



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

Issued by the Department of Transportation on April 8, 1999

NOTICE OF ACTION TAKEN -- DOCKET OST-99-5443

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Joint Application of Northwest Airlines, Inc., and Air China International Corp. filed 3/26/99 in Docket OST-99-5443:

XX Exemption for Northwest Airlines, Inc., for two years under 49 U.S.C. 40109 to provide the following service:

Scheduled foreign air transportation of mail between New York, New York (JFK), on the one hand, and Beijing and Shanghai, People's Republic of China ("PRC"). Northwest intends to operate this service under a code-share arrangement with Air China beginning on or about May 1, 1999.

XX Statement of Authorization for Air China International Corp. under 14 CFR Part 212 to:

Display Northwest's designator code on flights operated by Air China between Beijing and Shanghai, on the one hand, and New York (JFK) and Chicago (ORD), on the other hand, for the purpose of transporting mail. Air China has requested the authority for an indefinite duration.¹

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

DISPOSITION

XX Granted (subject to conditions, see below)

The exemption authority granted was effective when taken: April 8, 1999, through April 8, 2001.

The statement of authorization was effective when taken: April 8, 1999, and will remain in effect indefinitely, subject to the conditions listed below:

**Action taken by: Paul L. Gretch, Director
Office of International Aviation**

XX Authority granted is consistent with the U.S.-China Civil Air Transport 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 statement of authorization granted here to Air China is subject to the following conditions:

(1) The statement of authorization will remain in effect only as long as (i) Northwest Airlines, Inc. and Air China International Corp. 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.²

¹ Northwest holds certificate authority on Route 378 to serve the Chicago-Shanghai/Beijing markets.

² The parties state that the exclusivity provision of the May 12, 1998 Commercial Cooperation Agreement does not apply to mail services. Should the parties subsequently decide to amend their code-share agreement to include any provision relating to an exclusive arrangement between the parties regarding mail, that amended language must first be submitted for consideration by the Department.

(See Reverse Side)

(2) Northwest and/or Air China must promptly notify the Department if the code-share agreement providing for the code-share operations is no longer effective or if the carriers decide to cease operating all or a portion of the approved code-share services.³ (Such notices should be filed in Docket OST-99-5443.)

(3) The code-sharing operations conducted under this authority must comply with 14 CFR 399.88 and with any amendments to the Department's regulations concerning code-share arrangements that may be adopted. Notwithstanding any provisions in the contract between the carriers, our approval here is 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 accept responsibility for the entirety of the code share journey for all obligations established in its contract of carriage with the shipper; that the shipper 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.

(4) The authority granted here is specifically conditioned so that neither Air China nor Northwest shall give any force or effect to any contractual provisions between themselves that are contrary to these conditions.

Remarks: We acted on this application without awaiting expiration of the 15-day answer period with the consent of all parties served.

On the basis of data officially noticeable under Rule 24(n) of the Department's regulations, we found the applicant qualified to provide the services authorized.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) immediate action was required and was consistent with Department policy; (2) grant of the authority was consistent with the public interest; and (3) grant of the authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within ten (10) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

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

³ We expect this notification to be received within 10 days of such non-effectiveness or of such decision.

APPENDIX**U.S. Carrier**
Standard Exemption Conditions

In the conduct of operations authorized by the attached notice, 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 (for scheduled operations, if authorized);
- (3) Comply with the requirements for reporting data contained in 14 CFR 241;
- (4) Comply with requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Except as specifically exempted or otherwise provided for in a Department Order, 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 shall be effective only during the period when the holder is in compliance with the conditions imposed above.