



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

Issued by the Department of Transportation
on the 22nd day of February, 1999

Served: April 1, 1999

Applications of

American Trans Air, Inc.

Continental Micronesia, Inc.

Trans World Airlines, Inc.

Dockets OST-95-962

**OST-98-4660
OST-99-5002**

OST-98-4707

**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**

ORDER ISSUING CERTIFICATES

The captioned applicants seek grant, renewal, and/or amendment of certificates of public convenience and necessity under section 41102 of Title 49 of the United States Code. The applications are fully described in the attachments to this order. Because the public convenience and necessity bases for granting these applications are clear, and the applications are not controversial, it is appropriate to use this simplified, Subpart Q procedure to grant the requested authority.¹

¹ 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.

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 relevant descriptive attachment, 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. Except as noted in individual attachments, no answers to these applications were filed.

Public Convenience and Necessity

We find that grant or amendment of these certificates is consistent with the public convenience and necessity. Where, as noted, the services authorized are the subject of a bilateral agreement, the certificate is consistent with the agreement and uses rights for which the United States has exchanged valuable operating rights. For authority which is not the subject of a bilateral agreement, the grant is consistent with the overall state of aviation relations between the United States and the foreign countries involved. All of the authority conferred here contributes to the variety of price and service options available to travelers and shippers.

Fitness/Citizenship

Each applicant is a citizen of the United States as defined in 49 U.S.C. 40102(a)(15). Each is an operating certificated air carrier for which the authority at issue here would not constitute a substantial change in operations which would require further review by the Department. No information has come to our attention which leads us to question the fitness of the applicants to conduct air transportation operations. Therefore, on the basis of data officially noticeable under Rule 24(n) of the Department's regulations, we find each applicant is fit, willing and able to provide the services authorized.

Terms, Conditions and Limitations

Each certificate of public convenience and necessity is subject to the standard terms, conditions, and limitations we consistently impose in the public interest. Duration of certificate authority is determined by the nature of the routes at issue. Where routes may be served by multiple U.S. carriers, without restrictions on additional entrants, the certificates are of indefinite duration. Where limited-entry routes are involved, we issue temporary, experimental certificates of five years' duration under 49 U.S.C. 41102(c).² The certificate issued to Continental Micronesia to serve Japan is granted for a five-year term; the certificates issued to American Trans Air to serve Ireland and Trans World Airlines to serve Canada are for an indefinite duration.

² 14 CFR Part 399.120.

Pendente Lite Exemptions

For those services operated under current exemptions, those exemptions will expire in accordance with their own terms 90 days after we submit this order for review under 49 U.S.C. 41307. For those routes operated under expired exemptions and kept in force by 5 U.S.C. 558(c), the exemption renewal applications on file will be dismissed by separate order, upon the effectiveness of the corresponding certificates of public convenience and necessity. The attachments cite the relevant currently held authority.

Findings and Conclusions

In view of the foregoing and all the facts of record, we find and conclude that:

1. It is consistent with the public convenience and necessity to amend or issue each applicant a certificate in the form attached;
2. Each applicant is a citizen of the United States and is fit, willing and able to perform properly the foreign air transportation described in the attached certificate or certificate amendment and to conform to the provisions of Subtitle VII of Title 49, United States Code (Transportation), and to the Department's rules, regulations, and requirements;
3. The public interest requires that the exercise of the privileges granted by the attached certificates and certificate amendments be subject to the terms, conditions and limitations contained in and attached to those certificates and to such others required by the public interest as the Department may prescribe;
4. Except as otherwise noted in the attachments, the issuance of each of these certificates and certificate amendments does not 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;³ and
5. The public interest does not require an oral evidentiary hearing or a show-cause proceeding on any of these applications. There are no material, determinative issues of fact requiring such procedures for their resolution.

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;

³ Our finding is based on the fact that grant of each application would not result in a near-term increase in annual fuel consumption in excess of 10 million gallons.

