



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC

Issued by the Department of Transportation on January 13, 2000

NOTICE OF ACTION TAKEN -- DOCKET OST-99-6582

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Application of Challenge Air Cargo, Inc. filed 11/30/99 to:

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

Scheduled foreign air transportation of property and mail between point or points in the United States, via intermediate point(s), and a point or points in Argentina, and beyond. Challenge also requests authority to combine this exemption with Challenge's existing certificate and exemption authority. Challenge initially proposes to use this authority to provide service between Miami and Buenos Aires via Sao Paulo, Brazil.¹

No answers to the application were filed.

Applicant rep: William H. Callaway, Jr. 202-298-8660 DOT Analyst: Gerald Caolo 202-366-2406

DISPOSITION

XX **Granted**

The above action was effective when taken: January 13, 2000, through January 13, 2001 or until **United Parcel Service obtains the necessary Department and foreign government approvals to operate this service in its own right, whichever occurs earlier.**

**Action taken by: Paul L. Gretch, Director
Office of International Aviation**

XX **The authority granted is consistent with the aviation agreements between the United States and Argentina and 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)**

¹ Challenge notes its pending application to transfer its other Latin American route authorities to United Parcel Service (UPS) (Docket OST-99-6345), as well as UPS' application to serve Argentina (Docket OST-99-6391). Challenge states that it plans to continue operating the proposed Miami-Sao Paulo-Buenos Aires service until such time as UPS obtains the necessary Department of Transportation and foreign government approvals to operate in its own right. The authority to serve Brazil is at issue in the UPS/Challenge route transfer application which is currently pending. The Department granted UPS' Argentina application by notice of action taken dated January 12, 2000.

Conditions:

The authority granted to serve intermediate and beyond points in conjunction with Argentina service is limited to countries with which the United States has signed open-skies agreements and/or countries for which the carrier holds authority to serve under certificates or exemptions issued by the Department, and for which it holds route integration authority, by virtue of either the present action or other action of the Department, and is subject to all conditions attached to that authority.

The route integration authority granted Challenge 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 Challenge rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless Challenge notifies the Department 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 Challenge's authority by virtue of the route integration exemption granted here, but that are not then being used by Challenge, the holding of such authority by route integration will not be considered as providing any preference for Challenge in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

On the basis of data officially noticeable under Rule 24(n) of the Department's regulations, we found the applicant qualified to provide the services authorized.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) immediate action was required and was consistent with Department policy; (2) grant of the exemption authority was consistent with the public interest; and (3) grant of the authority would not constitute a "major regulatory action" under the Energy, Policy and Conservation Act of 1975. To the extent not granted, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within ten (10) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

*An electronic version of this document is available on the World Wide Web at:
http://dms.dot.gov/reports/reports_aviation.asp*

APPENDIX

U.S. Carrier Standard Exemption Conditions

In the conduct of operations authorized by the attached notice, 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 (for scheduled operations, if authorized);
- (3) Comply with the requirements for reporting data contained in 14 CFR 241;
- (4) Comply with requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Except as specifically exempted or otherwise provided for in a Department Order, 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, including all FAA requirements concerning security; 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 shall be effective only during the period when the holder is in compliance with the conditions imposed above.