

160845

Order 2002-3-21

Served: March 22, 2002



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

Issued by the Department of Transportation
on the 22nd day of March, 2002

Application of

AMERIJET INTERNATIONAL, INC.

for a disclaimer of jurisdiction and reissuance of
certificates or, alternatively, approval of the transfer
of certificates under 49 U.S.C. 41105

Docket OST-01-11251-2

**ORDER DISCLAIMING JURISDICTION
AND REISSUING AND CANCELLING CERTIFICATES**

Summary

By this order, we confirm our oral action of December 31, 2001, disclaiming jurisdiction over the transfer of interstate and foreign certificate and other operating authorities issued to Amerijet International, Inc. (Amerijet) to a newly formed corporation also named Amerijet International, Inc. At the same time, as discussed below, we are canceling certain redundant and unused authority held by the carrier.

Background

Amerijet is a certificated air carrier that holds authority to engage in interstate and foreign scheduled and charter air transportation. The company is headquartered in Ft. Lauderdale, Florida, and conducts cargo-only operations.

On August 22, 2001, Amerijet filed a voluntary petition for reorganization under Chapter 11 of the U.S. Bankruptcy Code. On October 5, the carrier filed a Plan of Reorganization with the Bankruptcy Court. The plan was approved on November 15 and Amerijet emerged from bankruptcy on December 21. As part of the reorganization plan, all existing equity interests in Amerijet were cancelled and new common stock was issued. H.I.G. Cargo L.L.C., a private Miami-based equity investment firm,

acquired 66.67 percent of the new common stock.¹ David Bassett, who previously owned 100 percent of Amerijet and serves as its President and Chief Executive Officer, purchased 33.33 percent of the new common stock. In conjunction with the acquisition and emergence from bankruptcy, Amerijet filed with the Department's staff updated information on its fitness.

On December 27, 2001, Amerijet organized Amerijet Acquisition Corporation (AAC) as its wholly-owned subsidiary.² On December 28, the carrier filed an application in Docket OST-01-11251 requesting the Department to disclaim jurisdiction over or, in the alternative, to approve the transfer of Amerijet's certificates and other operating authority to AAC.³ For business and tax reasons, Amerijet requested expedited handling of its application so that the transfer could be completed on or before December 31.

In support of its request, Amerijet stated that the requested transfer was part of a corporate restructuring for business purposes that would not involve any material changes in the management, control, operations, financial condition or citizenship of the carrier. The applicant declared that, upon the Department's disclaimer of jurisdiction or approval of the transfer of Amerijet's operating authority to AAC, Amerijet would transfer its management, assets, liabilities and operations to AAC and AAC would assume all of the corporate responsibilities of Amerijet including its operations as an all-cargo air carrier. Amerijet contended that a disclaimer of jurisdiction was appropriate in this case since the certificate transfer was incidental to a corporate reorganization, and that its request was similar to those granted by the Department in the past. AAC subsequently amended its Articles of Incorporation to reassume the Amerijet International, Inc., name.

No objections were received to Amerijet's application.

Decision

Upon review of the carrier's application, we decided to disclaim jurisdiction over the transfer of Amerijet's certificates to AAC and orally informed the carrier of our decision on December 31, 2001. In reaching this decision, we found that the transaction would have no significant effect on the citizenship, management, financial

¹ In connection with the acquisition of its stock interest, the carrier's new majority shareholder committed to purchasing the carrier's headquarters building for \$2 million and to providing the carrier with \$1 million in operating capital.

² AAC is a corporation organized under the laws of the State of Florida.

³ Amerijet currently holds the following operating authority from the Department: (1) a Domestic All-Cargo Air Service Certificate reissued by Order 85-10-20; (2) a foreign charter certificate authorizing the air transportation of persons, property, and mail issued by Order 87-6-39; (3) foreign scheduled cargo certificates for Routes 570 (issued by Order 96-11-24) and 597 (issued by Order 91-10-43, as amended by Order 92-3-41); and (4) various exemptions authorizing foreign scheduled cargo air transportation to various Caribbean, South American and Mexican points.

condition, or operations of Amerijet.⁴ The FAA advised us that Amerijet's current operations are satisfactory and that that agency had no objection to a grant of the carrier's application. Finally, the Department has, in the past, disclaimed jurisdiction over the transfer of authority in similar circumstances.⁵ By this order, we confirm our oral action of December 31, 2001, and, except as noted below, reissue Amerijet's operating authority to reflect its corporate reorganization.

