

Posted: 4/14/99
11:30 a.m.



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

NOTICE

Served: April 14, 1999

**U.S.-CHINA AIR SERVICES
Docket OST-99-5539**

On April 8, 1999, representatives of the United States and the People's Republic of China signed a Protocol that amends the U.S.-China Air Transport Services Agreement. The Protocol provides for the expansion of U.S.-carrier services in the market in phases beyond the 27 weekly frequencies authorized prior to the new agreement as follows:

- (a) effective April 1, 1999, designated U.S. airlines may operate a total of eight additional weekly frequencies;
- (b) effective April 1, 2000, designated U.S. airlines may operate a total of nine additional weekly frequencies; and
- (c) effective April 1, 2001, the U.S. may designate a fourth U.S. carrier and the designated U.S. carriers may operate a total of ten additional weekly frequencies.

The additional frequencies may be operated by designated airlines on Routes A and B.¹ On Route A, any designated U.S. airline may operate combination and all-cargo services with full traffic rights between any point or points in the United States, via Tokyo or another point in Japan, to Shanghai, Guangzhou, Beijing.² The new agreement amends Route A to permit service from any point(s) in the United States rather than specific U.S. gateways as provided for under the old agreement and further provides that two additional points in China may be selected by the United States, from among Chinese airports open to scheduled international operations. On Route B, any designated U.S. airline may operate all-cargo services with full traffic rights between any point or points in the United States, via any intermediate points, to

¹ Currently, three U.S. carriers are designated to operate service in the U.S.-China market: Northwest Airlines, Inc., and United Air Lines, Inc., on Route A and Federal Express Corporation on Route B.

² The new agreement consolidates two routes under the old agreement into Route A. With respect to flights operated via Japan on Route A, the new agreement limits the number of flights that may operate with fifth-freedom traffic rights between Japan and China to 39 weekly frequencies.

any point or points in China open to scheduled international operations, and beyond to points outside China.³

Under the terms of the new agreement, the frequency increases available April 1, 1999 (8 frequencies) and April 1, 2000 (9 frequencies) and the expansion of new gateways in China on Route A at this time are available only to the currently designated airlines—Northwest, United, and Federal Express. In light of this feature of the agreement and our desire to ensure that the carriers will have adequate time to plan and promote their services in this major U.S.-Asia market, we have decided to invite applications now from the three eligible designated airlines for both the frequency increases available April 1, 1999, and April 1, 2000, and the Route A route expansion opportunities.⁴ Such applications should be filed within seven (7) calendar days from the service date of this notice. Answers to such applications should be filed within five (5) calendar days from the application date. Replies to answers should be filed within three (3) calendar days after the answer date.

Applicants that hold the requisite underlying authority for the markets they propose to serve need only file requests for allocation of frequencies. To the extent that applicants need additional underlying authority to operate any of their proposed services, they should file applications to amend their existing certificate authority and requests for allocation of frequencies for the market(s) to be served. Except for the procedural dates, certificate applications should conform to Part 302, Subpart Q of our regulations (14 CFR Part 302). All applications (certificate and/or frequency allocations) should include, at a minimum, the following information: (a) the market(s) to be served, including the full single-plane routing for the service and whether the carrier plans to display the code of a Chinese carrier on its flights in the market; (b) the number of frequencies requested by market, including whether the frequencies would be used for combination or all-cargo services and whether the frequencies would be used on a year-round or seasonal basis (for seasonal service the inclusive dates of service should be provided); (c) type of aircraft to be used, including seating configuration and cargo capacity, as applicable; (d) the proposed startup date(s) for the services proposed; (e) the number of frequencies the carrier is currently operating in the U.S.-China market, the city-pair markets served, the number of frequencies operated via Japan exercising fifth-freedom traffic rights between Japan and China, whether the code of a Chinese carrier is displayed on any of these frequencies, and whether these frequencies are being operated on a year-round or seasonal basis (for seasonal service the inclusive dates for service should be provided). In addition, any carrier applicant currently operating code-share services on flights operated by Chinese airlines should give a full description of those services,

³ In addition, the Protocol provides for incremental increases of additional points in both countries that may be served under code-share arrangements between designated Chinese airlines and any U.S. airline. Applications for authority to make use of the expanded provisions of the agreement for code-share services will be handled separately, and those rights are not the subject of this notice. Currently, American Airlines, Delta Air Lines, and Northwest serve the U.S.-China market under code-share arrangements with Chinese airlines. Continental Airlines, and America West Airlines, have also applied for the necessary authority to engage in U.S.-China code-share services with Chinese airlines, and those applications are under review.

⁴ We will invite applications for the fourth U.S.-carrier designation and the ten additional weekly frequencies available April 1, 2001, at a later date.

including the markets served and frequency of such services. Applicants are also free to submit any additional information that they believe will help us in making our decision.

We note that under the new agreement the number of weekly combination service frequencies that may be operated by U.S. carriers in the U.S.-China market via Japan with fifth-freedom rights between Japan and China is limited to 39. In light of this restriction, applicant carriers proposing combination services should also indicate in their applications the number of frequencies, if any, that they would be willing to operate under a restriction that the flights could not serve Japan with fifth-freedom rights between Japan and China.

All applications should be filed with the Department of Transportation, Dockets, Room PL-401, 400 Seventh Street, SW, Washington, DC 20590, in Docket OST-99-5539.⁵ Any further procedural steps, if necessary, will be established in a separate Department order. In this regard, should comparative selection procedures be necessary, we intend to process the case on an expedited procedural schedule to ensure that the case is completed as expeditiously as possible. In order to expedite the proceeding, service of applications to other parties in response to this notice may be made by facsimile or by electronic mail. Parties that are interested in such service should inform the carriers and provide them with the necessary FAX number and/or email address.

We will serve this notice on Federal Express Corporation, Northwest Airlines, Inc., United Air Lines, Inc., the National Air Carrier Association, the Air Transport Association, the U.S. Department of State (Office of Aviation Negotiations), the Federal Aviation Administration (AFS-200), and the Ambassador of the Peoples Republic of China in Washington, D.C.

By:

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

(SEAL)

Dated: April 14, 1999

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

⁵ The original submission is to be unbound and without tabs on 8 1/2" x 11" white paper using dark ink (not green) to facilitate use of the Department's docket imaging system. In the alternative, filers can use the electronic submission capability available through the Dockets/DMS Internet site (<http://dms.dot.gov>) by following the instructions at the web site.