



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

Order 97-3-35

Issued by the Department of Transportation
on the 24th day of March, 1997

Served March 28, 1997

Applications of

American Airlines, Inc.

Arrow Air, Inc.

Continental Airlines, Inc.

Delta Air Lines, Inc.

Pan American World Airways, Inc.

Prestige Airways, Inc.

Southern Air Transport, Inc.

Spirit Airlines, Inc.

United Air Lines, Inc.

Dockets OST-96-1065

OST-96-1118(46901)

OST-97-2188

OST-96-2039

OST-97-2072

OST-97-2104

OST-96-1336

OST-97-2146

OST-95-576

OST-97-2112

for exemptions or authorities under 49 U.S.C. section
40109 and the orders and regulations of the Department
of Transportation

ORDER

The captioned U.S. air carriers have applied for various forms of authority or relief from Title 49 of the U.S. Code or regulations or orders of the Department in order to perform the air transportation activities shown in the attached Notices of Action Taken. Except as noted, no answers were filed to these requests. Because of the imminence of

these operations, we approved them by telephone, subject to adherence, by each applicant, to the conditions set forth in its certificate(s) of public convenience and necessity, and/or conditions attached.

We carefully considered the information set forth in each application described in the attached Notices of Action Taken, and we found that each of the proposed operations was consistent with the public interest and was consistent with an applicable bilateral aviation agreement and/or the aviation relationship between the United States and the foreign country involved, that each applicant was qualified to perform its proposed operations, and that each application should be approved.

Under authority assigned by the Department in its Regulations, 14 CFR Part 385, we found that for each operation (1) immediate action was required and was consistent with Department policy; (2) grant of the exemption or authority was consistent with the public interest; and (3) grant of this authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975.¹

ACCORDINGLY,

1. We confirm the actions described in the attached Notices of Action Taken, which granted the referenced U.S. air carriers (1) exemptions from the provisions of Section 41101 and where necessary 41504 or as noted in the attached notices, other sections of Title 49 U.S.C.; or (2) relief or authorizations as provided for under regulations or orders of the Department, to the applicants to perform the operations described in the attached Notices of Action Taken;
2. In the conduct of the service, each applicant was to adhere to the conditions set forth in the Appendix, and to any other conditions as noted in the attached Notices of Action Taken;
3. To the extent not granted, or explicitly deferred as noted in the attached Notices of Action Taken, these applications are denied; and
4. We may amend, modify, or revoke this order at any time without hearing.

¹ On the basis of data officially noticeable under Rule 24(n) of the Department's regulations, we found that each U.S. air carrier applicant for an operating exemption is qualified to provide the services authorized.

Persons entitled to petition the Department for review of this order under the Department's Regulations, 14 CFR 385.50, may file their petitions within ten (10) days after the date of service of this order. The filing of a petition for review of a particular action shall affect this order only as it concerns that action.

These actions were effective when taken, and the filing of a petition for review will not alter their effectiveness.

By:

PAUL L. GRETCH
Director
Office of International Aviation

(SEAL)

Appendix

U.S. Carrier Standard Exemption Conditions

In the conduct of the operations authorized by the attached order, the applicant(s) shall:

- (1) Hold at all times effective operating authority from the government of each country served;
- (2) Comply with applicable requirements concerning oversales contained in 14 CFR 250 (for scheduled operations, if authorized);
- (3) Comply with the requirements for reporting data contained in 14 CFR 241;
- (4) Comply with the requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Comply with the requirements of 14 CFR 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (6) Comply with the applicable requirements of the Federal Aviation Administration Regulations; and
- (7) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation, with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

The authority granted or confirmed by the attached order shall be effective only during the period when the holder is in compliance with the conditions imposed above.

RENEW



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

NOTICE OF ACTION TAKEN

March 7, 1997

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Application of American Airlines Inc. filed 1/24/97 in Docket OST-96-1065 for:

XX Renew for two years allocation of seven weekly frequencies to provide scheduled combination service between New York, New York, and Rio de Janeiro, Brazil.