In reissuing the carrier's authority, we have, however, decided not to reissue the foreign charter certificate issued to the carrier by Order 87-6-39. Instead, we will cancel this certificate, which authorizes Amerijet to engage in worldwide charter transportation of persons as well as property and mail. Subsequent to receiving this certificate, the carrier applied for and was granted certificates for Routes 570 and 597 authorizing it to provide foreign scheduled cargo flights. By virtue of holding this scheduled authority, the carrier is authorized under 49 U.S.C. 41109(a)(5) and section 212.1 of our rules to conduct worldwide cargo charter operations. Thus, the cargo charter authority contained in the charter certificate issued earlier is redundant. Moreover, we note that, in the almost 15 years since the charter certificate was issued, Amerijet has not yet fulfilled the requirements for having the passenger charter portion made effective, nor do we have any information that the carrier intends to do so at any time in the future. Given the amount of time that has elapsed, were Amerijet to decide to conduct passenger operations, it would need to demonstrate that it is fit to do so. Under these circumstances, we will cancel that certificate. Should Amerijet want to engage in passenger air transportation services in the future, it should file an application requesting such authority and demonstrating its fitness to conduct such operations.

ACCORDINGLY, acting under authority assigned by the Department in its Regulations, 14 CFR 385.12:

1. We confirm our oral action of December 31, 2001, and disclaim jurisdiction over the transfer of the interstate and foreign certificates and exemption authority currently issued to Amerijet International, Inc., to the reincorporated Amerijet International, Inc., and reissue (a) the Domestic All-Cargo Air Service certificate reissued by Order 85-10-20, (b) the foreign scheduled cargo certificate for Route 570, issued by Order 96-

⁴ As noted above, as a result of its bankruptcy reorganization, Amerijet underwent a substantial change in its ownership. H.I.G. Cargo, the new majority shareholder, is a limited liability company organized under the laws of the State of Delaware whose ultimate owner is H.I.G.-G.P.II, Inc., which is a Delaware corporation owned by Messrs. Sami Mnaymneh and Anthony Tamer, both of whom are U.S. citizens. Both of these individuals have extensive business backgrounds. Mr. Mnaymneh and Mr. Tamer's roles in Amerijet are expected to be those of investors. David Bassett remains the company's President and Chief Executive Officer. Amerijet's post reorganization operations are essentially the same as before its bankruptcy filing. The company is managed by the same officers and other key personnel. The carrier's financial posture has improved since emerging from bankruptcy. For instance, a "before and after" picture of the company's finances pre-and post-bankruptcy shows that Amerijet's current ratio improved from .5:1 to 1.5:1 and total shareholders' equity improved from \$1.4 million to \$5.6 million.

⁵ See, for example, Orders 90-7-24, 92-12-26 and 2000-3-19.

11-24, and (c) the foreign scheduled cargo certificate for Route 597, as amended by Order 92-3-41, in the name of the reincorporated Amerijet International, Inc.^{6 7}

2. We cancel the foreign charter certificate issued to Amerijet International, Inc., by Order 87-6-39.

3. We will serve a copy of this order on the persons listed in Attachment A.

Persons entitled to petition the Department for review of this order under the Department's Regulations, 14 CFR 385.30, may file their petitions within 10 days of the service date of this order.

The action in this order was effective when taken and the filing of a petition for review shall not alter its effectiveness.

By:

RANDALL D. BENNETT
Director
Office of Aviation Analysis

(SEAL)

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

⁶ In addition, we consider the following exemption authority previously granted to Amerijet International, Inc., to be reissued to the reincorporated Amerijet International, Inc.: (1) exemption to provide foreign scheduled cargo air transportation between Ft. Lauderdale, Florida, on the one hand, and the Turks and Caicos Islands, on the other (Notice of Action Taken dated March 7, 2001, Docket OST-97-2183); (2) exemption to provide foreign scheduled cargo air transportation between Miami/Ft. Lauderdale, on the one hand, and Caracas, Maracaibo, and Valencia, Venezuela, on the other (Notice of Action Taken dated May 31, 2000, Docket OST-95-557); and (3) exemption to provide foreign scheduled cargo air transportation between Ft. Lauderdale, on the one hand, and Cancun, Guadalajara, Merida, and Mexico City, Mexico, on the other; and between Ft. Lauderdale and Panama City (Notice of Action Taken dated May 31, 2000, Docket OST-98-3383).

⁷ The terms and conditions applicable to the exemption authority prior to this reissuance shall continue to apply to such reissued exemption authority. The certificates are being reissued in the format currently used for such certificates; they impose no new restrictions or requirements on the carrier.



Domestic All-Cargo Air Service Certificate

This Certifies That

AMERIJET INTERNATIONAL, INC.

is authorized, subject to the provisions of Subtitle VII of Title 49 of the United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in interstate air transportation of property and mail.

This Certificate is not transferable without the approval of the Department of Transportation.

