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

**Served: October 29, 2002**

**2002/2003 U.S.-HONG KONG SERVICE OPPORTUNITIES**

**NOTICE INVITING APPLICATIONS**

By this Notice, we invite all U.S. carriers interested in making use of new service opportunities in the U.S.-Hong Kong aviation market to file applications as set forth below, no later than seven calendar days after the service date of this Notice.

**Background**

On October 19, 2002, the United States and the Hong Kong Special Administrative Region of the People's Republic of China (Hong Kong), signed a Memorandum of Understanding (MOU) authorizing new services in the U.S.-Hong Kong market. The agreement between the United States and Hong Kong represents a significant expansion of opportunities for U.S. carriers and the traveling and shipping public.

The agreement provides for 28 additional weekly flights for U.S. combination services between Hong Kong and third countries, including Japan.<sup>1</sup> With respect to all-cargo services, the new agreement provides for an increase of 56 weekly all-cargo flights by U.S. carriers between Hong Kong and third countries.<sup>2</sup> Additionally, the new agreement provides for first-time code-sharing for U.S.-Hong Kong services. Finally, the new agreement provides that both U.S. and Hong Kong combination and all-cargo carriers may fly between Hong Kong and any U.S. city.<sup>3</sup>

In light of the fact that certain of these new route opportunities have limitations, restrictions, and/or phase-in clauses, and in the interest of convenience to interested parties, we have attached a copy of the U.S. carrier combination and all-cargo route schedules and related notes as set forth in Appendices 1 and 2 of the MOU.

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<sup>1</sup> These increases will be phased in over a two-year period.

<sup>2</sup> These increases will be phased in over a three-year period.

<sup>3</sup> Previously, U.S. and Hong Kong carriers were limited to service from only six U.S. gateways in the continental United States.

## Applications

In order to ensure that U.S. carriers are given the opportunity to use these valuable new route rights, we invite interested carriers to file exemption applications, designation requests, and frequency applications, as well as, where applicable,<sup>4</sup> third-country code-share authorization applications and requests for statements of authorization. By this notice, we are soliciting applications and requests for all of the new U.S. carrier rights set forth in the MOU that are frequency-limited, with the exception of those all-cargo frequencies that do not become available until the third year of the phase-in. We shall award these rights subsequently.

Except for the procedural dates, exemption/frequency applications should conform to Part 302, Subpart C of our regulations (14 CFR Part 302). All applications and other related requests should be filed with the Department of Transportation (Room PL-401, 400 Seventh Street, SW, Washington, DC 20590), and should include, at a minimum and as applicable, the proposed startup date(s); routings from origin to destination of all proposed flights; days scheduled; frequencies requested per market, and the duration of service in each market, if not provided on a year-round basis; route integration authority, if desired; equipment types (including seating configuration—first, business, and economy); and existing authority held to conduct the operations.<sup>5</sup> In cases where the U.S. carrier proposes to conduct code-share operations involving fifth-freedom traffic rights, applications should include, at a minimum, the code-share partner(s) involved; which carrier(s) would be operating the flights; and the country and specific intermediate point(s) over which the services would be provided. In addition, unless previously filed and approved by the Department, the carriers must provide as part of their applications, copies of any relevant cooperative service arrangements. Applicants are also free to submit any additional information that they believe will help us in making our decisions here.

In view of the immediate availability of the majority of the new rights, we will request that these applications, etc., be filed no later than seven calendar days from the service date of this Notice. We intend to award the available opportunities based on the applications filed in response to this notice. Should comparative selection among the applicants be necessary, we will establish further proceedings to handle the requests.<sup>6</sup>

We will authorize service of documents by facsimile and by electronic mail. Carriers that are interested in such service, however, should state if they want service by email and should provide interested parties with their fax number and/or email address.

Therefore, acting under authority assigned in 14 CFR 385.3, we invite the applications as described above to be filed no later than seven calendar days from the service date of this Notice.

