



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

Docket: OST-2002-12496

Served: June 13, 2002

NOTICE

**U.S.-Vietnam Third-Country Code-Share Opportunity**

By this notice we invite all U.S. certificated air carriers interested in using seven weekly frequencies and a third-country code-share opportunity in the U.S.-Vietnam market to file applications as specified below in the captioned docket.

The Memorandum of Discussions (MOD) signed in March 2000 by the United States and Vietnam, states the intent of the respective authorities to allow, *inter alia*, third-country code-sharing of passenger air transportation in the U.S.-Vietnam market (via intermediate points) on the basis of comity and reciprocity.<sup>1</sup> Specifically, the MOD provides that up to three cooperative marketing arrangements “between any number of U.S. airlines and any number of third-country airlines” may be authorized. The code-share arrangements may serve between any points in the United States, on the one hand, and up to three Vietnamese points selected by the United States (via any intermediate points), on the other hand.<sup>2</sup> The MOD provides for a total of 21 weekly round-trip frequencies for use by U.S. carriers to operate these services.

By Order 2001-8-21, served August 23, 2001, the Department awarded Delta Air Lines, Inc., Northwest Airlines, Inc. and United Air Lines, Inc. seven weekly frequencies each for U.S.-Vietnam third-country code-sharing services and granted the necessary regulatory authority for the carriers to conduct their respective code-share services.<sup>3</sup> Each allocation of frequencies was subject to the condition that the frequencies would revert automatically to the Department if unused for a period of 90 days and the dormancy period began on the date of service of the order (i.e., August 23, 2001). Subsequently, by Order 2001-11-15, the carriers were granted dormancy waivers due to the circumstances of September 11, 2001, but that order noted that any dormant limited-entry route authorities not resumed by April 1, 2002, would revert automatically to the Department. Northwest Airlines did not begin services to Vietnam by that date; thus, its frequencies have reverted to the Department, and the designation as well as the frequencies formerly held by Northwest are at issue before the Department.

On May 9, 2002, American Airlines submitted an application for six frequencies for third country services to Vietnam via Tokyo, Japan, with Japan Airlines Company, Ltd.<sup>4</sup> Subsequently, additional applications for some or all of the available frequencies were filed in Docket 2000-7194, the Docket for the previous allocation of frequencies in 2001, by Delta Air Lines (with code-share partner Korean Airlines seeking six frequencies), Northwest Airlines, Inc. (with code-share partner Malaysia Airlines for reallocation of seven frequencies), and United Air Lines, Inc. (with code-share partners All Nippon Airways Co. Ltd, and Thai

<sup>1</sup> The MOD does not contemplate direct service between the United States and Vietnam.

<sup>2</sup> The United States has selected the Vietnamese cities of Hanoi, Ho Chi Minh City, and DaNang. The three points selected by the United States may be changed subject to a 30-day advance notice requirement.

<sup>3</sup> Delta's code-share partner was Air France; Northwest's partners were Malaysia Airlines and KLM Royal Dutch Airlines; and United's partners were All Nippon Airways Co., Ltd., Thai Airways International, and Lufthansa German Airlines.

<sup>4</sup> See Docket OST-2002-12301.

Airways International Public Co. Ltd. seeking seven frequencies).<sup>5</sup> Inasmuch as there are more requests for frequencies than there are frequencies available, we will consolidate these requests (and related pleadings thereto) into a new docket (noted in the heading of this notice) to consider these requests as well as any other applications that may be filed in response to this notice. We will allow carriers with the pending requests to supplement their applications to provide the information we are requiring for consideration.

We request by this notice that all U.S. air carriers interested in making use of the code-share opportunity and related frequencies described above file applications (or supplemented applications) with the Department in the newly established docket no later than June 27, 2002. Answers to such applications should be filed no later than July 8, 2002. Replies to answers should be filed no later than July 15, 2002.

Carriers without the requisite operating authority should file exemption/designation applications and requests for statements of authorization to serve the affected markets in conjunction with the foreign code-share carrier(s) involved. Carriers with the requisite underlying authority and statements of authorization need only file requests for the available code-share opportunity. All applications should include, at a minimum, the following information: (a) the proposed startup date; (b) the markets to be served, including the number and identity of U.S. cities that would receive nonstop-to-nonstop connections in the U.S.-Vietnam market, and the total elapsed travel time (including layover time) for each flight between each initial point of origin and each final destination in both directions (*i.e.* provide a total elapsed round-trip travel time for each city pair and break-out subtotals for the elapsed times on the U.S. to Vietnam flights and the Vietnam to U.S. flights); (c) the number of frequencies to be provided between the U.S. and Vietnam and the duration of service if not provided on a year-round basis for each leg of the flights; (d) type of aircraft, including the number of seats, to be used between the U.S. and the intermediate point(s) and between the intermediate point(s) and Vietnam; (e) the foreign code-share carrier involved, the country and the specific intermediate point(s) over which the services will be provided, and which carrier would be operating each leg of the flights; (f) existing authority held to conduct the operations, if applicable; and (g) assurance that the U.S. air carrier applicant has provided or will provide the Department with the Compliance Statement referred to in Section IV of the DOT *Code-Share Safety Program Guidelines* (issued February 29, 2000) concerning a safety audit of the foreign air carrier(s) involved. In addition, carriers must provide as a part of their applications, copies of the relevant cooperative service arrangements, if not already on file with the Department. Applicants are free to submit any additional information that they believe will help us in making our decision.

Except for the procedural dates, exemption applications should conform to Part 302, Subpart C of our regulations (14 CFR Part 302). All applications (for operating authority and/or designation) should be filed with the Department of Transportation in the established docket, Dockets and Media Management, Room PL-401, 400 Seventh Street, SW, Washington, DC 20590.<sup>6</sup>

We intend to allocate the available opportunities at issue based on the applications and responsive pleadings filed in response to this notice. We intend to make our decision using written, show-cause procedures in accordance with Part 302 of our regulations (14 CFR Part 302).

We will authorize service of documents by facsimile and by electronic mail. Carriers that are interested in such service, however, should state if they want service by email and should provide interested parties with their fax number and/or email address.

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<sup>5</sup> See Docket OST-2000-7194.

<sup>6</sup>The original submission is to be unbound and without tabs on 8 ½" x 11" white paper using dark ink (not green) to facilitate use of the Department's docket imaging system. In the alternative, filers are encouraged to use the electronic submission capability available through the Dockets/DMS Internet site (<http://dms.dot.gov>) by following the instructions at the web site).

We will serve this notice on all U.S. certificated air carriers operating large aircraft.

By:

PAUL L. GRETCH  
Director  
Office of International Aviation

(SEAL)

Dated: June 13, 2002

*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)*