



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

Issued by the Department of Transportation
on the 16th day of March, 2001

Application of

**PAKISTAN INTERNATIONAL AIRLINES
CORPORATION**

for renewal and amendment of foreign air carrier
permit under 49 U.S.C. § 41301

Docket OST-99-5757-3

ORDER ISSUING AMENDED FOREIGN AIR CARRIER PERMIT

Summary

In this order we are issuing Pakistan International Airlines Corporation (PIA) an amended foreign air carrier permit to engage in scheduled and charter foreign air transportation of persons, property and mail between Pakistan and the United States consistent with the U.S.-Pakistan open-skies aviation agreement.

Application

By application filed June 1, 1999, as amended, PIA requests that we renew its existing foreign air carrier permit and amend that permit to enable PIA to conduct services between Pakistan and the United States consistent with the provisions of the open-skies aviation agreement between the United States and the Islamic Republic of Pakistan (Pakistan).¹

In support of its application, PIA states that it has been licensed and designated by the Government of Pakistan to perform the proposed services; that it is substantially owned and effectively controlled by the government of Pakistan; and that it is operationally and financially fit to perform the proposed services.

No answers were filed in response to PIA's permit amendment application.

¹ PIA's existing foreign air carrier permit, issued by Order 76-4-129, authorizes PIA to engage in scheduled foreign air transportation of persons, property and mail between Pakistan and New York, via named intermediate points; and authority to perform charters subject to 14 CFR Part 212. PIA also holds exemption authority granted January 3, 2001, for a period of two years, to conduct scheduled combination services consistent with the provisions of the open-skies aviation agreement between the United States

Decision

We have reviewed the record in this case and have decided to grant the application using simplified Subpart B procedures.² The public was informed of the application by notice in the Federal Register and the Department's published weekly list of applications filed.³ The notice described the authority sought and gave interested persons an opportunity to submit evidence and objections to the award of the authority. Simplified procedures are appropriate in this case because there are no material determinative issues of fact requiring other procedures.

We find that grant of this foreign air carrier permit is in the public interest, and that Pakistan International is qualified to conduct the proposed operations.

Public Interest Considerations

On April 29, 1999, the United States and Pakistan concluded an open-skies bilateral aviation agreement that provides broad rights for the designated carriers of each side, including rights to conduct the services proposed by PIA.

Operational and Financial Fitness

We find that PIA is operationally and financially fit to conduct the operations at issue here. PIA was founded in 1955 and was issued an initial foreign air carrier permit by the former Civil Aeronautics Board in 1961 to conduct scheduled combination services between Pakistan and New York, via intermediate points (see Order E-16850). PIA has held authority to serve the United States on a continuous basis since that time. PIA's current foreign air carrier permit was issued by Order 76-4-129. PIA has experienced management, and has had no safety violations, fatal accidents or tariff violations in the last five years. PIA has a fleet of fifty aircraft and serves thirty countries. PIA holds effective authority from its homeland to conduct the proposed operations.⁴ On January 3, 2001, we granted PIA exemption authority similar to the authority at issue here.⁵ By memorandum dated March 7, 2001, the Federal Aviation Administration advised us that it knows of no reason why PIA's request for an amended foreign air carrier permit should not be approved. Finally, we have verified PIA's compliance with 14 CFR Parts 203 (Warsaw liability waiver), 205 (aircraft accident liability insurance requirements) and 129 (FAA Operations Specifications).

PIA has provided financial information which indicates that it can conduct the proposed services without jeopardizing passenger or shipper funds. Specifically, during the eighteen month period between July 1997 and December 1998, PIA reported total assets of \$894.8 million and total

² 14 CFR 302.210 (a)(2) and 302.213.

³ 64 FR 32088, June 15, 1999.

⁴ By memorandum dated May 19, 1999 (ref: HQCAA/1641/17/AT-3) Pakistan's Civil Aviation Authority notified us that PIA is authorized to conduct combination and all-cargo services authorized by the U.S.-Pakistan agreement.