Applicant rep.: Carl B. Nelson, 202-496-5647 DOT analyst: Sylvia Moore, 202-366-6519

DISPOSITION

XX Granted (Subject to conditions, see below)

The above action was effective when taken: March 5, 1997, through March 5, 1999

XX Under assigned authority (14 CFR 385) by:

Paul L. Gretch, Director
Office of International Aviation
(Petitions for review may be filed from now until
10 days after the confirming order/letter issues.
Filing of a petition shall not stay the effectiveness of
this action.)

XX Authority granted is consistent with the aviation agreement between the United States and Brazil.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

- XX Holder's certificate of public convenience and necessity**
- XX Standard Exemption Conditions (attached)**

Conditions: Consistent with our standard practice, the frequency allocation granted is subject to the condition that it will expire automatically and the frequencies will revert back to the Department for reallocation if they are not used for 90 days.

RENEW



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

NOTICE OF ACTION TAKEN

March 7, 1997

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Application of Arrow Air, Inc. filed 1/6/97 in Docket OST-96-1118 (46901) for:

XX Renew for two years exemption under 49 U.S.C. to provide the following service:

Scheduled foreign air transportation of property and mail between Miami, Florida, and Montevideo, Uruguay, and to integrate this authority with Arrow's existing certificate and exemption authority to serve South America.

Applicant rep.: Allan Markham 202-337-2149 DOT analyst: Sylvia Moore, 202-366-6519

DISPOSITION

XX *Granted (Subject to conditions, see below)*

The above action was effective when taken: March 5, 1997, through March 5, 1999

XX Under assigned authority (14 CFR 385) by:

Paul L. Gretch, Director
Office of International Aviation
*(Petitions for review may be filed from now until
10 days after the confirming order/letter issues.
Filing of a petition shall not stay the effectiveness of
this action.)*

XX Authority granted is consistent with the aviation agreement between the United States and Uruguay.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

XX Holder's certificate of public convenience and necessity

XX Standard Exemption Conditions (attached)

Conditions: The route integration authority granted is subject to the condition that any service provided under this exemption shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, (a) nothing in award of the route integration authority requested should be construed as conferring upon Arrow rights (including fifth freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless Arrow notifies us of its intent to serve such a market and unless and until the Department has completed any

(See Reverse Side)

necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited entry route rights that are included in Arrow's authority by virtue of the route integration exemption granted here, but that are not then being used by Arrow, the holding of such authority by route integration will not be considered as providing any preference for Arrow in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

NEW



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

NOTICE OF ACTION TAKEN

March 12, 1997

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Application of CONTINENTAL AIRLINES, INC., filed 3/6/97 in Docket OST-97-2188 for:

XX Exemption for two years under 49 U.S.C. section 40109 to provide the following service:

Scheduled foreign air transportation of persons, property, and mail between San Diego, California, and Mexico City, Mexico. Continental states that this will be a seasonal operation to begin June 12, 1997.

Applicant rep: Lorraine B. Halloway (202) 624-2500 DOT Analyst: Linda Lundell (202) 366-2336

DISPOSITION

XX Granted (Subject to Conditions, See Remarks)

The above action was effective when taken: March 12, 1997, through March 12, 1999, or until 90 days after final Department action on a corresponding certificate application, whichever occurs earlier.

XX Under assigned authority (14 CFR 385) by:

Paul L. Gretch, Director
Office of International Aviation
(Petitions for review may be filed from now until
10 days after the confirming order/letter issues.
Filing of a petition shall not stay the
of this action.)

effectiveness

XX Authority granted is consistent with the aviation agreement between the United States and Mexico.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated: **XX Holder's certificate of public convenience and necessity.**

XX Standard Exemption Conditions (attached)

(See Reverse Side)

Conditions/Remarks: The authority granted is subject to the dormancy notice conditions as set forth in Condition #7 of Appendix A of Order 88-10-2. Consistent with our standard practice, the dormancy notice period will begin June 12, 1997, Continental's proposed start-up date for these services.

We acted on this application without awaiting expiration of the 15-day answer period with the consent of all parties served with the application.