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<sup>4</sup> “Where applicable” refers to situations in which the U.S. carrier is proposing to exercise fifth-freedom traffic rights on a code-share operation.

<sup>5</sup> The original filing is to be unbound and without tabs on 8-1/2” X 11” white paper, using dark ink (not green) to facilitate use of the Department’s docket imaging system. In the alternative, filers are encouraged to use the electronic submission capacity available through the Dockets/DMS Internet site (<https://dms.dot.gov>) by following the instructions at the web site.

<sup>6</sup> It will not be necessary for applicants to file separate motions to consolidate to assure that the Department considers mutually exclusive applications contemporaneously; the Department will consolidate all mutually exclusive applications filed in response to this Notice on its own initiative for contemporaneous consideration.

We will serve this Notice on all U.S. certificated carriers operating large aircraft; the U.S. Department of State (Office of Aviation Negotiations); and the Federal Aviation Administration.

By:

**PAUL L. GRETCH**  
Director  
Office of International Aviation

(SEAL)

Attachment

**Dated: October 24, 2002**

*An electronic version of this order is available on the World Wide Web at  
[http://dms.dot.gov/reports/reports\\_aviation.asp](http://dms.dot.gov/reports/reports_aviation.asp)*

United States Route 1: Combination Air Services

(A)	(B)	(C)
A Point or Points in the United States	<u>Intermediate and Beyond Points</u> <sup>1</sup>	Hong Kong
	Indonesia Japan <sup>2</sup> Korea <sup>3</sup> Malaysia Singapore <sup>4</sup> Thailand Vietnam	

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- <sup>1</sup> Until the beginning of the IATA Winter 2003 traffic season, U.S. airlines taken together may operate no more than 35 weekly round trip frequencies with full traffic rights between Hong Kong and points in these countries taken together. From the beginning of the IATA Winter 2003 traffic season, U.S. airlines taken together may operate no more than 49 weekly round trip frequencies with full traffic rights between Hong Kong and points in these countries taken together. Except as provided in footnotes 2 and 4 below, U.S. airlines taken together may operate no more than 7 of these weekly frequencies between Hong Kong and each point in these countries.
- <sup>2</sup> Until April 2003, U.S. airlines taken together may operate no more than 14 weekly round trip frequencies with full traffic rights between Hong Kong and points in Japan. From April 2003 until the beginning of the IATA Winter 2003 traffic season, U.S. airlines taken together may operate no more than 21 weekly round trip frequencies with full traffic rights between Hong Kong and Japan, 7 of which are available only for use at Tokyo. From the beginning of the IATA winter 2003 traffic season, US airlines taken together may operate up to 25 weekly round trip frequencies with full traffic rights between Hong Kong and points in Japan, 7 of which are available only for use at Tokyo and 4 of which are available only for use at Osaka.
- <sup>3</sup> Not available until the beginning of the IATA Winter 2003 traffic season.
- <sup>4</sup> U.S. airlines taken together may operate up to 14 weekly round trip frequencies with full traffic rights between Hong Kong and Singapore.

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United States Route 2: All-Cargo Air Services

(A)	(B)	(C)
A Point or Points in the United States	<u>Intermediate and Beyond Points</u> <sup>1,2</sup>  Philippines <sup>3</sup> France <sup>4</sup> Germany <sup>5</sup> Ten other countries to be selected <sup>6,7</sup>	Hong Kong

