



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Issued by the Department of Transportation on April 17, 2008

**NOTICE OF ACTION TAKEN – DOCKETS DOT-OST-2008-0102 and
DOT-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).

Dockets DOT-OST-2004-19148 and DOT-OST-2008-0102: Joint application of United and THY, filed 3/11/08, for:¹

XX Amendment of United's existing exemption authority, in Docket OST-2004-19148, under 49 U.S.C. 40109 to permit United to provide the following service:²

Scheduled foreign air transportation of persons, property, and mail between the United States and points worldwide on a third-country code-share basis pursuant to a code-share arrangement with Turkish Airlines (Turk HAVA Yollari, A.O.) (THY). United requests that this amendment be granted coextensive with the current term of its exemption in the captioned docket (July 19, 2009).

XX Statement of Authorization for an indefinite duration under 14 CFR Part 212 for blanket code-share authority to permit United to:

Display THY's "TK*" designator code on flights operated by United: (1) between any point in the United States and any point in Turkey (either nonstop or via third-country intermediate points); (2) between any points within the United States in conjunction with services held out by THY between Turkey and the United States (either nonstop or via third-country intermediate points); and (3) between any point in the United States or Turkey and any point in a third country.³

XX Statement of Authorization for an indefinite duration under 14 CFR Part 212 for blanket code-share authority to permit THY to:

¹ The joint applicants request, pursuant to 14 C.F.R. 212.12, that the Department waive the requirements set forth in 14 C.F.R. 212.10 providing that applications for statements of authorization be filed 45 days in advance of the first proposed flight.

² United currently holds exemption authority to serve between the United States and points worldwide on a third-country code-share basis whereby United displays its UA designator code on flights operated to third-country points by its blanket code-share partners, and on flights operated by other foreign carriers on behalf of United's foreign code-share partners. The authorized foreign code-share partners are: Deutsche Lufthansa AG (Lufthansa), and other carriers that operate flights on Lufthansa's behalf (Lufthansa CityLine, Air Dolomiti, Condor Flugdienst, and PrivatAir); Air New Zealand Limited (ANZ); All Nippon Airways Co. Ltd. (ANA); Asiana Airlines, Inc. (Asiana); Austrian Airlines, Osterreichische Luftverkehrs AG (Austrian); Lauda Air Luftfahrt GmbH (Lauda); Polskie Linie Lotnicze LOT S.A. (LOT); Scandinavian Airlines System (SAS); Singapore Airlines Limited (Singapore); Tyrolean Airways, Tiroler Luftfahrt GmbH d/b/a Austrian arrows (Tyrolean); TAP Air Portugal (TAP); Swiss Air International Air Lines Ltd. d/b/a Swiss (Swiss); Qatar Airways (see Notice of Action Taken dated July 19, 2007, in Dockets DOT-OST-2004-19148 and DOT-OST-2007-28628); and Air One, S.p.A. (see Notice of Action Taken dated March 14, 2008, in Dockets DOT-OST-2008-0001, DOT-OST-2004-19148, and DOT-OST-2005-22809).

³ The code-share partners provided a listing of specific code-share markets that they intend initially to serve under this arrangement. We have attached a copy of the applicants' listing, marked "Appendix A." The joint applicants state that, in this regard, the U.S. points to be served by THY beyond its own and United's U.S. gateways include points served by both United and United Express. The joint applicants state that they understand that, in order for THY to code-share on services operated by United Express carriers, such carriers will have to enter into code-share agreements with THY and obtain Statements of Authorization from the Department.

Display United's "UA*" designator code on flights operated by THY: (1) between any point in Turkey and any point in the United States (either nonstop or via third-country intermediate points); (2) between any points within Turkey in conjunction with services held out by United between the United States and Turkey (either nonstop or via third-country intermediate points); and (3) between any point in Turkey or the United States and any point in any third-country.^{4 5}

Applicant reps: **Charles J. Simpson, Jr. (THY) (202) 973-7926**
Julie Oettinger (United) (301) 229-8571 DOT Analyst: **Linda Lundell (202) 366-2336**

DISPOSITION

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

The above action, granting amendment of United's exemption authority (Docket DOT-OST-2004-19148), was effective when taken: **April 17, 2008**, through **July 19, 2009**, (coextensive with the authority already granted in this docket).

The above action, granting the applicants' request for waiver of the 45-day advance filing requirements in the Department's regulations 14 C.F.R. 212 was effective when taken: **April 17, 2008**.

The above action, granting statements of authorization to United and THY (Dockets DOT-OST-2004-19148 and DOT-OST-2008-0102), was effective when taken: **April 17, 2008**, and will remain in effect indefinitely, subject to the conditions below.

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

XX The authority granted is consistent with the U.S.-Turkey Open Skies Air Transport Agreement dated May 2, 2000.

