



UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, DC

Issued by the Department of Transportation on March 1, 2005

**NOTICE OF ACTION TAKEN -- DOCKET OST-2004-19148**

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).

Application of **United Air Lines, Inc.** filed **1/26/05** to:

**XX** Amend exemption under 49 U.S.C. 40109 U.S. C. 40109 to permit United to display its designator code on flights operated not only by Lufthansa and other carriers that operate flights on Lufthansa's behalf,<sup>1</sup> but also on flights operated by its other foreign code-share partners<sup>2</sup> on the following services:

**Scheduled foreign air transportation of persons, property, and mail between points in the United States and points worldwide on a third-country code-share basis pursuant to blanket code-sharing statements of authorization approved by the Department, and to integrate this authority with its existing certificate and exemption authority.**

Applicant rep: **Jeffrey A. Manley (202) 663-6670** DOT Analyst: **Sylvia Moore (202) 366-6519**

**DISPOSITION**

**XX** Granted (subject to conditions, see remarks below)

The exemption authority granted was effective when taken: **March 1, 2005**, through **January 24, 2007** (coextensive with the authority previously granted on January 24, 2005, in this Docket).

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

**XX** The authority granted is consistent with the aviation agreements between the United States and the homelands of United's foreign code-share partners listed in this Notice.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated: **XX** Holder's certificates of public convenience and necessity

**XX** Standard exemption conditions (attached)

**XX** Conditions attached to the relevant blanket statements of authorization<sup>3</sup>

<sup>1</sup> These carriers include Lufthansa CityLine, Air Dolomiti, Condor Flugdienst, and PrivatAir.

<sup>2</sup> Air New Zealand Limited; All Nippon Airways Co. Ltd (ANA); Asiana Airlines, Inc.; Austrian Airlines, Osterreichische Luftverkehrs AG; Lauda Air Luftfahrt GmbH; Polskie Linie Lotnicze LOT S.A. (LOT); Scandinavian Airlines System (SAS); Singapore Airlines Limited; and Tyrolean Airways, Troler Luftfahrt GmbH d/b/a Austrian arrows.

<sup>3</sup> See Notices of Action Taken dated August 6, 1999 (Docket OST-99-6013, United-Air New Zealand); August 7, 1998 (Undocketed, United-ANA); December 19, 2002 (Docket OST-2002-13320, United-Asiana); March 13, 2000 (Docket OST-2000-6803, United-Austrian); March 22, 2001 (Docket OST-2000-7751, United-Lauda); April 19, 2004 (Docket OST-2004-17468, United-LOT); May 24, 1999, (Docket OST-99-5251, United-SAS); October 17, 2000 (Docket OST-2000-7696, United-Singapore); and March 22, 2001 (Docket OST-2000-7751, United-Tyrolean).

**Conditions:** The route integration authority granted is subject to the condition that any service provided under this exemption shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, (a) nothing in the award of the route integration authority requested should be construed as conferring upon United rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless United notifies the Department of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carriers(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in United's authority by virtue of the route integration exemption granted here, but that are not then being used by United, the holding of such authority by route integration will not be considered as providing any preference for United in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

We note that United has conducted a safety audit on all of its named foreign air carrier code-share partners and affiliates under the Department's Code Share Safety Program, and the FAA has advised that it has reviewed the relevant audit program and found the program to be acceptable.

The exemption authority granted here is for operations with the foreign code-share partners and affiliates named above. Should United and any new code-share partner be granted statements of authorization, United will need to apply for exemption authority to the extent necessary to permit United to display its code on flights operated by the new code-share partners.<sup>4</sup>

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On the basis of data officially noticeable under Rule 24(g) of the Department's regulations, we found the applicant qualified to provide the services authorized.

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) grant of the exemption authority was consistent with the public interest; and (3) grant of the authority would not constitute a major federal action under the Energy Policy and Conservation Act of 1975. To the extent not granted, 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](http://dms.dot.gov/reports/reports_aviation.asp)*

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<sup>4</sup> Of course, the U.S. carriers will need to have conducted code-share safety audits of their foreign partners prior to receipt of authority for such code-share services.

## **U.S. Carrier Exemption Conditions**

In the conduct of the operations authorized, the U.S. carrier applicant(s) shall:

- (1) Hold at all times effective operating authority from the government of each country served;
- (2) Comply with applicable requirements concerning oversales contained in 14 CFR 250 (for scheduled operations, if authorized);
- (3) Comply with the requirements for reporting data contained in 14 CFR 241;
- (4) Comply with requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (6) Comply with all applicable requirements of the Federal Aviation Administration and with all applicable U.S. Government requirements concerning security, including, but not limited to, 49 CFR Part 1544. To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) to or from a foreign airport, contact its International Principal Security Inspector (IPSI) to advise the IPSI of its plans and to find out whether the Transportation Security Administration has determined that security is adequate to allow such airport(s) to be served; and
- (7) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation, with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

The authority granted shall be effective only during the period when the holder is in compliance with the conditions imposed above.