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

DEPT. OF TRANSPORTATION

02 MAY -7 AM 11:40

DEPARTMENT ACTION ON APPLICATION IN DOCKET OST 2000-8028- 5

Approved under assigned authority (14 CFR §385.13).

Date of Action: May 3, 2002

Date Filed: April 17, 2002

Allen F. Brown

Director, Office of International Aviation

for

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.

ATTACHMENT

Conditions:

- (a) This Statement of Authorization (of indefinite duration) will remain in effect only as long as (i) TAM and American Airlines continue to hold the necessary underlying authority to operate the blocked-space/code-share services at issue, and (ii) the blocked-space/code-share agreement providing for these operations remains in effect.
- (b) The subject carriers must promptly notify the Department (Office of International Aviation) if the subject agreement providing for these operations is no longer effective or the carriers decide to cease operating any or all of the approved services. We expect this notice to be received within ten days of such non-effectiveness or of such decision. (Such notices should be filed in Docket OST 2000-8028.)
- (c) The code-sharing operations conducted under this authority must comply with 14 CFR Part 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 subject foreign air 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 the service in computer reservation systems and elsewhere; that the carrier selling such transportation (that is, 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; and that the passenger liability of the operating carrier be unaffected.
- (d) The operating carrier shall not permit the code of its U.S. code-share partner to be carried on any flight that enters, departs, or transits the airspace of any area for whose airspace the Federal Aviation Administration has issued a flight prohibition.
- (e) The authority granted here is specifically conditioned so that neither carrier shall give any force or effect to any contractual provisions between themselves that are contrary to these conditions.
- (f) We may amend, modify, or revoke the authority granted here at any time without hearing at our discretion.

163292

BEFORE THE
U.S. DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

DEPT. OF TRANSPORTATION
DOCKETS

02 APR 17 PM 4:07

Application of)
)
 TAM-LINHAS AEREAS, S.A.) Docket OST-2000-8028 - 4
)
 for an amended Statement)
 of Authorization Under) April 17, 2002
 14 C.F. R. Part 212)

APPLICATION OF TAM-LINHAS AEREAS, S.A.
FOR AN AMENDED STATEMENT OF AUTHORIZATION

Communications with respect to this document should be

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Attorneys for
TAM-LINHAS AEREAS, S.A.

April 17, 2002

BEFORE THE
U.S. DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

_____)	
Application of)	
)	
TAM-LINHAS AEREAS, S.A.)	Docket OST-2000-8028
)	
for an amended Statement)	
of Authorization Under)	April 17, 2002
14 C.F.R. Part 212)	
_____)	

**APPLICATION OF TAM-LINHAS AEREAS, S.A.
FOR AN AMENDED STATEMENT OF AUTHORIZATION**

TAM-Linhas Aereas, S.A. ("TAM") hereby requests, pursuant to 14 C.F.R. § 212.9(b)(2), an amended statement of authorization to permit TAM to place the two letter airline code of its code share partner, American Airlines, Inc. ("AA") on flights to be conducted by TAM between Rio de Janeiro and Vitoria, Brazil:

In further support of this request TAM states as follows:

By Notice of Department Action dated August 24, 2001 (Docket OST-2000-8028) the Department granted TAM authority to place the 'AA' code on flights conducted by TAM in 14 city-pair markets within Brazil and two U.S.-Brazil markets. Previously, the DOT granted TAM authority to place the 'AA' code on flights between Sao Paulo and 18 points within

¹ TAM was formerly known as TAM-Transportes Aereo Meridionais, S.A.

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Brazil. This authority was most recently renewed for an indefinite period on June 11, 1998. (No. 98-37, Undocketed).

TAM now applies for authority to place the 'AA' code on TAM flights operated between Rio de Janeiro and Vitoria, Brazil. The extension of American code share services in this market will serve the interests of the traveling and shipping public.

American currently possess broad authority to operate and hold out service between the United States and Brazil, including holding out connecting services within Brazil in conjunction with TAM. Specifically, American possess authority to conduct scheduled foreign air transportation between points in the United States and Rio de Janeiro, among other points in Brazil. See, Notice of Action Taken, Docket OST-1996-1353, dated March 6, 2002. In addition, American holds authority to provide scheduled air transportation on a code share only basis between points in the United States and 16 named points in Brazil, including Vitoria. See, Notice of Action Taken, Docket OST-1997-2419, dated March 6, 2002. Finally, American possess exemption authority to integrate its world wide certificate authority to conduct scheduled foreign air transportation with its

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currently held exemption authority. See, Notice of Action Taken, Docket OST-1997-2336, dated June 8, 2001.

Approval of this request to amend TAM's statement of authorization is in the public interest for the same reasons the DOT previously approved, for an indefinite period, the joint application of TAM and American for statements of authorization, and amendments thereto. The code share services provided by TAM and American are expressly authorized by the terms of the Air Transport Agreement between Brazil and the United States. Further, approval of this request will provide additional service options for passengers and shippers between Brazil and the United States by providing new and/or first time U.S. carrier service between the specified markets consistent with the Statement of United States International Air Transportation Policy, 60 Fed. Reg. 21841, May 3, 1995.

Given the commercial importance of the code share relationship between TAM and American, and the need to commence passenger sales as soon as possible prior to the start of this new code share service, TAM urges the Department to approve this application for an amended statement of authorization on or before May 12, 2002.

WHEREFORE, for the reasons set forth above, TAM respectfully requests that the DOT amend the TAM statement

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of authorization to permit the additional code share
services described herein.

Respectfully submitted,

SILVERBERG, GOLDMAN & BIKOFF, L.L.P.

Attorneys for
TAM-LINHAS AEREAS, S.A.

By:


Robert P. Silverberg

CERTIFICATE OF SERVICE

I hereby certify that I have this 17th day of April, 2002 caused a copy of the foregoing Application of Tam-Linhas Aereas, S.A. For An Amended Statement of Authorization to be served by first class mail upon those persons listed below:

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