

Posted: 4/15/99  
10:35 a.m.

Order 99-4-15



**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.**

Issued by the Department of Transportation  
on the **14th day of April, 1999**

**Served: April 19, 1999**

Complaint of

**NORTHWEST AIRLINES, INC.**

Against

**THE COUNCIL OF THE EUROPEAN  
UNION AND THE GOVERNMENTS OF  
THE 15 EU MEMBER STATES**

under 49 U.S.C. § 41310

**Docket OST-99-5011**

**ORDER**

On January 15, 1999, Northwest Airlines, Inc. (Northwest) filed a complaint under 49 U.S.C. § 41310 against the Council of the European Union and the Governments of the 15 EU Member States (referred to as the EU and the Member States). Northwest states that the EU is in the final stages of enacting a regulation that would restrict the use of hushkitted aircraft, and that, if enacted, the regulation would unreasonably restrict U.S. operators' access to Europe in contravention of U.S. rights under the Chicago Convention and bilateral air services agreements. Northwest urges the Department to take action to redress the economic harm caused by the EU regulation, which it argues constitutes an "unjustifiable or unreasonable...practice against an air carrier" and "imposes an unjustifiable or unreasonable restriction on access of an air carrier to a foreign market," warranting action under the statute.<sup>1</sup>

Section 41310 provides that the Department shall approve, deny, dismiss, or set a complaint for hearing, or institute other procedures proposing remedial action, within 60 days after receipt of the complaint. We may extend the period for taking action up to 90 days from the date of the complaint if we conclude that it is likely that the complaint can be resolved satisfactorily through negotiations. We may further extend the action deadline up to 180 days from receipt of the complaint, in 30-day increments, if we find that intergovernmental negotiations have progressed to a point that a satisfactory resolution of the complaint appears imminent.

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<sup>1</sup> We summarized the complaint more fully in Order 99-1-10.

By Order 99-1-10, the Department invited all interested persons to answer Northwest's complaint in Docket OST-99-5011. British Airways PLC and Virgin Atlantic Airways Limited (filed jointly); Lufthansa German Airlines; the Cargo Airline Association; Societé Air France; Quiet Technology Venture, Ltd.; the National Air Carrier Association; Pratt & Whitney; the Air Transport Association of America; AvAero; Federal Express Corporation; Fine Air Services, Inc.; Intrepid Aviation Partners, L.L.C.; United Air Lines, Inc.; Delta Air Lines, Inc.; Kitty Hawk Aircargo, Inc. and American International Airways, Inc. (filed jointly); the Nordam Group, Inc.; Burbank Aeronautical Corporation and ABS Partnership and Duganair Technologies, Inc. (filed jointly); ABX Air, Inc.; and the Association of European Airlines filed answers. Northwest filed a reply to the answers.

By Order 99-3-10, the Department extended the deadline for action on Northwest's complaint through April 15, 1999, citing a number of consultations between the United States and the European Union, including a meeting between the Secretary of Transportation and EU Transport Commissioner Neil Kinnock. Further diplomatic efforts, including additional discussions with the EU, are continuing. In light of these ongoing initiatives, we believe that the public interest is best served by extending for 30 days the deadline for action on Northwest's complaint to provide additional time for these diplomatic initiatives to resolve this matter.

**ACCORDINGLY,**

1. We will extend through May 15, 1999, the period for taking action on the complaint of Northwest Airlines, Inc., in Docket OST-99-5011; and
2. We will serve this order on all parties to the complaint of Northwest Airlines, Inc., in Docket OST-99-5011; the Ambassadors of the Delegation of the Commission of the European Communities, the Federal Republic of Germany, France, and the United Kingdom in Washington D.C.; the U.S. Department of State (Office of Aviation Negotiations); the Assistant U.S. Trade Representative (Office of the United States Trade Representative); and the U.S. Department of Commerce (Office of Service Industries).

By:

**A. Bradley Mims**  
Acting Assistant Secretary for Aviation  
and International Affairs

(SEAL)

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