⁵ See Memorandum dated May 19, 1999 (ref: HQCAA/1641/17/AT-3) and Order 76-4-129, dated August 27, 2000.

liabilities of \$763.7 million. PIA reported an operating profit of approximately \$47 million. For the year ending December 31, 1999, PIA reported total assets of \$802.6 million, total liabilities of \$763.7 million, and an operating loss of \$28 million.

Ownership and Control

There has been no significant change in PIA's ownership and control since we last renewed PIA's foreign air carrier permit in 1976 (see Order 76-4-129). Specifically, PIA continues to be owned 57.66% by the government of Pakistan. In addition, the government of Pakistan controls an additional 29.36% of the total shares of PIA stock which are managed or held by financial institutions and insurance companies owned by the government of Pakistan. The remaining approximately 13% of PIA's shares are traded on stock exchanges in Pakistan and are owned by approximately 45,000 shareholders including individuals and companies. All of PIA's officers, directors and key management personnel are citizens of Pakistan.

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

1. It is in the public interest to reissue Pakistan International Airlines Corporation an amended foreign air carrier permit in the form attached;
2. Pakistan International Airlines Corporation is fit, willing and able properly to perform the foreign air transportation described in the attached permit and to conform to the provisions of the Act, and to our rules, regulations, and requirements;
3. The public interest requires that the exercise of the privileges granted by the permit should be subject to the terms, conditions, and limitations contained in the attached permit, and to such other reasonable terms, conditions, and limitations required by the public interest as we may prescribe;
4. The issuance of this foreign air carrier permit will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975, as defined in section 313.4(a)(1) of our Regulations;⁶ and
5. The public interest does not require an oral evidentiary hearing on the application.

ACCORDINGLY,

1. We issue, in the form attached, an amended foreign air carrier permit to Pakistan International Airlines Corporation authorizing it to engage in (1) scheduled foreign air transportation of persons, property and mail from points behind Pakistan via Pakistan and intermediate points to a point or points in the United States and beyond; and (2) scheduled all-cargo foreign air transportation between the United States and any point or points;

⁶ This finding is based on the fact that the grant of this permit will not result in a near-term increase in

2. Pakistan International Airlines Corporation is also authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations of the Department's regulations governing charters;
3. The exercise of the privileges granted above are subject to Pakistan International Airlines Corporation's compliance with the conditions listed in Attachment A;
4. To the extent not granted, we deny all requests for relief in Docket OST-99-5757;
5. Unless disapproved by the President of the United States under § 41307 of Title 49 of the U.S. Code, this order and the attached permit shall become effective on the 61st day after its submission for § 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,⁷ and
6. We will serve a copy of this order on Pakistan International Airlines Corporation; the Ambassador of Pakistan in the United States; the Department of State; and the Federal Aviation Administration (San Francisco-IFO).

By:

SUSAN MCDERMOTT
Deputy Assistant Secretary for Aviation
and International Affairs

(SEAL)

*An electronic version of this document is available on the World Wide Web at
http://dms.dot.gov/reports/reports_aviation.asp*

⁷ This order was submitted for § 41307 review on March 16, 2001.

On April 11, 2001, we received notification that the President's designee under Executive Order 12597 and implementing regulations did not intend to disapprove the Department's order.

Issued by
Order 2001-4-16

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

PERMIT TO FOREIGN AIR CARRIER
(as renewed and amended)

Pakistan International Airlines Corporation

A Flag Carrier of Pakistan

is authorized, subject to the following provisions, the provisions of Title 49 of the U.S. Code and the orders, rules, and regulations of the Department of Transportation, to engage in scheduled foreign air transportation as follows:

A. Of persons, property and mail (combination services);

from points behind Pakistan via Pakistan and intermediate points to a point or points in the United States and beyond.

B. Of property and mail (all-cargo services);

between the United States and any point or points.

