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

Issued by the Department of Transportation on April 23, 2001

**NOTICE OF ACTION TAKEN -- DOCKET OST-2000-7513 - 34**

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).

Application of Gemini Air Cargo, Inc. filed 4/19/01 for:

**XX** Renewal of exemption from Order 2000-10-19; startup deadline:

By Order 2000-10-19, the Department granted Gemini Air Cargo, Inc. (a) an exemption to engage in scheduled foreign air transportation of property and mail between Miami, Florida, on the one hand, and Quito and Guayaquil, Ecuador, on the other, (b) an exemption to integrate such authority with Gemini's existing certificate and exemption authority, and (c) an allocation of three weekly frequencies (narrow-body aircraft or wide-body equivalent) for services in the United States-Ecuador market. Gemini's frequency award was subject to a 90-day startup condition as well as our standard 90-day dormancy condition; under the award Gemini was required to begin service before January 21, 2001. On January 19, 2001, the Department granted Gemini an extension of the startup requirement through April 23, 2001.<sup>1</sup>

In the renewal application, Gemini states that it has been working diligently to satisfy the requirements of the Government of Ecuador since the issuance of the Department's extension. Gemini also notes that the market conditions do not presently support introduction of scheduled all-cargo service between the United States and Ecuador. Gemini states that it is in the public interest to grant Gemini's requested extension of the startup period for an additional 90 days<sup>2</sup>

On April 23, 2001, counsel for Evergreen International Airlines, Inc. filed in opposition to the Gemini request for an extension of the startup date. Evergreen disagrees with Gemini that the market cannot support Gemini's flights at this time and further questions how hard, or how quickly, Gemini has tried to obtain Ecuadorian government approval over the last several months. Evergreen maintains that Gemini's application to delay startup of Ecuador service should be denied.

On April 23, 2001, Gemini submitted a reply, enumerating the steps the carrier has undertaken to receive its operating authority from the Ecuadorian Government and indicating that a hearing will be held in May 2001 on Gemini's Petition for an Ecuadorian Operating Permit. Gemini also states that it is fully committed to operating all-cargo scheduled service in the U.S.-Ecuador market and requests the Department to renew its exemption from the startup deadline through July 22, 2001.

Applicant rep.: Moffett B. Roller (202) 331-3300 DOT analyst: Linda Senese (202) 366-2367

**DISPOSITION**

**XX** **Granted** (see below)

(See Reverse Side)

<sup>1</sup> See Notice of Action Taken, dated January 19, 2001.

<sup>2</sup> Gemini informed the Department that it polled the other two applicants in the U.S.-Ecuador proceeding and that Atlas has no objection to the exemption renewal request, but that Evergreen was opposing the request.

The above action was effective when taken: April 23, 2001, through July 22, 2001<sup>3</sup>

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

**Remarks:** We found that representations made by Gemini in response to Evergreen's answer demonstrate that the carrier has been, and is, pursuing its license from the Government of Ecuador and intends to introduce service in the U.S.-Ecuador market. In view of the circumstances presented, we found that the requested exemption from the startup conditions imposed on Gemini's award in Order 2000-10-19 was in the public interest.

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Under the authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; and (2) grant of the exemption was consistent with the public interest. To the extent not granted, we denied all requests in the referenced Docket. We may amend, modify, or revoke the action taken 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/reports/reports\\_aviation.asp](http://dms.dot.gov/reports/reports_aviation.asp)*

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<sup>3</sup> Gemini's extension of the startup deadline is effective through July 22, 2001, or until the date on which Gemini begins service with its frequencies, whichever occurs earlier. If Gemini does not begin service on or before July 22, 2001, its frequency allocation expires automatically. Should Gemini commence service on or before that date, the 90-day dormancy condition with respect to Gemini's frequency allocation will begin on the date Gemini inaugurates service. The carrier is reminded that it should notify the Department in writing on the date the services are implemented.