

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

Application of	>:	
	:	
FEDERAL EXPRESS CORPORATION	:	Docket OST-96-1196
	:	
for grant of an exemption or waiver pursuant	:	
to 49 U.S.C. § 40109 (Brazil All-Cargo	:	
Frequency Dormancy Condition)	:	
	:	

May 22, 2000

**APPLICATION OF
FEDERAL EXPRESS CORPORATION
FOR GRANT OF AN EXEMPTION OR WAIVER**

Federal Express Corporation (Federal Express) hereby applies, pursuant to 49 U.S.C. Section 40109 and Subpart C of the Rules of Practice of the Department of Transportation (the Department), for grant of an exemption from, or waiver of, the applicability of the 90-day dormancy condition applicable to its allocation of ten (10) U.S.-Brazil all-cargo frequencies so as to authorize Federal Express to suspend its utilization of five (5) of those frequencies for one year, until June 1, 2001.

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In support of this application, Federal Express states as follows:

1. By Notice of Action Taken issued on July 31, 1998 in Dockets OST-96-1196 and OST-96-2022, the Department renewed the U.S.-Brazil exemption authority and ancillary allocation of ten (10) U.S.-Brazil all-cargo frequencies held by Federal Express. The exemption authority held by Federal Express was renewed for a two-year period, through July 31, 2000, and the ancillary U.S.-Brazil frequency allocation held by Federal Express was renewed for an indefinite period, subject to the Department's standard dormancy condition which provides that the allocation of frequencies "will expire automatically and the frequencies will revert to the Department for reallocation if they are not used for a period of 90 days" (July 31, 1998 Notice, p. 2, Conditions).
2. For a number of years, Federal Express has utilized the foregoing authority to provide air express and expedited all-cargo service between the United States and Brazil at a frequency of between six and nine roundtrip flights a week. During the most recent period, Federal Express has provided scheduled service between the U.S. and Brazil at a frequency of five days a week, and has used its other five Brazil frequencies intermittently. The U.S.-Brazil service provided by Federal Express is operated utilizing the wide-body 150,000-pound payload DC-10-30 freighter aircraft, which requires one frequency per roundtrip flight under the U.S.-Brazil frequency agreement.

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3. After an extended period of insufficient traffic demand necessary to support ten roundtrip wide-body freighter flights a week between the U.S. and Brazil, Federal Express reduced its regularly-scheduled flight operations serving Brazil to five roundtrip flights a week. Federal Express expects to increase its Brazil service to the level of ten roundtrip flights a week at some point during the foreseeable future, but, at this time, Federal Express is not able to make a definitive prediction as to when traffic volumes will warrant a resumption of all five additional frequencies.

4. In that circumstance, Federal Express is constrained to request a one-year exemption from, or waiver of, the 90-dormancy condition applicable to its U.S.-Brazil frequency allocation, in order to enable Federal Express to suspend its utilization of five of its ten frequencies for up to one year without forfeiting that portion of its Brazil frequency allocation. Federal Express will, of course, resume utilization of all ten of its U.S.-Brazil frequencies as soon as traffic conditions warrant.

5. Federal Express submits that grant of a one-year waiver of, or exemption from, the 90-day dormancy condition applicable to its Brazil frequency allocation is in the public interest and consistent with Department precedent in other cases involving temporarily depressed marketplace conditions. See, *e.g.*, U.S.-Thailand all-cargo frequency dormancy condition exemptions granted to

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various carriers (Polar Air, Docket OST-97-3162, Federal Express, Docket OST-97-3261, Northwest, Docket OST-97-2209, Air Micronesia, Docket OST-97-2825 and UPS, Docket OST-97-3138).

6. Grant of the requested waiver or exemption will not deprive any other U.S. carrier of an opportunity to provide U.S.-Brazil all-cargo service. At the present time, pursuant to the March 1989 Agreement, as amended by the October 24, 1996 Memorandum of Consultations between the U.S. and Brazil (the 1996 MOC), a total of 24 weekly wide-body service frequencies are available for U.S. carrier all-cargo service by a total of four U.S.-flag all-cargo carriers between the U.S. and Brazil. Based on the June 2000 edition of the Worldwide OAG Air Cargo Guide, only 12 of those frequencies are currently being utilized, leaving 12 frequencies currently unutilized, including the five unused frequencies currently allocated to Federal Express. To the best of Federal Express' knowledge, no other U.S. carrier is currently seeking additional U.S.-Brazil all-cargo frequencies at this time.

WHEREFORE, Federal Express hereby requests the Department to grant Federal Express an exemption from, or waiver of, the 90-day dormancy condition applicable to its allocation of ten (10) U.S.-Brazil all-cargo frequencies so as to authorize Federal Express to suspend its utilization of five of those frequencies for a period of one year, until June 1, 2001.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing
Application of Federal Express Corporation by messenger, telecopier transmission
or United States mail, properly addressed and with postage prepaid, upon each of
the persons listed in the Service List attached hereto.

Washington, D.C.
May 22, 2000

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