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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 17, 2001

NOTICE OF ACTION TAKEN – DOCKET OST-2001-9167 – 3

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 American Airlines, Inc. filed 03/13/2001 for:

XX Exemption for two years under 49 U.S.C. §40109 to provide the following service:

Scheduled foreign air transportation of persons, property and mail between points in the United States and points in India, via Zurich, Switzerland, and Brussels, Belgium. American further requests an authorization to be designated as the fourth U.S. carrier to provide third-country code-share services in the U.S.-India market.¹

Trans World Airlines filed an answer in support of American's application. TWA urges the Department to withdraw its authorization to provide U.S.-India third-country code-share services and award such authorization to American instead.

Applicant rep: Carl B. Nelson (202) 496-5647

DOT Analyst: Michael D. Bodman (202) 366-9667

DISPOSITION

XX Granted, (see remarks below).

The above action was effective when taken: April 17, 2001, through April 17, 2003.

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

XX The authority granted is consistent with the aviation agreement between the United States and India.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

- XX** Holder's certificates of public convenience and necessity
- XX** Standard Exemption Conditions (attached)
- XX** Statements of Authorization dated November 2, 1999, authorizing American/Swissair and American/Sabena code-share operations, and conditions therein.

Remarks: Under the 1995 Memorandum of Consultations (MOC) between the United States and India, four U.S. airlines may serve the U.S.-India market under cooperative service arrangements with third-country carriers. By

¹American intends to use this authority to operate service under code-share arrangements with Swissair and Sabena. American/Swissair and American/Sabena hold blanket statements of authorization to code share, subject to a 30-day notice requirement prior to the commencement of service in new markets, and completion of any necessary carrier selection procedures. American and its code-share carriers have filed the required notices with the Department.

Orders 97-2-26 and 98-3-1, the Department authorized Northwest Airlines, United Air Lines, Delta Air Lines, and TWA as the four U.S. carriers authorized to provide third-country code-share services. As TWA never implemented its third-country code-share services and has no plans to do so, accordingly, its third-country code-share authorization is available for award to another U.S. carrier. As no other U.S. carrier filed a competing application for this authorization, we have decided to grant American's request to replace TWA as the fourth U.S. carrier to be authorized to provide third-country code-share services in the U.S.-India market. Authorization of American's proposed services will promote full use of the valuable code-share opportunities under the MOC and will provide two additional service options for travelers in the U.S.-India market. We, therefore, find that grant of American's application is in the public interest.

On the basis of data officially noticeable under Rule 24(g) 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) our action was consistent with Department policy; (2) grant of the exemption 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 order is available on the World Wide Web at
http://dms.dot.gov/reports/reports_aviation.asp*

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 250 (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, including all FAA requirements concerning security; 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.