



NOTICE OF ACTION TAKEN

UNDOCKETED

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 decisional document will be issued as soon as possible.

Joint Applicants: COMPANIA MEXICANA de AVIACION, S.A. de C.V. (MEXICANA) and EMPRESA de TRANSPORTE AERO del PERU (AEROPERU)

Date filed: February 27, 1997

Relief requested: Statement of Authorization under 14 CFR Part 212 to permit Mexicana to continue to engage in a code-share/blocked-space arrangement with Aeroperu for once-daily scheduled service over the routing Newark, New Jersey - Cancun, Mexico - Lima, Peru - Buenos Aires, Argentina, through March 10, 1998. Under the arrangement, Mexicana: 1) operates the aircraft on all segments of the route; 2) carries its own traffic between Newark and Cancun under one flight number, and operates beyond Cancun under different flight numbers; and 3) carries Aeroperu's code for traffic between Newark and Lima, and for traffic between Newark and Buenos Aires. These Aeroperu services are held out under one flight number between Newark and Lima, and a different flight number between Lima and Buenos Aires.

If renewal, date of last action(s): November 4, 1997; confirmed by Order 97-12-22.

Applicant representative(s): Robert D. Papkin (for Mexicana) 202-626-6601; and John L. Richardson (for Aeroperu) 202-496-1234.

Responsive pleadings: By letter dated March 5, 1997, Fine Airlines, filed a pleading in opposition to the application, stating that the Government of Peru continues to ban all of its Peruvian operations. Fine stated that perpetuation of this ban violates Peru's obligations under the U.S.-Peru Air Services Agreement, and that until the ban is lifted, it will continue to object to all applications for additional or extrabilateral authority and all requests for waivers of any Department rules, filed by any Peruvian carrier. By letter dated March 7, 1997, Aeroperu responded to Fine's March 5 pleading.

DISPOSITION

Action: Approved through March 10, 1998.

Action date: January 2, 1998

Effective date of authority granted: January 2, 1998, through March 10, 1998.

Basis for approval: Overall aviation relations with Mexico and Peru. We are aware, however, of Fine's continuing problems with Peruvian authorities and are continuing to attempt to resolve them. Further, in taking our action, we emphasized that we granted this authority in full reliance on our expectation that the Governments of Mexico and Peru will approve U.S.-carrier requests to implement similar code-share operations to those countries involving third-country carriers. Should such approval not be forthcoming, we reserved the right to review and to amend, modify or revoke this authority at any time and without hearing.

Except to the extent exempted/waived, this authority is subject to the terms, conditions, and limitations indicated:

 Standard exemption conditions
XX Foreign air carrier permit conditions

Special conditions/Partial grant/Denial basis/Remarks: These code-share operations must comply with 14 CFR 399.88 of the Department's regulations, and any amendments to the Department's regulations concerning codeshare arrangements that may be adopted, and the further conditions that this foreign air transportation be sold in the name of the carrier holding out the service in computer reservation systems and elsewhere, and that the carrier selling such transportation accept all obligations established in its contract of carriage with the passenger (that is, the ticket). Also, the Aeroperu services shall be held out under one flight number between Newark and Lima, and a different one between Lima and Buenos Aires; Mexicana shall carry its own traffic between Newark and Cancun under one flight number, and operate beyond Cancun under different flight numbers. Under this authority, Aeroperu is only authorized to conduct operations in the Newark-Lima and in the Newark-Buenos Aires markets.

Action taken by:

Paul L. Gretch, Director
Office of International Aviation
under assigned authority (14 CFR 385)

(Petitions for review may be filed from now until 10 days after the service date of the confirming order/letter. Filing of a petition shall not stay the effectiveness of this action.)