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

Issued by the Department of Transportation on May 17, 2002

NOTICE OF ACTION TAKEN -- DOCKET OST 2002-12209-2

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: AEROLITORAL, S.A. de C.V. and AEROVIAS de MEXICO, S.A. de C.V.

Date Filed: April 30, 2002.

Relief requested: Exemption from 49 USC section 41301 to permit Aerolitoral and Aeromexico to conduct scheduled combination services, for a period of one year, between: 1) Chihuahua, Mexico, and El Paso, Texas; 2) Ciudad Obregon, Mexico, and Tucson, Arizona; 3) Hermosillo, Mexico, and Tucson, Arizona; and 4) Monterrey, Mexico, and San Antonio, Texas; and a Statement of Authorization under 14 CFR Part 212 to Aerolitoral to carry the code of Aeromexico on these flights, for an indefinite duration. (Aeromexico proposes to conduct these services only by having Aerolitoral carry its code in the four subject markets.)

Joint Applicants' representative: William C. Evans, 202-371-6030

Responsive pleadings: None.

DISPOSITION

Action: Approved.

Action date: May 17, 2002

Effective dates of authority granted: The exemption authority is effective May 17, 2002, through May 17, 2003, and the Statement of Authorization is effective February 14, 2002, for an indefinite period.

Basis for approval: United States-Mexico Air Transport Services Agreement of August 15, 1960, as amended and extended.

Conditions: In the conduct of the operations under the above exemption authority, Aerolitoral shall adhere to the terms limitations and conditions of our standard exemption conditions, and Aeromexico shall adhere to the terms limitations and conditions of its foreign air carrier permit. The code-share authority that we granted to Aerolitoral is subject to the following conditions: 1) This Statement of Authorization will remain in effect only as long as Aerolitoral and Aeromexico 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) Aerolitoral and/or Aeromexico 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 2002-12209). 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.

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

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) the applicant was qualified to perform the proposed operations; (3) grant of the authority was consistent with the public interest; and (4) 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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http://dms.dot.gov/reports/reports_aviation.asp*