2. To the extent not granted, dismissed or deferred, we deny all motions and requests in these dockets;
3. We will not entertain petitions for reconsideration of this order;⁴
4. 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;⁵ and
5. We will serve this order on the parties to the captioned dockets of this order, the Ambassador in Washington, DC of each country that the applicants seek authority to serve, 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)

⁴ All parties have had a full opportunity to comment on the applications filed. In each case, no answers were filed to the applications for new or amended certificate authority included in this order.

⁵ This order was submitted for section 41307 review on February 22, 1999. On March 29, 1999, we received notification that the President's designee, under Executive Order 12597 and its implementing regulations, did not intend to disapprove the Department's order.

American Trans Air, Inc.

New Certificate of Public Convenience and Necessity

Filed: 12/22/95 **Docket:** OST-95-962 **Notice:** 61 FR (214) 1/3/96

- I. **Authority Sought:** Scheduled foreign air transportation of persons, property, and mail between New York, New York, on the one hand and Shannon and Dublin, Ireland, on the other.

- II. **Relevant Currently Held Authority:** American Trans Air currently holds exemption authority between New York, New York, on the one hand, and Dublin and Shannon, Ireland, on the other. (See Order 98-1-23.)

- III. **Pleadings:** No answers were filed.

- IV. **Public Convenience and Necessity:** The authority granted is consistent with the aviation agreement between the United States and Ireland.

- V. **Fitness/Citizenship:** American Trans Air has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation of persons, property, and mail as a certificated air carrier under section 41102 of Title 49 U.S.C. See, e.g., Order 98-4-3. The foreign air transportation does not constitute a substantial change in operations under Part 204 of the Department's regulations, warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question American Trans Air's fitness to conduct the air transportation operations authorized here.

- VI. **Terms, Conditions, and Limitations:** Standard. We will issue American Trans Air a certificate for new authority between New York, on the one hand, and Shannon and Dublin, Ireland, on the other.

- VII. **Duration:** Indefinite.



Certificate of Public Convenience and Necessity

For Route

780

This Certifies That

American Trans Air, 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 persons, property, and mail.

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

By Direction of the Secretary

**Issued by Order 99-3-27
On February 22, 1999
Effective on March 29, 1999**

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

Terms, Conditions and Limitations

American Trans Air, Inc., for **Route 780**

is authorized to engage in scheduled foreign air transportation of persons, property, and mail:

Between New York, New York, on the one hand, and Shannon and Dublin Ireland, on the other.

The 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 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.

(3) 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.

(4) The holder's authority is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA).

(5) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).

(6) 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.

(7) 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.

(8) 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.

This certificate shall become effective March 29, 1999.

*This certificate is issued to reflect new authority in the New York-Shannon/Dublin market. It also incorporates new standard terms and conditions applicable to U.S. carriers.

Continental Micronesia, Inc.

Renewal of Certificate for **Route 171** (Segments 7 and 14)

Filed: 10/28/98 **Docket:** OST-98-4660 **Notice:** 63 FR (60338) 11/6/98
1/13/99 OST-99-5002 64 FR (3737) 1/25/99

- I. **Authority Sought:** (1) Docket OST-98-4660: Renew segment 7 of Route 171 to provide scheduled foreign air transportation of persons, property, and mail between the coterminal points Saipan, Commonwealth of the Northern Mariana Islands, and Guam, on the one hand, and Naha, Japan, on the other; and (2) Docket OST-99-5002: Renew segment 14 of Route 171 to provide scheduled foreign air transportation of persons, property, and mail between the coterminal points Saipan, Commonwealth of the Northern Mariana Islands, and Guam, on the one hand, and Osaka, Japan, on the other.
- II. **Relevant Currently Held Authority:** Continental Micronesia currently holds certificate authority on segments 7 and 14 of Route 171 to serve the above route (Orders 94-4-41, 94-7-13, and 97-11-2). Under the terms of the certificate, Continental Micronesia's authority on segments 7 and 14 will expire on April 26, and July 12, 1999, respectively. Continental Micronesia filed timely applications for renewal of its certificate authority.
- III. **Pleadings:** No answers were filed.
- IV. **Public Convenience and Necessity:** The authority requested is consistent with the aviation agreement between the United States and Japan.
- V. **Fitness/Citizenship:** Continental Micronesia has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation of persons, property, and mail as a certificated air carrier under section 41102 of Title 49 U.S.C. See, e.g., Order 98-6-22. The foreign air transportation does not constitute a substantial change in operations under Part 204 of the Department's regulations, warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question Continental Micronesia's fitness to conduct the air transportation operations authorized here.
- VI. **Terms, Conditions and Limitations:** Standard. We will amend conditions (11) and (16) of Continental Micronesia's certificate for Route 171 to reflect renewal of the authority requested for an additional five (5) years. The authority is otherwise subject to the same terms, conditions, and limitations as already contained in that certificate.

