

2005-286

September 12, 2005

Issue Date September 22, 2004

**VIA E-Mail**

Mr. George L. Wellington, Jr.  
Chief, Foreign Carrier Licensing Division  
Office of International Aviation  
U.S. Department of Transportation  
400 Seventh Street, S.W., Room 6412  
Washington, D.C. 20590

Approved under assigned authority.

Authority expires October 30, 2006  
The filing of a petition for  
review shall/shall not preclude the  
effectiveness of this action.

*W. Sheila Smith*  
Director, Office of International Aviation

**Re: Application of Lineas Aereas Costarricenses S.A. for Statement of Authorization (Long-Term Wet Lease to Martinair Holland N.V.)**

Dear Mr. Wellington:

Pursuant to 14 C.F.R. 212, Lineas Aereas Costarricenses, S.A. ("LACSA") requests a statement of authorization permitting it to engage in a long-term wet lease of aircraft to Martinair Holland N.V. ("Martinair"). LACSA intends to wet lease A-320 aircraft to Martinair for Martinair's scheduled transportation of persons, property and mail between Miami and Orlando, Florida, on the one hand, and San Jose, Costa Rica, on the other hand, in support of Martinair's existing transportation of Netherlands-Costa Rica and Miami/Orlando-Costa Rica traffic. Wet lease services will begin October 30, 2005, and continue through at least October 30, 2006. Filing fees have been waived for Costa Rica.

On August 18, 2005, LACSA and Martinair entered into a wet lease agreement under which they will begin wet lease services between Miami/Orlando and San Jose on October 30, 2005. The agreement will remain in effect for one-year, through October 30, 2006, subject to extension. Under the agreement LACSA will operate on behalf of Martinair daily flights between Miami/Orlando and San Jose utilizing LACSA's U.S.-registered A-320 aircraft seating 150 passengers. The wet lease flights will carry Martinair's Netherlands-Costa Rica and Miami/Orlando-Costa Rica traffic.

Martinair is a Netherlands flag carrier and holds a foreign air carrier permit and exemption authorizing it to engage in, among other things, scheduled foreign air transportation of persons, property and mail between points in the Netherlands and points in the United States, and beyond.<sup>1</sup> Martinair

<sup>1</sup> Order 94-8-34

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currently serves Miami and Orlando from the Netherlands and offers service beyond both points to San Jose. LACSA is a Costa Rica flag carrier and holds an exemption permitting it to engage in scheduled foreign air transportation of persons, property and mail between Costa Rica and the United States and operate charter flights in accordance with 14 C.F.R. 212.<sup>2</sup> Thus, both carriers hold all necessary underlying authority to operate the proposed wet lease services.

Approval of this application would be consistent with the public interest. The proposed wet lease will permit Martinair to continue to provide services beyond Miami/Orlando to San Jose consistent with its open skies authority in a financially efficient manner, while generating additional revenues for LACSA. Additionally, wet lease arrangements such as this one are authorized under Section 5 of the route schedule to the U.S.-Netherlands open skies agreement:

In operating or holding out the authorized services on the agreed routes, designated airlines of either Contracting Party, which hold appropriate authority to provide such service, may, on the basis of reciprocity, and subject to the requirements normally applied to such arrangements, enter into cooperative arrangements, such as blocked space, code-sharing or leasing agreements with another airline and/or company which also holds appropriate authority[.]

The Department has previously approved applications for statements of authorization allowing Martinair to wet lease aircraft from other carriers to serve the Miami/Orlando-San Jose routes.<sup>3</sup>

Article 8(7) of the U.S.-Costa Rica open skies agreement similarly permits third-country wet leases:

In operating or holding out the authorized services on the agreed routes, any designated airline of one Party may enter into cooperative marketing arrangements such as blocked-space, code-sharing or leasing arrangements, with

...

b. an airline or airlines of a third country, provided that such third country authorizes or allows comparable arrangements between the airlines of the other party and other airlines on services to, from and via such third country[.]

The Department has previously approved applications permitting LACSA to engage in long-term wet leases to third country carriers<sup>4</sup>

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<sup>2</sup> See, *Notice of Action Taken*, Docket OST-97-2682, November 18, 1999 (timely renewal application pending)

<sup>3</sup> See, e.g., application of Miami Air International for statement of authorization to wet lease aircraft to Martinair, August 20, 2004.

<sup>4</sup> See, e.g., application of LACSA for statement of authorization to wet lease aircraft to TACA Ecuador, approved by the Department on November 18, 2004.