RENEW & AMEND



**U.S. Department of
Transportation**

Office of the Secretary
of Transportation

NOTICE OF ACTION TAKEN

March 7, 1997

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Application of Delta Air Lines, Inc. filed 12/31/97 in Docket OST-96-2039 for:

XX Renew for two years exemption under 49 U.S.C. to provide the following service:

Renew scheduled foreign air transportation of persons, property, and mail between Atlanta, Georgia, and Nice, France, via Brussels, Belgium (without local traffic rights between Brussels and Nice) and amend to integrate this authority with its existing certificate and exemption authority.

Applicant rep.: Robert Cohn 202-663-8060 DOT analyst: Sylvia Moore, 202-366-6519

DISPOSITION

XX *Granted (Subject to conditions, see below)*

The above action was effective when taken: March 5, 1997, through March 5, 1999

XX Under assigned authority (14 CFR 385) by:

Paul L. Gretch, Director

Office of International Aviation

*(Petitions for review may be filed from now until
10 days after the confirming order/letter issues.*

*Filing of a petition shall not stay the effectiveness of
this action.)*

XX **Authority granted is consistent with the aviation agreement between the United States and Belgium and the overall state of aviation relations between the United States and France.**

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

XX **Holder's certificate of public convenience and necessity**

XX **Standard Exemption Conditions (attached)**

Remarks: Conditions: The route integration authority granted is subject to the condition that any service provided under this exemption shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, (a) nothing in award of the route integration authority requested should be construed as conferring upon Delta rights (including fifth

freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless Delta notifies us of its intent to serve such a market and unless and until the Department has completed any

(See Reverse Side)

necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited entry route rights that are included in Delta's authority by virtue of the route integration exemption granted here, but that are not then being used by Delta, the holding of such authority by route integration will not be considered as providing any preference for Delta in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.



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

NOTICE OF ACTION TAKEN

NEW

March 5, 1997

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Application of **Pan American World Airways, Inc.** filed **1/14/97** in Docket **OST-97-2072** for:

XX Exemption under 49 U.S.C. to provide the following service:

Scheduled foreign air transportation of persons, property, and mail between New York, New York, and Santo Domingo, Dominican Republic. Pan Am plans to operate this service pursuant to a code-share arrangement with APA International Air, S.A.

XX Statement of Authorization to:

Permit Pan Am to carry the code of APA on its flights between New York and Santo Domingo.

Applicant rep.: **William C. Evans, 202-371-6030** DOT analyst: **Sylvia Moore, 202-366-6519**

DISPOSITION

XX *Granted (Subject to conditions, see below)*

*The above action was effective when taken: **February 25, 1997**, through **February 25, 1998***

XX Under assigned authority (14 CFR 385) by:

Paul L. Gretch, Director
Office of International Aviation
*(Petitions for review may be filed now until
10 days after the confirming order/letter issues.
Filing of a petition shall not stay the effectiveness
of this action.)*

XX Authority granted is consistent with the aviation agreement between the United States and the Dominican Republic.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

XX Holder's certificate of public convenience and necessity

XX Standard Exemption Conditions (attached)

Conditions: The code-share operations authorized are subject to the condition that the carriers comply with provisions of 14 CFR 399.88 of the Department's regulations and any amendments to the Department's regulations concerning code-share arrangements that may be adopted, and the further condition that the subject foreign air transportation be sold in the name of the carrier holding out such service in computer reservation systems and elsewhere, and that the carrier selling such transportation

accept all obligations established in its contract of carriage with the passenger, (*i.e.*, the ticket).
(See Reverse Side)

Remarks: Pan American has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled interstate air transportation of persons, property, and mail as a certificated air carrier under section 41102 of Title 49 U.S.C. (See Orders 96-9-25 and 96-10-33). The foreign air transportation services authorized here are not markedly different in terms of aircraft size or stage length from the carrier's current scheduled interstate operations under its existing certificate authority. We, therefore, found that Pan American is qualified to provide the proposed air transportation services for the one-year period covered by the exemption.

NEW



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

NOTICE OF ACTION TAKEN

March 5, 1997

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Application of PRESTIGE AIRWAYS, INC. filed 1/29/97 in Docket OST-97-2104 for:

XX Exemption for one year under 49 U.S.C. 40109 to provide the following service:

Scheduled foreign air transportation of persons, property, and mail between the terminal point Miami, Florida, and Cancun, Mexico.