The holder shall also be authorized to engage in other charter trips in foreign air transportation, subject to the terms, conditions, and limitations of the Department's regulations governing charters.

In the conduct of charter operations authorized above, the holder may, without prior Department approval, carry charter traffic between the United States and a third country point, provided that, except with respect to cargo charters, such charter traffic is carried on a flight that serves Pakistan for purposes of carrying traffic between the United States and Pakistan.

This permit and the exercise of the privileges granted in it shall be subject to the terms, conditions and limitations in both the order issuing this permit and the attachment to this order, and to all applicable provisions of any treaty, convention or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and the holder's homeland are or shall become parties.

This permit shall be effective on April 11, 2001 . Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention or agreement, this permit shall terminate (1) upon the dissolution or liquidation of the holder to whom it was issued; (2) upon the effective date of any treaty, convention, or agreement or amendment, which shall have the effect of eliminating the bilateral right for the service authorized by this permit from the service which may be operated by airlines designated by the Government of Pakistan (or, if the right is partially eliminated, then the authority of this permit shall terminate in like part); (3) upon the effective date of any permit granted by the Department to any other carrier designated by the Government of Pakistan in lieu of the holder; or (4) upon the termination or expiration of the applicable air services agreement between the United States and Pakistan. However, clause (4) of this paragraph shall not apply if prior to such termination or expiration, the foreign air transportation authorized herein becomes the subject of another treaty, convention or agreement to which the United States and Pakistan become parties.

The Department of Transportation has executed this permit and affixed its seal on March 16, 2001.

By:

SUSAN MCDERMOTT
Deputy Assistant Secretary for Aviation
and International Affairs

(SEAL)

FOREIGN AIR CARRIER CONDITIONS OF AUTHORITY

In the conduct of the operations authorized, the holder shall:

- (1) Not conduct any operations unless it holds a currently effective authorization from its homeland for such operations, and it has filed a copy of such authorization with the Department;
- (2) Comply with all applicable requirements of the Federal Aviation Administration, including, but not limited to, 14 CFR Parts 129, 91, and 36;
- (3) Comply with the requirements for minimum insurance coverage contained in 14 CFR Part 205, and, prior to the commencement of any operations under this authority, file evidence of such coverage, in the form of a completed OST Form 6411, with the Federal Aviation Administration's Program Management Branch (AFS-260), Flight Standards Service (any changes to, or termination of, insurance also shall be filed with that office);
- (4) Not operate aircraft under this authority unless it complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention;
- (5) Conform to the airworthiness and airman competency requirements of its Government for international air services;
- (6) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR Part 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (7) Agree that operations under this authority constitute a waiver of sovereign immunity, for the purposes of 28 U.S.C. 1605(a), but only with respect to those actions or proceedings instituted against it in any court or other tribunal in the United States that are:

(a) based on its operations in international air transportation that, according to the contract of

carriage, include a point in the United States as a point of origin, point of destination, or agreed stopping place, or for which the contract of carriage was purchased in the United States; or

(b) based on a claim under any international agreement or treaty cognizable in any court or other tribunal of the United States.

In this condition, the term "international air transportation" means "international transportation" as defined by the Warsaw Convention, except that all States shall be considered to be High Contracting Parties for the purpose of this definition;

(8) Except as specifically authorized by the Department, originate or terminate all flights to/from the United States in its homeland;

(9) Comply with the requirements of 14 CFR Part 217, concerning the reporting of scheduled, nonscheduled, and charter data;

(10) If charter operations are authorized, comply (except as otherwise provided in the applicable bilateral agreement) with the Department's rules governing charters (including 14 CFR Parts 212 and 380); and

(11) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department, with all applicable orders or regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

This authority shall not be effective during any period when the holder is not in compliance with the conditions imposed above. Moreover, this authority cannot be sold or otherwise transferred without explicit Department approval under Title 49 of the U.S. Code (formerly the Federal Aviation Act of 1958, as amended).