By Direction of the Secretary

*Issued by Order 2002-3-21
On March 22, 2002
Effective on December 31, 2001*

*Randall D. Bennett
Director
Office of Aviation Analysis*



Terms, Conditions, and Limitations
AMERIJET INTERNATIONAL, INC.

is authorized to engage in interstate all-cargo air service between any point in any State, territory, or possession of the United States or the District of Columbia, and any other point in any of those entities.

This authority is subject to the following provisions:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.*
- (2) The holder is not authorized to carry passengers (other than cargo attendants accompanying freight shipments).*
- (3) The holder's authority is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA), and comply with all Department of Transportation requirements concerning security.*
- (4) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).*
- (5) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of Title 49 of the United States Code or the Department's regulations shall be sufficient grounds to revoke this certificate.*
- (6) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(l)), it must first comply with the requirements of 14 CFR 204.5.*

**This certificate is being reissued to reflect a corporate reorganization and to reflect the format currently used for such certificates.*

(7) *In the event that the holder ceases all operations for which it was found "fit, willing, and able," its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.*



Certificate of Public Convenience and Necessity
for
Foreign Air Transportation

Route 570

This Certifies That

AMERIJET INTERNATIONAL, INC.

is authorized, subject to the provisions of Subtitle VII of Title 49 of the United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign air transportation of property and mail.

This Certificate is not transferable without the approval of the Department of Transportation.

By Direction of the Secretary

Issued by Order 2002-3-21

On March 22, 2002

Effective on December 31, 2001

Randall D. Bennett

Director

Office of Aviation Analysis



*Terms, Conditions, and Limitations
For Route 570*

AMERIJET INTERNATIONAL, INC.

is authorized to engage in foreign air transportation of property and mail between the terminal point Miami, Florida, and the terminal points:

*Merida, Mexico
Mexico City, Mexico
Cancun, Mexico
Guadalajara, Mexico.*

This authority is subject to the following provisions:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.*
- (2) The holder is not authorized to carry passengers (other than cargo attendants accompanying freight shipments).*
- (3) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any order of the Department of Transportation issued under them. To the extent that the holder has authority to serve more than one country or points in more than one country on the same route segment, that authority does not confer upon the holder any additional rights (including fifth-freedom intermediate and/or beyond rights) in limited-entry markets unless the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights and has notified the foreign country(ies) involved that any such selected carrier(s) has the required authority. In such cases, the fact that the carrier may hold authority to serve the countries (points) at issue on the same segment will not be considered as providing any preference to the holder in a carrier selection proceeding.*
- (4) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.*

**This certificate is being reissued to reflect a corporate reorganization and to reflect the format currently used for such certificates.*

- (5) *The holder's authority under this certificate is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA), and comply with all Department of Transportation requirements concerning security.*
- (6) *The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).*
- (7) *The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of Title 49 of the United States Code or the Department's regulations shall be sufficient grounds to revoke this certificate.*
- (8) *Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(l)), it must first comply with the requirements of 14 CFR 204.5.*
- (9) *In the event that the holder ceases all operations for which it was found "fit, willing, and able," its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.*



Certificate of Public Convenience and Necessity
for
Foreign Air Transportation

Route 597

This Certifies That

AMERIJET INTERNATIONAL, INC.

is authorized, subject to the provisions of Subtitle VII of Title 49 of the United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign air transportation of property and mail.

This Certificate is not transferable without the approval of the Department of Transportation.

By Direction of the Secretary

Issued by Order 2002-3-21
On March 22, 2002
Effective on December 31, 2001

Randall D. Bennett
Director
Office of Aviation Analysis



*Terms, Conditions, and Limitations
For Route 597*

AMERIJET INTERNATIONAL, INC.

is authorized to engage in foreign air transportation of property and mail between any point or points in the United States and:

<i>Algeria</i>	<i>Guyana</i>	<i>Singapore</i>
<i>Anguilla</i>	<i>Guadeloupe</i>	<i>South Korea</i>
<i>Antigua</i>	<i>Honduras</i>	<i>Spain</i>
<i>and Barbuda</i>	<i>Hong Kong</i>	<i>Sri Lanka</i>
<i>Aruba</i>	<i>India</i>	<i>Surinam</i>
<i>Australia</i>	<i>Indonesia</i>	<i>Sweden</i>
<i>Austria</i>	<i>Shannon, Ireland</i>	<i>Switzerland</i>
<i>Bahamas</i>	<i>Tel Aviv, Israel</i>	<i>Taiwan</i>
<i>Bahrain</i>	<i>Jamaica</i>	<i>Thailand</i>
<i>Barbados</i>	<i>Kenya</i>	<i>Trinidad and Tobago</i>
<i>Belgium</i>	<i>Liberia</i>	<i>Tunisia</i>
<i>Belize</i>	<i>Luxembourg</i>	<i>Turkey</i>
<i>Bermuda</i>	<i>Malaysia</i>	<i>United Arab Emirates</i>
<i>Bolivia</i>	<i>Martinique</i>	<i>United Kingdom</i>
<i>Chile</i>	<i>Montserrat</i>	<i>Yugoslavia</i>
<i>Colombia</i>	<i>Morocco</i>	<i>Zimbabwe</i>
<i>Costa Rica</i>	<i>The Netherlands</i>	
<i>Dakar, Senegal</i>	<i>Netherlands Antilles</i>	
<i>Denmark</i>	<i>New Zealand</i>	
<i>Dominica</i>	<i>Nigeria</i>	
<i>Dominican Republic</i>	<i>Norway</i>	
<i>Egypt</i>	<i>Oman</i>	
<i>El Salvador</i>	<i>Pakistan</i>	
<i>Federal Republic</i>	<i>Paraguay</i>	
<i>of Germany</i>	<i>Portugal</i>	
<i>Finland</i>	<i>Romania</i>	
<i>France</i>	<i>St. Kitts and Nevis</i>	
<i>Grenada</i>	<i>St. Lucia</i>	
<i>Guatemala</i>	<i>St. Vincent</i>	

**This certificate is being reissued to reflect a corporate reorganization and to reflect the format currently used for such certificates.*

This authority is subject to the following provisions:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.*
- (2) The holder is not authorized to carry passengers (other than cargo attendants accompanying freight shipments).*
- (3) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any order of the Department of Transportation issued under them. To the extent that the holder has authority to serve more than one country or points in more than one country on the same route segment, that authority does not confer upon the holder any additional rights (including fifth-freedom intermediate and/or beyond rights) in limited-entry markets unless the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights and has notified the foreign country(ies) involved that any such selected carrier(s) has the required authority. In such cases, the fact that the carrier may hold authority to serve the countries (points) at issue on the same segment will not be considered as providing any preference to the holder in a carrier selection proceeding.*
- (4) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.*
- (5) The holder's authority under this certificate is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA), and comply with all Department of Transportation requirements concerning security.*
- (6) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).*
- (7) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of Title 49 of the United States Code or the Department's regulations shall be sufficient grounds to revoke this certificate.*
- (8) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(l)), it must first comply with the requirements of 14 CFR 204.5.*

(9) In the event that the holder ceases all operations for which it was found "fit, willing, and able," its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.

ATTACHMENT A

SERVICE LIST FOR
AMERIJET INTERNATIONAL, INC

MR DAVID G BASSETT
PRESIDENT
AMERIJET INTERNATIONAL INC
2800 SOUTH ANDREWS AVE
FT LAUDERDALE FL 33316

MR JOHN RICHARDSON
COUNSEL FOR AMERIJET
INTERNATIONAL INC
1156 15TH ST NW SUITE 1105
WASHINGTON DC 20005

MR. RICHARD DUTTON
ASST MANAGER CSET
FAA AFS-900 SUITE 203B
45005 AVIATION DRIVE
DULLES VA 20166-7537

MR JOHN ROSEBOROUGH
FSDO 05 SUITE 200
FAA POI
1050 LEE WAGENER BLVD
FT LAUDERDALE FL

MANAGER ASO-200
FLIGHT STANDARDS DIVISION
SOUTHERN REGION HDQS
PO BOX 20636
ATLANTA GA 30320

REGIONAL COUNSEL
FAA ASO-7
SOUTHERN REGION HDQS
PO BOX 20636
ATLANTA GA 30320

MR PETER LYNCH
ASST CHIEF COUNSEL FOR
ENFORCEMENT AGC-300
FEDERAL AVIATIONADMIN
800 INDEPENDENCE AVE SW
WASHINGTON DC 20591

MS. JONI MOUNT
PRODUCT MANAGER
OFFICIAL AIRLINE GUIDE
2000 CLEARWATER DRIVE
OAK BROOK ILLINOIS 60521

AMERICAN ASSOCIATION OF
AIRPORT EXECUTIVES
601 MADISON ST SUITE 400
ALEXANDRIA VIRGINIA 22314

MR DON BRIGHT K-25
DIRECTOR
OFFICE OF AIRLINE
INFORMATION
400 7TH STREET SW
WASHINGTON DC 20590

MR. JAMES ZAMMAR
DIRECTOR OF REVENUE
ACCOUNTING
ATA SUITE 1100
1301 PENNSYLVANIA AVE NW
WASHINGTON DC 20004

MR ALLEN MUTEN
ASSISTANT TREASURER
AIRLINES REPORTING CORP
1530 WILSON BLVD STE 800
ARLINGTON VA 22209-2448

MR J D MEALOR
AIRLINE DATA COORDINATOR
INNOVATA, LLC
3915 OLD MUNDY MILL RD
OAKWOOD GA 30566-3410