



Order 97-3-40

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

Served: April 3, 1997

Issued by the Department of Transportation  
on the 27<sup>th</sup> day of March, 1997

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Application of :  
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**AIR JAMAICA LIMITED** : DOCKET OST 96-  
1881 :  
:   
for extension of exemption :  
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**ORDER**

**Summary**

By this order, we extend Air Jamaica Limited's exemption to conduct scheduled combination operations between New York, New York, and Atlanta, Georgia, on the one hand, and Barbados, on the other, via the intermediate points Antigua and Barbuda and St. Lucia, for 30 days. This authority was last granted by Order 97-2-22 and is limited to operations conducted under wet lease by a duly authorized and properly supervised U.S. or foreign carrier.

**Background**

On October 18, 1996, Air Jamaica requested an exemption for two years to conduct the extrabilateral operations described above. Amerijet International, Inc., answered and stated that comity and reciprocity did not support grant of the request. Specifically, Amerijet stated that it was unable to secure facilities at Jamaican airports from the Airports Authority of Jamaica to self-handle its cargo, a bilateral right.

By Orders 96-11-30 and 97-2-22, the Department found that it was in the public interest to grant Air Jamaica's request, for the reasons noted in those orders, through the period ending March 27, 1997, and to defer on the remainder.

### **Additional Pleadings**

On March 20, 1997, Air Jamaica, by letter to the Department, supplemented its pending request and stated that Amerijet and the Government of Jamaica (GOJ) are currently negotiating regarding Amerijet's requests; that the Department should assume that the good-faith negotiations will lead to a satisfactory resolution; and that Air Jamaica has exercised its best efforts to facilitate a resolution here. Further, the carrier stated that short-term Department grants of its requested authority have impeded prospects for economic success in the affected markets and, therefore, requested an extension of no fewer than 90 days.

On March 26, 1997, Amerijet, by letter to the Department, responded to Air Jamaica's March 20 request and, asserting that no progress has been achieved in resolving Amerijet's issues, stated that there is no fair or reasonable basis by which the Department could grant a three-month extension of Air Jamaica's authority as requested in the March 20 letter.

On March 27, 1997, Air Jamaica submitted a letter (dated March 26, 1997) to the Department, responding to Amerijet's March 26 letter.<sup>1</sup>

### **Decision**

Since the issuance of Orders 96-11-30 and 97-2-22, various intergovernmental and intercarrier efforts aimed at resolving Amerijet's concerns have been continuing. In view of these ongoing efforts and the possibility that a satisfactory resolution could be reached soon, we find that the public interest warrants a further extension of Air Jamaica's exemption in this Docket. The extension will be for an additional 30 days. We have considered Air Jamaica's arguments in favor of an extension of at least 90

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<sup>1</sup> We note that Air Jamaica styled its March 20 letter as a supplement to its Docketed request yet did not file the letter in the Docket nor in any way indicate that such inclusion was contemplated. We also note that Amerijet, in responding to Air Jamaica's undocketed letter, indicated that its own March 26 letter was intended for inclusion in the Docket. However, Amerijet included no Motion or accompanying justification for formal receipt of the document. Similarly, Air Jamaica's March 26 letter, while filed in the Docket section on March 27 (and attaching Air Jamaica's March 20 submission) was supported by no accompanying Motion or justification for receipt into the record. While we have taken the initiative to include all of these submissions as part of the official record in this proceeding, we urge the parties in the future to submit all documents pertaining to docketed matters in accordance with established Department procedural regulations (14 CFR Part 302).

days. However, we believe that this matter continues to warrant our close attention and that a

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more limited grant best serves our goal of achieving a quick solution. We intend to continue to monitor closely the parties' progress in this matter.

In view of the above, we find that grant of the authority described here is consistent with the public interest, and that our action does not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975.

ACCORDINGLY,

1. We extend Air Jamaica Limited's exemption from the provisions of 49 U.S.C. section 41301, last granted by Order 97-2-22 in this Docket, in order for it to conduct scheduled foreign air transportation of persons, property and mail between New York, New York, and Atlanta, Georgia, on the one hand, and Barbados, on the other, via the intermediate points Antigua and Barbuda and St. Lucia;
2. This authority shall be effective during the 30-day period beginning March 28, 1997;
3. The authority granted above is limited to operations conducted under wet lease from a duly authorized and properly supervised U.S. or foreign carrier. Air Jamaica may not conduct the operations authorized here with its own aircraft and crew without further Department action;
4. To the extent not granted above, we defer action on Air Jamaica's request in this Docket;
5. The authority granted above is subject to the terms, limitations and conditions of Air Jamaica's foreign air carrier permit, as issued by Order 89-3-74;
6. We may amend, modify or revoke this authority at any time and without hearing; and

7. We will serve a copy of this order on Air Jamaica Limited, Amerijet International, Inc., the Ambassador of Jamaica in Washington, D.C., the Department of State (Office of Aviation), and the Federal Aviation Administration (AFS-200).

By:

CHARLES A. HUNNICUTT  
Assistant Secretary for Aviation and  
International Affairs

(SEAL)

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