



**U.S. Department of  
Transportation**

Office of the Secretary  
of Transportation

## NOTICE OF ACTION TAKEN

### UNDOCKETED

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 decisional document will be issued as soon as possible.

Joint Applicants: AEROVIAS de MEXICO, S.A. de C.V. (AEROMEXICO) and AUSTRIAN AIRLINES

Date filed: June 29, 1998

Relief requested: Statement of Authorization under 14 CFR Part 212 to permit Aeromexico to continue to carry the code of Austrian Airlines, between Mexico City, Mexico, and New York, New York, on certain of Austrian Airlines' scheduled services to and from Austria, for a period of one year, beyond August 23, 1998.

If renewal, date of last action(s): March 27, 1998 (confirmed by Order 98-5-22).

Applicants' representatives: William C. Evans (for Aeromexico), 202-371-6030 and J.E. Murdock III (for Austrian Airlines), 202-663-8000.

Responsive pleadings: On July 10, 1998, American Airlines filed an answer opposing the application. American urged us not to authorize a carrier of Mexico to expand its U.S. code-share services with third-country carriers, under circumstances where the United States and Mexico do not have an acceptable bilateral arrangement for code-share operations. Further, American asserted that the parent of Aeromexico and Mexicana (the Cintra Group) is the main impediment to U.S. authorities' reaching an acceptable arrangement on codesharing with Mexican authorities and that the Mexican authorities appear to be comfortable with the current code-share regime.

By letter dated July 21, 1998, Austrian Airlines responded to American's pleading. Austrian asserted that it is entitled to conduct the subject service under the U.S.-Austria open-skies Agreement and urged us, at a minimum, to grant the authority for a period of 179 days.

### DISPOSITION

Action: Granted in part (see Remarks below). Balance dismissed (for authority beyond 179 days).

Action date: August 21, 1998

Effective dates of authority granted: August 21, 1998, through February 16, 1999 (179 days).

Remarks: In our previous action on this matter, we said that while we were actively pursuing a liberal code-sharing arrangement with Mexico that would include code-share opportunities for carriers of both countries with third-country airlines, we (at that time) had not reached a satisfactory accord with Mexico on that issue. On August 5, however, the Mexican authorities provided the U.S. Government with oral assurances (which they have agreed to confirm in writing) that they will authorize U.S. carriers to code share with third-country partners for services to, from and via Mexico. Taking into account these assurances, as well as the provisions of our open-skies relationship with Austria, we determined that grant of this code-share request for a period of 179 days would be consistent with the public interest.

Except to the extent exempted/waived, this authority is subject to the terms, conditions, and limitations of Aeromexico's foreign air carrier permit. The code-sharing operations must comply with 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 condition that this foreign air transportation be sold in the name of the carrier holding out the service in computer reservation systems and elsewhere; and that the carrier selling such transportation (that is, the carrier shown on the ticket) accept all obligations established in its contract of carriage with the passenger; and that the passenger liability of the operating carrier be unaffected.

Action taken by: Paul L. Gretch, Director, Office of International Aviation, under assigned authority (14 CFR 385) (Petitions for review may be filed from now until 10 days after the service date of the confirming order/letter. Filing of a petition shall not stay the effectiveness of this action.)