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- 1 Effective immediately, U.S. airlines taken together may operate no more than 32 weekly round trip frequencies with full traffic rights between Hong Kong and points in these countries taken together. From the beginning of the IATA Winter 2003 traffic season, U.S. airlines taken together may operate no more than 48 weekly round trip frequencies with full traffic rights between Hong Kong and points in these countries taken together. From the beginning of the IATA Winter 2004 traffic season, U.S. airlines taken together may operate no more than 64 weekly round trip frequencies with full traffic rights between Hong Kong and points in these countries taken together. Subject to the per point and per carrier frequency limits in footnotes 3 and 7 below, one of these frequencies may be converted into two weekly flights to be operated by aircraft with a capacity of less than 50 tonnes operated to and from points in the United States not in the continental United States. The converted frequencies can only be used to exercise full traffic rights between Hong Kong and Korea, Thailand or the Philippines. Such conversion shall apply for the remainder of the traffic season in which it is made.
  - 2 Taiwan may not be a point in Column B.
  - 3 U.S. airlines taken together may operate no more than 12 weekly round trip frequencies with full traffic rights between Hong Kong and Clark and no more than 12 such frequencies between Hong Kong and Subic. In the event that U.S. airlines cease all services to Subic, the Government of the United States may with 90 days notice to the Government of the HKSAR in writing transfer irrevocably the whole of its frequency entitlement in relation to Subic to Clark. In such case, U.S. airlines taken together may operate up to 24 weekly round trip frequencies with full traffic rights to Clark, with a maximum of 12 such frequencies per U.S. airline. U.S. airlines taken together may operate no more than 7 weekly round trip frequencies with full traffic rights between Hong Kong and any point in the Philippines other than Subic or Clark.
  - 4 Available from the beginning of the IATA Winter 2003 traffic season. U.S. airlines taken together may operate to one point in France. Full traffic rights may be exercised on no more than 6 weekly round trip frequencies with full traffic rights between Hong Kong and this point. The Government of the United States will notify the Government of HKSAR of its selection with not less than 30 days notice in writing. The Government of the United States may, at its discretion, change the point selected with not less than 30 days notice to the Government of the HKSAR in writing. In addition to the rights available in footnote 5 below, the Government of the United States may, with at least 90 days notice in writing to the Government of the HKSAR, convert this point into a point in Germany

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excluding Frankfurt. Once converted, such point may not be changed to another point in Germany or be reconverted into a point in France. U.S. airlines may operate no more than 6 weekly round trip frequencies with full traffic rights between Hong Kong and the point chosen, except that, if the same point is chosen under footnote 5, U.S. airlines taken together may operate no more than 12 weekly round trip frequencies with full traffic rights between Hong Kong and such point, with a maximum of 6 such frequencies per U.S. airline.

- 5 Available from the beginning of the IATA Winter 2003 traffic season. U.S. airlines taken together may operate to one point in Germany excluding Frankfurt. Full traffic rights may be exercised on no more than 6 weekly round trip frequencies between Hong Kong and this point, except as provided in footnote 4. The Government of the United States will notify the Government of the HKSAR of its selection with not less than 30 days notice in writing. The Government of the United States may, at its discretion, change this point with not less than 30 days notice to the Government of the HKSAR in writing.
- 6 Selections may not include Switzerland, Bangladesh, Sri Lanka, Pakistan, Japan, Australia, Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom. Thailand, India, Malaysia, and Singapore may not be served before the beginning of the IATA Winter 2003 traffic season. The Government of the United States will notify the Government of the HKSAR of its selections with not less than 30 days notice in writing. The Government of the United States may, at its discretion, change the countries selected with not less than 30 days notice to the Government of the HKSAR in writing.
- 7 U.S. airlines taken together may operate no more than 7 weekly round trip frequencies with full traffic rights between Hong Kong and each point in the countries selected. Notwithstanding the previous sentence, effective from the beginning of the IATA Winter 2003 traffic season, U.S. airlines taken together may operate no more than 12 weekly round trip frequencies with full traffic rights between Hong Kong and points in Korea taken together. The Government of the United States may, at its discretion, change these points with not less than 30 days notice to the Government of the HKSAR in writing.

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## Appendix 2

1. In addition to the right to carry transit, connecting and local traffic between points in column B and points in column C, designated airlines may carry transit and on-line connecting traffic between points in column C and points in other destinations, including points not listed in column B. Such on-line connecting traffic may be connected at any points in columns A, B or C or at points in countries not listed in such columns.