VII. Duration: Five years. 49 U.S.C. § 41102(c).

Terms, Conditions and Limitations

Certificate Amendment for **Route 171**

Amend condition (11) as follows:

(11) The authority on segment 7 shall expire March 29, 2004; unless the Department earlier suspends, modifies or deletes the authority.

Amend condition (16) as follows:

(16) The authority on segment 14 shall expire March 29, 2004; unless the Department earlier suspends, modifies or deletes the authority.

This certificate amendment shall become effective March 29, 1999.

*The certificate for Route 171, last reissued by Order 98-6-22, is amended to reflect renewal of the authority on segment 7 (Guam/Saipan-Naha) and segment 14 (Guam/Saipan-Osaka) for an additional five years.

Trans World Airlines, Inc.

New Certificate of Public Convenience and Necessity

Filed: 11/4/98 **Docket:** OST-98-4707 **Notice:** 63 FR (63956) 11/17/98

I. Authority Sought: Scheduled foreign air transportation of persons, property, and mail between any point in the United States, on the one hand, and any point in Canada, on the other.

II. Relevant Currently Held Authority: TWA currently holds certificate authority for service in the St. Louis-Toronto market (Orders 95-11-1 and 96-5-21). In addition, TWA holds broad exemption authority for service between a point or points in the United States and a point or points in Canada. (See Notice of Action Taken dated November 20, 1998, in Docket OST-98-4708.)

III. Pleadings: No answers were filed.

IV. Public Convenience and Necessity: The authority granted is consistent with the aviation agreement between the United States and Canada.

V. Fitness/Citizenship: TWA has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation of persons, property, and mail as a certificated air carriers under section 41102 of Title 49 U.S.C. See, e.g., Order 90-6-44. The foreign air transportation authorized does not constitute a substantial change in operations under Part 204 of the Department's regulations, warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question TWA's fitness to conduct the air transportation operations authorized here.

VI. Terms, Conditions and Limitations: Standard.

VII. Duration: Indefinite.



**Certificate
of Public Convenience and Necessity**

For Route

781

This Certifies That

Trans World Airlines, 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 persons, property, and mail.

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

By Direction of the Secretary

**Issued by Order 99-3-27
On February 22, 1999
Effective on March 29, 1999**

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

Terms, Conditions and Limitations

Trans World Airlines, Inc. for **Route 781**

is authorized to engage in scheduled foreign air transportation of persons, property, and mail:

Between any point or points in the United States and any point or points in Canada.

The 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 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.
- (3) 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.
- (4) The holder's authority is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA).
- (5) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. § 40102(a)(15).

(6) 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.

(7) 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.

(8) 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.

(9) Any all-cargo services operated under this certificate shall be subject to the following condition:

Points in the territory of Canada shall not be combined on any same plane scheduled or nonscheduled all-cargo courier service operated with aircraft having a maximum takeoff weight greater than 35,000.

(10) In addition to the authority granted on this certificate, the holder may also conduct operations beyond points in Canada to points in third countries that it holds authority to serve, without local traffic rights between points in Canada and such other points in third countries (i.e. on a blind-sector basis).

This certificate shall become effective March 29, 1999.

*This certificate is issued to reflect new authority in the U.S.-Canada market. It also incorporates new standard terms and conditions applicable to U.S. carrier certificates and specific conditions applicable to U.S.-Canada operations.