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

DEPARTMENT ACTION ON APPLICATION IN DOCKET OST 2001-10833 - 2
**(Joint Application of Delta Air Lines, Inc., and Aerolitoral, S.A. de C.V., for a
statement of authorization)**
(filed October 12, 2001)

Approved under assigned authority (14 CFR §385.13)

Date of Action: **October 30, 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.

Joint Application of Delta Air Lines, Inc. (Delta), and Aerolitoral, S.A. de C.V. (Aerolitoral), for:

A. Statement of Authorization permitting Aerolitoral to display Delta's "DL" code on transborder flights operated by Aerolitoral, using only small aircraft, between (1) El Paso, Texas, and Chihuahua, Mexico; (2) San Antonio, Texas, and Monterrey, Mexico; and (3) Tucson, Arizona, and Hermosillo, Mexico.

B. Statement of Authorization permitting Aerolitoral to display Delta's "DL" code on transborder flights operated by Aerolitoral, using only small aircraft, between Delta's authorized Mexican gateway points and other points within Mexico on a blanket basis, for the carriage of Delta's authorized United States-Mexico traffic (blind-sector).

C. Delta's Non-Operating Authorization (Notification) to provide U.S.-Mexico code-share services, using only small aircraft, in the following markets: (1) El Paso-Chihuahua; (2) San Antonio-Monterrey; and (3) Tucson-Hermosillo.

D. Delta's Non-Operating Authorization (Notification) to engage in scheduled foreign air transportation of persons, property, and mail, using only small aircraft, between points in the United States and points within Mexico beyond Delta's authorized Mexican gateway points for transborder services, for the purpose of blind-sector code-sharing services operated between the Mexican gateway points and other points within Mexico on services operated by either Delta or Aerolitoral.

The authority granted is subject to the following conditions:

- (a) The statement of authorization will remain in effect only as long as (i) Delta and Aerolitoral 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) Delta and Aerolitoral must promptly notify the Department (Office of International Aviation) if the code-share agreement providing for the code-share operations is no longer effective or if the carriers decide to cease operating all or a portion of the approved code-share services. Such notices should be filed in Docket OST-2001-10833.¹
- (c) Delta and/or Aerolitoral must notify the Department (Office of International Aviation, Room 6412), by letter, no later than 30 days before they begin any new beyond gateway code-share service under the blanket beyond-gateway code-share services authorized by this action. Such notice shall identify the market(s) to be served, and the date on which the service will begin. Such notices must be filed in Docket OST-2001-10833.
- (d) The code-sharing operations conducted under this authority must comply with 14 C.F.R. Part 257 and with any amendments to the Department's regulations concerning code-share arrangements that may be adopted. Notwithstanding any provision 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; and that the passenger liability of the operating carrier be unaffected. For services authorized by this action, where the foreign carrier is flying its aircraft, the operating carrier shall not permit the code of its U.S. air carrier code-sharing 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.

¹ We expect this notification to be received within 10 days of such non-effectiveness or of such decision.

- (e) The authority granted here is specifically conditioned so neither Delta nor Aerolitoral shall give any force or effect to any contractual provisions between themselves that are contrary to these conditions.
- (f) The non-operating (notification) U.S.-Mexico transborder authority granted to Delta in Paragraph 3, above, is subject to the dormancy notice requirements set forth in condition 7 of Appendix A of Order 88-10-2. The start-up deadline for services in these markets is **January 28, 2002**.
- (g) The effectiveness of Delta's non-operating (notification) U.S.-Mexico transborder authority is conditioned on the carrier's compliance with Part 298 of the Department's regulations, as well as the provisions of the aviation agreement between the United States and Mexico.
- (h) The effectiveness of Delta's non-operating (notification) U.S.-Mexico transborder authority is conditioned on the carrier's compliance with applicable requirements of the Federal Aviation Administration (FAA), Regulations, including all FAA requirements concerning security.
- (i) We may amend, modify, or revoke the authority granted at any time without hearing at our discretion.

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