

149370



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

**DEPARTMENT ACTION ON APPLICATION IN DOCKET OST 01-11197-2**

Approved under assigned authority (14 CFR §385.13).

Date of Action: January 22, 2002

Date Filed: December 18, 2001

Authority Expires: January 22, 2004 \*/

A handwritten signature in cursive script, appearing to read "Allen F. Brown".

*for* Director, Office of International Aviation

DEPT. OF TRANSPORTATION  
DOCKETS  
02 JAN 24 PM 2:44

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.

\*/ While the applicants requested authority for an indefinite period, we decided in the circumstances presented to grant the requested authority for two years.

**ATTACHMENT**

Conditions:

- (a) Compania Mexicana de Aviacion and All Nippon Airways must promptly notify the Department (Office of International Aviation) if the subject agreement providing for these operations is no longer effective or the carriers decide to cease operating any or all of the approved services. We expect this notice to be received within ten days of such non-effectiveness or of such decision. (Such notices should be filed in Docket OST 2001-11197.)
- (b) The code-sharing operations conducted under this authority must comply with 14 CFR Part 257 and with any amendments to the Department's regulations concerning code-share arrangements that may be adopted. Notwithstanding any provisions in the contract between the subject foreign air 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 the service in computer reservation systems and elsewhere; that the carrier selling such transportation (that is, 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.
- (c) The authority granted here is specifically conditioned so that neither carrier shall give any force or effect to any contractual provisions between themselves that are contrary to these conditions.
- (d) We may amend, modify, or revoke the authority granted here at any time without hearing at our discretion.

X-45

DEPT. OF TRANSPORTATION  
DOCKETS

01 DEC 18 PM 3:33

**BEFORE THE  
DEPARTMENT OF TRANSPORTATION  
WASHINGTON, D.C.**

---

Joint application of )  
 )  
 COMPANIA MEXICANA DE AVIACION, )  
 S.A. DE C.V. )  
 )  
 and )  
 )  
 ALL NIPPON AIRWAYS CO., LTD. )  
 )  
 for Statements of Authorization pursuant to )  
 14 C.F.R. 212 )  


---

Docket OST-2001-11197

01 DEC 18 PM 3:33

**JOINT APPLICATION FOR  
STATEMENTS OF AUTHORIZATION**

Communications with respect to this document should be addressed to:

Robert D. Papkin  
Charles F. Donley II  
SQUIRE, SANDERS & DEMPSEY L.L.P.  
1201 Pennsylvania Avenue, N.W.  
P.O. Box 407  
Washington, D.C. 20044  
(202) 626-6601

Charles J. Simpson, Jr.  
ZUCKERT, SCOUTT &  
RASENBERGER, L.L.P.  
888 Seventeenth Street, N.W.  
Washington, D.C. 20006  
(202) 298-8660

Counsel to Compania Mexicana de Aviacion,  
S.A. de C.V.

Counsel to All Nippon Airways Co.,  
Ltd.

DATED: December 18, 2001

**BEFORE THE  
DEPARTMENT OF TRANSPORTATION  
WASHINGTON, D.C.**

---

Joint application of	)	
	)	
COMPANIA MEXICANA DE AVIACION,	)	
S.A. DE C.V.	)	Docket OST-2001-_____
	)	
and	)	
	)	
ALL NIPPON AIRWAYS CO., LTD.	)	
	)	
for Statements of Authorization pursuant to	)	
14 C.F.R. 212	)	

---

**JOINT APPLICATION FOR  
STATEMENTS OF AUTHORIZATION**

Compania Mexicana de Aviacion, S.A. de C.V. ("Mexicana") and All Nippon Airways Co., Ltd. ("ANA") (together, the "Joint Applicants"), pursuant to 14 C.F.R. 212, hereby apply for statements of authorization to engage in certain codesharing operations between Mexico and Japan via Los Angeles. Mexicana and ANA intend to commence codeshare operations in March 2002 following receipt of all necessary regulatory approvals. The Joint Applicants request prompt approval of their application so that marketing of these services may begin without delay. The Joint Applicants request also that this authority be granted for an indefinite period, consistent with the Department's decisions in similar cases.

Under the codeshare agreement between Mexicana and ANA, Mexicana will place its two-letter designator code on flights operated by ANA between Los Angeles

Joint Application of Compania Mexicana de  
Aviacion, S.A. de C.V. and All Nippon Airways Co., Ltd.  
Docket OST-2001-\_\_\_\_\_  
December 18, 2001

and Tokyo (Narita). ANA will place its designator code on flights operated by Mexicana between Los Angeles and Mexico City/Guadalajara/Cancun. The Joint Applicants will transport passengers only between Mexico and Japan under this codeshare—this service will not be marketed or available to passengers originating in or destined for Los Angeles. Instead, the Joint Applicants will use Los Angeles only as a transit point at which their respective Mexico-U.S. and Japan-U.S. flights will connect. In further support of this application, the Joint Applicants state as follows:

1. Mexicana and ANA have entered into a codeshare agreement pursuant to which they have agreed to codeshare on various flights operated by each other. In this instance, codeshare flights between their respective homelands will operate via a connection at Los Angeles.