Applicant rep: Lee A. Bauer (202) 822-9070 DOT Analyst: Linda Lundell (202) 366-2336

DISPOSITION

XX Granted (see remarks)

The above action was effective when taken: March 4, 1997, through March 4, 1998, or until 90 days after final Department action on a corresponding certificate application, whichever occurs earlier.

XX Under assigned authority (14 CFR 385) by:

Paul L. Gretch, Director
Office of International Aviation
(Petitions for review may be filed from now

until

10 days after the confirming order/letter issues.
Filing of a petition shall not stay the
of this action.)

effectiveness

XX Authority granted is consistent with the aviation agreement between the United States and Mexico.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated: XX Holder's certificate of public convenience and necessity

XX Standard Exemption Conditions attached

(See Reverse Side)

Special Conditions/Remarks: The U.S.-Mexico authority granted is subject to the dormancy notice requirements set forth in condition 7 of Appendix A of Order 88-10-2. Consistent with our standard practice, the dormancy notice period for the U.S.-Mexico services will begin March 30, 1997, Prestige's proposed start-up date for services in this market.

By Order 95-3-5, the Department found Prestige fit to provide interstate and overseas air transportation services of persons, property, and mail. Pursuant to that authority, Prestige provides scheduled domestic and frequent charter service between the United States and the Caribbean, Central and South America, including charter services in the Miami-Cancun market. In addition, the Department has recently completed an informal continuing fitness review of the carrier. The foreign air transportation services authorized here are not markedly different in terms of aircraft size or stage length from the carrier's current scheduled interstate and foreign charter operations under its existing certificate authority. We, therefore, found that Prestige is qualified to provide the proposed air transportation services for the one-year period covered by the exemption.

RENEW



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

NOTICE OF ACTION TAKEN

March 7, 1997

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Application of Southern Air Transport, Inc. filed 1/8/97 in Docket OST-96-1336
for:

XX Renew allocation of 4 weekly frequencies to provide scheduled all-cargo service in the U.S.-South Africa market.

XX Renew exemption under 49 U.S.C. to provide the following service:

Scheduled foreign air transportation of property and mail between Columbus, Ohio, and New York, New York, on the one hand, and Johannesburg and Cape Town, South Africa, on the other, via Luanda, Angola.

Applicant rep.: Pierre Murphy, 202-872-1679 DOT analyst: Sylvia Moore, 202-366-6519

DISPOSITION

XX *Granted (Subject to conditions, see below)*

The above action was effective when taken: March 5, 1997, through March 5, 1998

XX Under assigned authority (14 CFR 385) by:

Paul L. Gretch, Director
Office of International Aviation
(Petitions for review may be filed from now until
10 days after the confirming order/letter issues.
Filing of a petition shall not stay the effectiveness of
this action.)

XX Authority granted is consistent with the aviation agreement between the United States and South Africa.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

- XX Holder's certificate of public convenience and necessity
 - XX Standard Exemption Conditions (attached)
-

Conditions: Consistent with our standard practice, the frequency allocation granted is subject to the condition that it will expire automatically and the frequencies will revert back to the Department for reallocation if they are not used for a period of 90 days.

NEW



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

NOTICE OF ACTION TAKEN

March 11, 1997

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Application of Spirit Airlines, Inc. filed 2/21/97 in Docket OST-97-2146 for:

XX Exemption for two years under 49 U.S.C. to provide the following service:

Scheduled foreign air transportation of persons, property, and mail between Atlantic City, New Jersey, and Bermuda. The South Jersey Transportation Authority filed an answer in support of Spirit's application.

Applicant rep.: Anita M. Mosner 202-342-5200 DOT analyst: Sylvia Moore, 202-366-6519

DISPOSITION

XX Granted (in part, see below)

XX Balance dismissed

The above action was effective when taken: March 11, 1997, through March 11, 1998

XX Under assigned authority (14 CFR 385) by:

Paul L. Gretch, Director
Office of International Aviation
(Petitions for review may be filed from now until
10 days after the confirming order/letter issues.
Filing of a petition shall not stay the effectiveness of
this action.)

