta, and Continental has plans to begin daily service from its Newark hub in November. In addition, United Air Lines has increased services from its hub at Chicago, and Northwest Airlines has inaugurated a new service from Las Vegas. Furthermore, combination carriers have also inaugurated or plan to inaugurate services to Japanese cities other than Tokyo, including services in the Chicago-Osaka, Portland-Osaka, Portland-Fukuoka, Dallas/Ft. Worth-Osaka, Guam-Niigata, and Guam-Okayama markets. Thus, passengers have already derived substantial benefits through improved service and enhanced competition from the new accord and our authorizations. In these circumstances, we tentatively find that the public interest is best served by now providing enhanced public benefits to shippers and their consumers. We can best achieve this objective of obtaining more cargo service and competition by awarding the majority of the available slots to all-cargo carriers.

A significant aspect of the 1998 accord is the provision for expansion of all-cargo service in the U.S.-Japan market and in markets beyond Japan by the three all-cargo carriers authorized to serve the market--Federal Express, UPS, and Polar. Specifically, the accord expands the rights for Federal Express, the dominant cargo airline serving the market. It also provides for expansion of rights for the other cargo airlines, UPS and Polar, including the right for Polar to

⁷ In addition, a number of travel agencies filed letters in support of American's request for slots for its New York services. Continental submitted a letter from the members of the Houston Congressional delegation in support of Continental's slot request for its Houston service.

serve Tokyo and the right for both carriers to operate beyond Tokyo on a limited basis with local traffic rights.⁸ The additional available slots provide an important opportunity to realize substantial benefits from the valuable all-cargo rights under the accord as we already have from the combination rights.

Tokyo has long been recognized as a key for competitive services in the U.S.-Japan and U.S.-Asia cargo markets. Federal Express, UPS, and Northwest, as well as Japan Airlines and Nippon Cargo Airlines, serve Tokyo, and all but UPS have also operated services beyond Tokyo. A critical objective in negotiating this aviation accord was the right for all of the authorized U.S. cargo airlines to serve Tokyo and beyond-Tokyo markets, thereby maximizing the range of competitive services available to the shipping public. Having achieved that objective in the MOU, we tentatively find that it is important to ensure that these benefits can be realized, and that this consideration is entitled to significant weight in the context of this case.

Federal Express currently operates 46 weekly flights in U.S.-Japan and beyond markets and has not requested any additional slots here. UPS has obtained slots to operate three flights beyond Tokyo, but was unsuccessful in obtaining enough slots to operate the remaining three flights it seeks to operate. Polar was not successful in obtaining slots for any of its authorized Tokyo or beyond-Tokyo services.

Against this background, we have tentatively decided to award 16 slots to Polar and two to UPS. These awards would ensure Polar access to Tokyo (a benefit already enjoyed by UPS) and would enable both UPS and Polar to operate four weekly round-trip flights in beyond-Tokyo markets--Taipei for UPS and Manila for Polar. With these awards, all U.S. cargo airlines would be in a position to operate services between the U.S. and Tokyo and in beyond markets, increasing the range of services available to the shipping public and promoting competition not only among U.S. airlines, but also, between U.S. and Japanese carrier services.

Taking into consideration these awards, four additional slots would remain available--two for year-round service and two for winter-season only operations. We have tentatively concluded that those slots should be awarded to Delta to increase its Los Angeles-Tokyo service and to American to increase its San Jose-Tokyo service. Prior to the 1998 accord, certain U.S. carrier services, including Delta's Los Angeles service and American's San Jose service, were limited to no more than six weekly flights. The ability to offer a daily service can be critical to operation of a fully competitive service and the civic parties to this proceeding have confirmed not only the desire, but the need for daily service to be available. Both Delta and American have had long-standing requests to operate daily services in these markets. These circumstances do not pertain to any of the other combination carrier requests, nor have these carriers indicated that they would be able to use an allocation of only two slots. The award of slots here would enable them to increase their services at these cities. We propose to award American the two winter-season only flights, since it has expressed its willingness to accept these slots in order to increase its services, and to award Delta the remaining two slots.

Finally, we recognize the interests of TWA and Hawaiian in operating Tokyo services in the future. Neither carrier, however, is in a position to use the slots in the 1998/99 winter season. In these circumstances, we tentatively find that an award to either carrier would not maximize our public interest goals in this proceeding.⁹

As noted earlier, the Japanese authorities have required notification no later than August 12 of the carrier services authorized to use the available slots. Therefore, it is necessary to provide an accelerated procedural schedule to complete this case. Accordingly, we will require that objections to our tentative decision be filed no later than July 31, and that answers to objections be filed no later than 3 p.m. EDT on August 4. Because of the accelerated procedural schedule, we will authorize service by facsimile and/or electronic mail. Parties, however, should state if

⁸ Polar may serve one point beyond Tokyo; UPS may serve two points. Both carriers are limited to a total of six weekly flights beyond Tokyo.

⁹ TWA has stated that if awarded slots for its St. Louis services, it would not object to temporary use of the slots by another carrier, provided that they revert to TWA for inauguration of its services in June 1999. However, such a result could undermine long-term realization of the cargo provisions of the accord, a result which we tentatively believe would not be in the public interest.

they want service by email or fax and should provide interested parties with their FAX numbers and/or email addresses.

ACCORDINGLY,

1. We tentatively award the 22 1998/99 slots for services at Tokyo's Narita Airport as follows:

Polar Air Cargo:	16 slots
United Parcel Service:	2 slots
Delta Air Lines:	2 slots
American Airlines:	2 slots (winter season only);

2. We direct any interested parties having objections to our tentative decision in this order to file their objections with the Department, 400 Seventh Street, S.W., Room 6412, Washington, D.C., attention: Director, Office of International Aviation, no later than July 31, 1998; answers to objections should be filed no later than 3 p.m. on August 4, 1998;¹⁰

3. If timely and properly supported objections are filed, we will accord full consideration to the matters or issues raised by the objections before we take further action;

4. If no objections are filed, we will deem all further procedural steps to be waived and will proceed to a final order; and

¹⁰ All submissions should be on 8½" X 11" paper using dark (not green) ink, and be unbound, without tabs, which will facilitate use of our docket imaging system.

5. We will serve this order on all parties to this proceeding; the Ambassador of Japan in Washington, D.C.; and the United States Department of State (Office of Aviation Negotiations).

By:

PATRICK V. MURPHY
Deputy Assistant Secretary for Aviation
and International Affairs

(SEAL)

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