2. Mexicana requests a statement of authorization permitting Mexicana to display ANA's two-letter "NH" code on flights operated by Mexicana between Mexico City, Guadalajara and Cancun, Mexico on the one hand, and Los Angeles, California, on the other hand, for the purpose of connecting with ANA's Los Angeles-Tokyo flights.

ANA requests a statement of authorization permitting ANA to display Mexicana's two-letter "MX" code on ANA's Los Angeles-Tokyo flights, for the purpose of connecting with Mexicana's Los Angeles-Mexico City/Guadalajara/Cancun services.

Joint Application of Compania Mexicana de  
Aviacion, S.A. de C.V. and All Nippon Airways Co., Ltd.  
Docket OST-2001-\_\_\_\_\_  
December 18, 2001

The carriers do not intend, and do not request authority, to transport Fifth Freedom traffic between the United States and either Mexico or Japan.

3. The Joint Applicants hold all necessary underlying operating authority. ANA holds a foreign air carrier permit authorizing it to provide the service contemplated by this application.<sup>1</sup> Mexicana holds authority in its foreign air carrier permit authorizing it to conduct scheduled operations between Los Angeles and Mexico City/Guadalajara<sup>2</sup> and holds an exemption permitting it to serve Los Angeles-Cancun.<sup>3</sup>

4. Approval of this application would be fully consistent with the terms of the U.S.-Japan Air Transport Agreement, as well as the United States' aviation relationship with Mexico. The codeshare services proposed in this application are consistent with the terms of the 1998 U.S.-Japan Memorandum of Understanding, which authorizes third-country codesharing in Part IV. While the U.S.-Mexico aviation agreement and the February 1999 agreement on codeshare services do not provide specifically for third-country codeshare services of the type requested here, the Department has previously authorized similar services,<sup>4</sup> noting that the Mexican aviation authorities have assured the United States that Mexico would authorize U.S. carriers to

---

<sup>1</sup> Order 98-4-17

<sup>2</sup> Order 78-6-127

<sup>3</sup> *Notice of Action Taken*, December 2, 1992, Docket OST-95-452

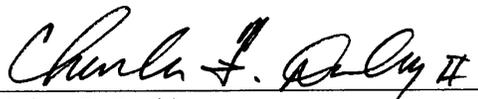
<sup>4</sup> *See Department Action on Application in Docket OST-99-6294*, November 5, 1999 (Mexicana-Air New Zealand codesharing); *Department Action on Application in Docket OST-00-6815*, February 11, 2000

Joint Application of Compania Mexicana de  
Aviacion, S.A. de C.V. and All Nippon Airways Co., Ltd.  
Docket OST-2001-\_\_\_\_\_  
December 18, 2001

codeshare with third country partners for services to, from and via Mexico.<sup>5</sup> All relevant  
bilateral considerations therefore support prompt approval of this application.

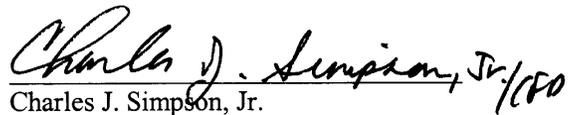
**WHEREFORE**, Compania Mexicana de Aviacion, S.A. de C.V.  
("Mexicana") and All Nippon Airways Co., Ltd. ("ANA") respectfully request that the  
Department of Transportation grant them statements of authorization permitting them to  
engage in codeshare operations as more fully described herein.

Respectfully submitted,



Robert D. Papkin  
Charles F. Donley II  
SQUIRE, SANDERS & DEMPSEY L.L.P.  
1201 Pennsylvania Avenue, N.W.  
P.O. Box 407  
Washington, D.C. 20044  
(202) 626-6601

Counsel to Compania Mexicana de Aviacion,  
S.A. de C.V.



Charles J. Simpson, Jr.  
ZUCKERT, SCOUTT &  
RASENBERGER, L.L.P.  
888 Seventeenth Street, N.W.  
Washington, D.C. 20006  
(202) 298-8660

Counsel to All Nippon Airways Co.,  
Ltd.

DATE: December 18, 2001

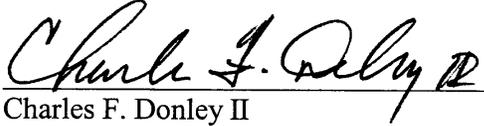
---

(Mexicana-Air Canada codesharing); *Notice of Action Taken*, Docket OST-2001-9985, August 27, 2001  
(Mexicana-British Midland codesharing).

<sup>5</sup> See *Notice of Action Taken*, Undocketed, February 18, 1999 (citing September 14, 1998, letter to Brian J. Blood from Ing. Juan Antonio Barges Mestres confirming that the Mexican Government will permit U.S. carriers to engage in codesharing with third country carriers on services to, from or via Mexico on the basis of comity and reciprocity).

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Joint Application for Statements of Authorization has this day been served on all persons listed on the attached service list via telecopier or first class mail, postage prepaid.

  
Charles F. Donley II

DATED: December 18, 2001