XX Authority granted is consistent with the aviation agreement between the United States and the United Kingdom.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

XX Holder's certificate of public convenience and necessity

XX Standard Exemption Conditions (attached)

Remarks: Spirit has previously been found to be a citizen of the United States and fit, willing and able to provide scheduled interstate air transportation of persons, property, and mail as a certificated air carrier under section 41102 of Title 49 U.S.C. (see Order 91-8-58). The foreign air transportation services authorized here are not markedly different in terms of aircraft size or stage length from the carrier's current scheduled interstate operations under its existing certificate authority. We, therefore, found that Spirit is qualified to provide the proposed air transportation services for the one-year period covered by the exemption.

We dismissed without prejudice to refiling Spirit's request for longer-term authority (i.e., for the second year).

NEW



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

NOTICE OF ACTION TAKEN

March 5, 1997

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Application of UNITED AIR LINES, INC., filed 12/13/96 in Docket OST-95-576 for:

XX Renew for two years allocation of three weekly narrow-body frequencies in the Lima-Santiago market with local traffic rights.

Applicant rep.: Joel Stephen Burton (202) 637-9130 DOT analyst: Linda Lundell (202)366-2336

DISPOSITION

XX Granted (Subject to conditions, see below)

The above action was effective when taken: March 5, 1997, through March 5, 1999

XX Under assigned authority (14 CFR 385) by:

Paul L. Gretch, Director

Office of International Aviation

(Petitions for review may be filed from now until
10 days after the confirming order/letter issues.

Filing of a petition shall not stay the effectiveness of
this action.)

XX Authority granted is consistent with the aviation agreements between the United States and Peru and the United States and Chile.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

XX Holder's certificate of public convenience and necessity

XX Standard Exemption Conditions (attached)

Remarks: United holds the underlying route authority to conduct these operations. Specifically, United holds certificate authority to serve the U.S.-Chile market on Route 632 (Order 92-7-9), and certificate authority to serve the Miami-Lima market on Route 703 (Order 96-7-33). Further, condition 10 of United's certificate for Route 703 provides for route integration authority to permit United to serve on a routing, Miami-Lima-Santiago.

Conditions: Consistent with our standard practice, the frequency allocation granted is subject to the condition that it will expire automatically and the frequencies will revert back to the Department for reallocation if they are not used for a period of 90 days.

NEW



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

NOTICE OF ACTION TAKEN

February 21, 1997

This serves as interim notice to the public of the action described below, taken orally by the Department official indicated; the confirming order or other decision document will be issued as soon as possible.

Application of United Air Lines, Inc. filed 1/31/97 in Docket OST-97-2112 for:

XX Exemption for two years under 49 U.S.C. to provide the following service:

Scheduled foreign air transportation of property and mail between Anchorage, Alaska, on the one hand, and Manila, the Philippines, and Taipei, Taiwan, on the other, via Osaka, Japan, and to integrate this authority with its existing certificate and exemption authority.

Applicant rep.: Jeff Manley, 202-637-9057 DOT analyst: Sylvia Moore, 202-366-6519

DISPOSITION

XX *Granted (Subject to conditions, see below)*

The above action taken February 20, 1997, is effective March 1, 1997 through March 1, 1999, or until 90 days after final Department action on United's corresponding certificate application in Docket OST-96-1248, whichever occurs earlier.

XX *Under assigned authority (14 CFR 385) by:*

*Paul L. Gretch, Director
Office of International Aviation
(Petitions for review may be filed from now until
10 days after the confirming order/letter issues.
Filing of a petition shall not stay the effectiveness of
this action.)*

XX **Authority granted is consistent with the U.S.-Japan Memorandum of Consultations dated March 29, 1996, and the aviation agreements governing air services between the United States and the Philippines and the United States and Taiwan.**

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

XX **Holder's certificate of public convenience and necessity**

XX **Standard Exemption Conditions (attached)**

Conditions: The route integration authority granted is subject to the condition that any service provided under this exemption shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, (a) nothing in the award of the route integration authority requested should be construed as conferring upon United rights (including fifth freedom intermediate

(See Reverse Side)

and/or beyond rights) to serve markets where U.S. carrier entry is limited unless United notifies us of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited entry route rights that are included in United's authority by virtue of the route integration exemption granted here, but that are not then being used by United, the holding of such authority by route integration will not be considered as providing any preference for United in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.