



NEW

## NOTICE OF ACTION TAKEN

March 20, 1998

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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 decision document will be issued as soon as possible.

Joint application of UNITED AIR LINES, INC., and COMPANIA MEXICANA de AVIACION, S.A. de C.V., filed 12/12/97 in Docket OST-97-3237 for:

- XX Exemption authority under 49 U.S.C. 40109
- XX Statements of Authorizations under Part 207/212 of the Department's regulations to provide the following service:

**Scheduled foreign air transportation of persons, property, and mail between various points in the United States and various points in Mexico, to allow for expansion of the code-share services between United Air Lines, Inc. (United), and Compania Mexicana de Aviacion S.A. de C.V. (Mexicana). On January 8, 1998, United filed a reply to answers submitted to its application, requesting immediate action on the following authorities:**

**Exemption authority for United in the Chicago-Morelia, Chicago-Leon, Chicago-Durango, Denver-Zacatecas, and San Francisco-Morelia markets.**

**Statement of Authorization for Mexicana under Part 212 of the Department's regulations to display United's airline designator code on flights operated by Mexicana in the following markets: Chicago-Morelia, Chicago-Leon, Chicago-Durango, Denver-Zacatecas, and San Francisco-Morelia.**

**Statement of Authorization for Mexicana under Part 212 of the Department's regulations to display United's airline designator code on flights operated by Mexicana between United's Mexican gateways (Cancun, Cozumel, Durango, Guadalajara, Leon, Los Cabos, Mazatlan, Merida, Mexico City, Morelia, Puerto Vallarta, and Tijuana) and Zacatecas for the carriage of United's Denver-Zacatecas traffic.**

**The carriers requested that the authorities be granted coextensive with the authorities currently held by the carriers for U.S.-Mexico code-share services (i.e., exemption authority, through 6/24/99; statement of authorization, through 6/14/98).**

Applicant reps: Joel S. Burton for United (202)637-9130 DOT Analysts: Linda Lundell (202)366-2336  
Robert D. Papkin for Mexicana (202)626-6601 Allen Brown (202)366-2405

(See reverse side)

## DISPOSITION

**XX** **Granted Carriers' Requests of January 8, 1998, with respect to Leon, Durango, and Zacatecas, described above.**

**XX** **Balance of the application deferred.**

The above action was effective when taken: 3/20/98. The exemption authority will expire 6/24/99, or 90 days after final Department action on a corresponding certificate application, whichever occurs earlier. The statement of authorization for Mexicana will expire 6/14/98.

**XX** Under assigned authority (14 CFR 385) by:

**Paul L. Gretch, Director**  
**Office of International Aviation**  
(Petitions for review may be filed from now until  
10 days after the confirming order/letter issues.  
Filing of a petition shall not stay the effectiveness of this action.)

**XX** **Exemption authority granted is consistent with the aviation agreement between the United States and Mexico. The code-share authority granted is consistent with the overall state of aviation relations with Mexico.**

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 (United)**

**XX** **Standard Exemption Conditions (attached) (United)**

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Special Conditions/Remarks: **The U.S.-Mexico exemption authority granted United is subject to the dormancy notice requirements set forth in condition 7 of Appendix A of Order 88-10-2.**

**In the interest of administrative efficiency, and consistent with our standard practice regarding U.S.-Mexico code-share authorities, the code-share authorities granted here have been awarded coextensive with the duration of the code-share authorities already held by the carriers for other U.S.-Mexico code-share services. (See Statements of Authorization granted December 18, 1997 to United and Mexicana, as well as Delta Air Lines and American Airlines and their respective code-share partners). Because the authority granted here is for a period of less than 180 days, APA rights will not apply.**

**The code-share operations authorized here are subject to the condition that the operations comply with section 399.88 of the Department's regulations regarding code-sharing operations, and the further condition that the foreign air transportation be sold in the name of the carrier holding out service in computer reservation systems and elsewhere, that the carrier selling such transportation accept all obligations established in the contract of carriage with the passenger (i.e., the ticket), and that where applicable the operator shall not permit the code of its U.S. code-sharing partner to be carried on any flight that enters, departs, or transits the airspace of any area for whose air space the Federal Aviation Administration has issued a flight prohibition.**

**Authorization of the code-share services may be withdrawn in any U.S.-Mexico city-pair market where another U.S. carrier proposes to operate services with its own aircraft (direct carrier services) and (1) additional designations are not available to authorize the proposed direct carrier service; and (2) the Department determines that the proposed direct carrier services would provide benefits and service options superior to the code-share operations in the market.**

**Delta and American and AeroCalifornia (jointly) filed answers to United's request. Delta does not oppose United's application, except to the extent that there are insufficient designations available to accommodate all of the carriers' requests. United's application for the markets included in its request for immediate action was not**

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mutually exclusive with the applications of the other U.S.-carrier applicants for U.S.-Mexico code-share authority.

American and AeroCalifornia's answer, filed with respect to the Denver-Zacatecas market granted by this notice, stated that they did not object provided that their own requests for certain U.S.-Mexico code-share authorities were also granted. We contemporaneously granted the requests of these carriers to the extent possible (Dockets OST-97-2944, 97-2477, 97-2961, and 97-2481).

American and AeroCalifornia also stated that they retained their view that the Department should encourage Mexico to liberalize the availability of code-share authority, and that the Department should make clear that by awarding the limited requests of each of the alliances on an incremental basis, it is not adopting the Mexican views on this matter. We will, in this regard, continue to work with the Mexican authorities on liberalization of the code-share regime for U.S.-Mexico services. In the meantime, however, awards of code-share authorizations have historically been granted on the basis of comity and reciprocity and we believe that it is in the public interest to follow that practice, on a limited basis, while this process continues. The fact that we have chosen this course of action with Mexico reflects our judgment at this time that such action will best promote our efforts to reach a satisfactory long-term solution to the code-sharing issues in the U.S. Mexico market.