

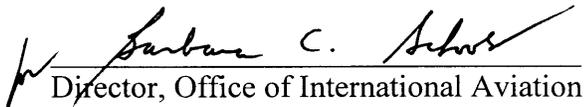
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**U.S. Department of  
Transportation**  
Office of the Secretary  
of Transportation

**DEPARTMENT ACTION ON APPLICATION IN DOCKET OST 2001-8975- 5**  
(Application of Malaysia Airlines (MAS) to display Air-India's designator code)

Approved under assigned authority (14 CFR §385.13);

Date of Action: MARCH 28, 2001

  
Director, Office of International Aviation

This action is subject to the conditions attached. Persons entitled to petition the Department for review of this action under the Department's regulations, 14 CFR §385.30, should file their petitions within ten days of the date of this action. This action is effective immediately, and the filing of a petition for review will not alter its effectiveness.

**Remarks:**

Northwest Airlines, Inc., filed an answer urging the Department to deny Malaysia's application for the same reasons stated in its answer to Air-India's application in Docket OST-2001-8976, *i.e.*, because of the Government of India's refusal to permit Northwest to place KLM's designator code on flights operated by Northwest between the United States and India via Amsterdam in violation of the 1995 U.S.-India Memorandum of Consultations (1995 MOC). Malaysia Airlines filed a reply stating that the proposed codeshare operations are fully consistent with the U.S.-Malaysia open skies agreement, and that U.S. carriers, including Northwest, enjoy unrestricted opportunities under the agreement.

We find that our action granting the requested authority is in the public interest. The authority is provided for in the U.S.-Malaysia aviation agreement. With respect to Northwest's concern, we addressed that issue in the context of Air-India's application in Docket OST-2001-8976.

Attachment - Docket OST 2001-8975

The code-share operations authorized here are subject to the following conditions:

- (a) The statement of authorization will remain in effect only as long as (i) Malaysia Airlines and Air-India continue to hold the necessary underlying authority to operate the code-share services at issue, and (ii) the code-share agreement providing for the code-share operations remains in effect;
- (b) Malaysia Airlines and/or Air-India must notify the Department no later than 30 days before they begin any new code-share service under the code-share services authorized here. Such notice shall identify the market(s) to be served, which carrier will be operating the aircraft in the code-share market added, and the date on which the service will begin. Such notices should be filed in Docket OST-2001-8975;
- (c) Malaysia Airlines and/or Air-India must notify the Department immediately if the code-share agreement under which these code-share services are operated is no longer in effect or if the carriers decide to cease operating all or a portion of the code-share services under the agreement. We expect this notification to be received within 10 days of such non-effectiveness or of such decision. Such notices should be filed in Docket OST-2001-8975;
- (d) The code-sharing operations conducted under this authority must comply with 14 CFR 257 and with any amendments to the Department's regulations concerning code-share arrangements that may be adopted. Notwithstanding any provisions in the contract between the carriers, our approval here is expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service in computer reservation systems and elsewhere; that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept responsibility for the entirety of the code-share journey for all obligations established in its contract of carriage with the passenger; that the passenger liability of the operating carrier be unaffected;
- (e) The authority granted here is specifically conditioned so that neither Malaysia Airlines nor Air-India shall give any force or effect to any contractual provisions between themselves that are contrary to these conditions.

We may amend, modify, or revoke this authority at any time without hearing.

The filing of a petition for review shall not preclude the effectiveness of this action.