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

- XX United's certificates of public convenience and necessity**
- XX Standard U.S. Exemption Conditions (attached)**

Remarks: With regard to the display of United's designator code on flights operated by THY, we note that United has conducted a safety audit of THY under the Department's Code-Share Safety Audit Program, and the FAA has advised us that it has reviewed the relevant audit program and found the program to be acceptable.

Conditions: The Statements of Authorization granted to United and THY are subject to the following conditions:

- (a) The statements of authorization will remain in effect only as long as (i) United and THY continue to hold the underlying authority to operate the code-share services at issue, and (ii) the code-share agreement providing for the code-share operations remains in effect;
- (b) United and/or THY must promptly notify the Department (Office of International Aviation) no later than 30 days before they begin any new code-share service under the code-share services authorized here. Such notice shall identify the market(s) to be served, which carrier will be operating the aircraft in the code-share market added, and the date on which the service will begin. Such notices should be filed in Docket DOT-OST-2008-0102;

⁴ The code-share partners provided a listing of specific code-share markets that they intend initially to serve under this arrangement. We have attached a copy of the applicants' listing, marked "Appendix A."

⁵ THY already holds the requisite underlying authority to operate the subject services (see Notice of Action Taken dated August 20, 2007, in Docket DOT-OST-2005-21183).

- (c) United and/or THY, as appropriate, must notify the Department immediately if the code-share agreement is no longer in effect or if the carriers decide to cease operating all of a portion of the approved code-share services.⁶ (Such notice should be filed in Docket DOT-OST-2008-0102.)
- (d) The code-sharing operations conducted under this authority must comply with 14 CFR 257 and with any amendment to the Department's regulations concerning code-share arrangements that may be adopted. Notwithstanding any provisions in the contract between the carriers, our approval here is expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service in computer reservation systems and elsewhere; that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept responsibility for the entirety of the code-share journey for all obligations established in its contract of carriage with the passenger; and that the passenger liability of the operating carrier be unaffected; and the operating carrier 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 airspace the Federal Aviation Administration has issued a flight prohibition;
- (e) Any service provided shall be consistent with all applicable agreements between the United States and Turkey, and all applicable agreements with other foreign countries involved. Furthermore, (i) nothing in the award of this blanket statement of authorization should be construed as conferring upon United rights (including code-share, fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier rights are limited unless United notifies us of its intent to serve such market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights;⁷ and (ii) 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 blanket statement of authorization granted here, but that are not being used by United, the holding of such authority will not be considered as providing any preference for United in a carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue; and
- (f) The authority granted here is specifically conditioned so that neither United nor THY shall give any force or effect to any contractual provisions between themselves that are contrary to these conditions.

On the basis of data officially noticeable under Rule 24(g) of the Department's regulations, we found United 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 applications was consistent with the public interest; and (3) grant of the authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted, we denied all requests in the referenced Dockets. 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.

An electronic version of this document is available on the World Wide Web at:

www.regulations.gov

⁶ We expect this notification to be received within 10 days of such non-effectiveness or of such decision.

⁷ The notice referenced in condition (c) above may be used for this notification.

UNITED/TURKISH AIRLINES CODE-SHARE MARKETS

United on Turkish Airlines (UA*/TK)

Between Istanbul, Turkey and the following:

New York, NY/Newark, NJ
Chicago, Illinois
London, England
Frankfurt, Germany
Munich, Germany
Zurich, Switzerland
Amsterdam, Netherlands
Brussels, Belgium
Adana, Turkey
Antalya, Turkey
Kishinev, Moldova
Islamabad, Pakistan
Ashkhabad, Turkmenistan
Tashkent, Uzbekistan
Skopje, Republic of Macedonia

Between Frankfurt, Germany and Ankara, Turkey

Turkish Airlines on United (TK*/UA)

Between London, England and:

Washington, DC
Chicago, IL
San Francisco, CA
Los Angeles, CA
Denver, CO

Between Frankfurt, Germany and:

Washington, DC
Chicago, IL
San Francisco, CA
Los Angeles, CA

Between Munich, Germany and:

Washington, DC
Chicago, IL

Between Zurich, Switzerland and:

Washington, DC

Between Amsterdam, Netherlands and:

Chicago, IL
Washington, DC

Between Brussels, Belgium and:

Washington, DC

Between Chicago, IL and:

Washington, DC
Atlanta, GA
Houston, TX
Detroit, MI
Boston, MA
Miami, FL
Dallas/Ft. Worth, TX
Minneapolis/St. Paul, MN
Philadelphia, PA
Denver, CO
Seattle, WA
Orlando, FL
Memphis, TN
Cincinnati, OH
Portland, OR
Las Vegas, NV
San Diego, CA
Tampa, FL
Raleigh/Durham, NC
Cleveland, OH
Baltimore, MD
St. Louis, MO
Fort Lauderdale, FL
Pittsburgh, PA
Nashville, TN

Between New York, NY/Newark, NJ and:

Los Angeles, CA
San Francisco, CA

STANDARD 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, the Transportation Security 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 Principal Security Inspector (PSI) to advise the PSI 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.