



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

Issued by the Department of Transportation on June 6, 2002

**NOTICE OF ACTION TAKEN -- DOCKET OST 2002-12424-3**

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).

Joint Applicants: UNITED AIR LINES, INC., and VARIG, S.A.

Date Filed: May 31, 2002

Relief requested: Statement of Authorization under 14 CFR Part 212 to permit United and VARIG reciprocally to carry each other's code, for an indefinite duration, between: the Brazilian coterminial points Manaus, Brasilia, Rio de Janeiro, Sao Paulo, Recife, Porto Alegre, Belem, Belo Horizonte and Salvador; and the U.S. coterminial points New York, New York; Atlanta, Georgia; Miami, Florida; Orlando, Florida; Washington, D.C./Baltimore, Maryland; Detroit, Michigan; Houston, Texas; Chicago, Illinois; Los Angeles, California; San Francisco, California; Boston, Massachusetts; and San Juan, Puerto Rico.

If renewal, date and citation of last action: New authority.

Joint Applicants' representatives: Jeffery A. Manley and Cathleen P. Peterson (202-663-6670) for United, and Constance O'Keefe (202-775-0680) for VARIG.

Responsive pleadings: On June 4, 2002, American Airlines, Inc., and TAM-Lineas Aereas, S.A., filed a joint answer to the subject application, stating that they do not object to the request, provided that their parallel request (filed on June 4, 2002, in Docket OST 2000-8028) is simultaneously granted.

**DISPOSITION**

Action: Approved.

Action date: June 6, 2002

Effective dates of authority granted: Effective June 6, 2002, for an indefinite period.

Basis for approval: The authority granted is consistent with the Aviation Agreement between the United States and Brazil, as amended, and the November 18, 1997 Memorandum of Consultations.

Conditions: The code-share authority that we granted to United and VARIG is subject to the following conditions: 1) This Statement of Authorization will remain in effect only as long as United and VARIG continue to hold the necessary underlying authority to operate the code-share services at issue and their code-share agreement providing for these operations remains in effect. 2) United and/or VARIG 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 noneffectiveness or of such decision and filed in Docket 2002-12424). 3) The code-share 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. 4) Notwithstanding any provisions in the contract between the subject 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. 5) The operating carrier shall not permit the code of its U.S. code-share partner to be carried on any flight that enters, departs, or transits the airspace of any area for whose airspace the Federal Aviation Administration has issued a flight prohibition. 6) The code-share 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.

With regard to the joint answer filed by American and TAM, we note that we have concurrently granted the code-share request to which they referred (See June 6, 2002, Notice of Action Taken in Docket 2000-8028.).

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

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Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; (2) grant of the 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/deferred/dismissed, 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 seven (7) 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.

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