3. Except as may be otherwise specifically provided, a designated airline may, on any or all flights, and at its option, serve points on a route and operate via points not listed in columns A, B or C in any order, operate flights in either or both directions, and omit stops at any point or points, without loss of any right to uplift or discharge traffic otherwise permissible under the relevant routes or notes applicable thereto, provided that the service begins or terminates in the area of the Contracting Party designating the airline.

4. A designated airline may carry traffic between points in column A and points in column C, on the same flight or otherwise, via any points including points not listed in column B but excluding points in the areas of the Contracting Parties.

### **Change of Gauge for Combination Services**

6. A designated airline of one Contracting Party operating on Hong Kong Route 1 or U.S. Route 1 may make changes of gauge at points in column B or at other points outside of the area of the other Contracting Party without any limit on size or number of aircraft. Such an airline may also make a change of gauge in the area of the other Contracting Party without any limit on size or number of aircraft. The above changes of gauge are subject to the following conditions:

- (a) aircraft for such operations shall be scheduled in coincidence with corresponding flight(s) to/from the area of the Party designating the airline;
- (b) the onward flight(s) is scheduled to depart within 3 hours of the scheduled arrival of the corresponding incoming flight(s), unless airport curfews, airport slots, or other operational

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- constraints, at the point where the change of gauge occurs or at the next point or points of destination of the flight(s), prevent such scheduling;
- (c) if the incoming flight(s) is delayed by unforeseen operational or mechanical problems, the onward flight(s) may operate without regard to the conditions in paragraphs (a) and (b) above;
  - (d) fifth freedom traffic rights, if available, may be exercised on one starburst flight beyond a point of change of gauge made in the area of the other Contracting Party;
  - (e) where fifth freedom traffic rights are exercised on any flight, including a starburst flight, operations beyond the point of change of gauge shall be performed by an aircraft having capacity less, for outbound services, or more, for inbound services, than that of the arriving aircraft;
  - (f) for the purpose of counting fifth freedom frequencies available under this MOU, the operation or marketing by each designated airline of each starburst flight to one or more fifth freedom points with the exercise of fifth freedom rights shall be counted as one fifth freedom frequency. Irrespective of the routing, each flight to each fifth freedom point shall be counted as one frequency against the applicable per point frequency entitlement and per carrier frequency entitlement; and
  - (g) starburst flights of an airline beyond the point of change of gauge may have flight numbers different from that of the corresponding flight to or from the area of the Party designating the airline.

### **Change of Gauge for All-Cargo Services**

6A. A designated airline of one Contracting Party operating on Hong Kong Route 2 or U.S. Route 2 may make changes of gauge at points in column B or at other points outside of the area of the other Contracting Party without any limit on size or number of aircraft. Such an airline may also make a change of gauge in the area of the other Contracting Party without any limit on size or number of aircraft. The above changes of gauge are subject to the following conditions:

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- (a) aircraft for such operations shall be scheduled in coincidence with corresponding flight(s) to/from the area of the Party designating the airline;
- (b) if the incoming flight(s) is delayed by unforeseen operational or mechanical problems, the onward flight(s) may operate without regard to the conditions in paragraph (a) above;
- (c) fifth freedom traffic rights, if available, may be exercised on up to two starburst flights beyond a point of change of gauge made in the area of the other Contracting Party;
- (d) for the purpose of counting fifth freedom frequencies available under this MOU, the operation or marketing by each designated airline of each starburst flight to one or more fifth freedom points with the exercise of fifth freedom rights shall be counted as one fifth freedom frequency. Irrespective of the routing, each flight to each fifth freedom point shall be counted as one frequency against the applicable per point frequency entitlement and per carrier frequency entitlement; and
- (e) starburst flights of an airline beyond the point of change of gauge may have flight numbers different from that of the corresponding flight to or from the area of the Party designating the airline.

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