



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

Issued by the Department of Transportation
on the 2nd day of May, 2003

Served: May 2, 2003

Joint Complaint of

**AMERICAN AIRLINES, INC.
FEDERAL EXPRESS CORPORATION
UNITED AIR LINES, INC.
UNITED PARCEL SERVICE CO.**

against

**AEROLINEAS ARGENTINAS, S.A.
AIR PLUS ARGENTINA, S.A.
SOUTHERN WINDS, S.A.
and
THE GOVERNMENT OF ARGENTINA**

under Section 2(b) of the International Air
Transportation Fair Competitive Practices Act, as
amended

Docket OST-2003-15092

ORDER INSTITUTING PROCEEDING

On May 1, 2003, American Airlines, Inc.; Federal Express Corporation; United Air Lines, Inc.; and United Parcel Service Co. (Joint Complainants) filed a complaint under Section 2 (b) of the International Air Transportation Fair Competitive Practices Act, as amended, 49 U.S.C. 41310, against Aerolineas Argentinas, S.A.; Air Plus Argentina, S.A.; Southern Winds, S.A.; and the Government of Argentina. The Joint Complainants allege that the Government of Argentina is in violation of its obligations under the Air Transport Agreement between the United States and Argentina, by imposing unreasonable airport charges (for landing fees, parking, and air traffic control) at the Buenos Aires International Airport (Aeropuerto Internacional Ministro Pistarini de Ezeiza—EZE), requiring the Joint Complainants to pay airport charges that are approximately three times higher than what is paid by Aerolineas Argentinas. The Joint Complainants maintain that the airport charges paid by the complainants are not properly cost-based and are among the highest at any airport in the world. Moreover, they maintain that they have sought relief from both the Judicial and Executive Branches of the Argentine Government without success. The Joint Complainants maintain that Argentina's discriminatory, unjust and unreasonable airport

fees directly violate the U.S.-Argentina bilateral agreement, specifically the Article VII provisions on user charges. The Joint Complainants assert that Argentina is obtaining benefits under the Air Transport Agreement through the operations of Aerolineas Argentinas, Air Plus Argentina, and Southern Winds as authorized airlines to serve between Argentina and points in the United States. The Joint Complainants urge the Department to issue a show-cause order providing that, unless the Government of Argentina immediately ends the collection of discriminatory, unjust, and unreasonable airport charges at EZE, the authority held by Aerolineas Argentinas, Air Plus Argentina, and Southern Winds to serve the United States will be curtailed or suspended, or such other counter-measure as the Department finds to be in the public interest will be placed in force.

Section 41310(d)(1) provides that the Department shall approve, deny, dismiss, or set a complaint for hearing, or institute other procedures proposing remedial action, within 60 days after receipt of the complaint. We may extend the period for taking action up to 90 days from the date of the complaint if we conclude that it is likely that the complaint can be resolved satisfactorily through negotiations. We may further extend the action deadline up to 180 days from receipt of the complaint, in 30-day increments, if we find that intergovernmental negotiations have progressed to a point that a satisfactory resolution of the complaint appears imminent.

In order to develop the record for our consideration of this matter, we invite interested persons to answer the Joint Complaint of American Airlines, Federal Express Corporation, United Air Lines, and United Parcel Service Co. in Docket OST-2003-15092 within fourteen days from the service date of this order.¹ Answers filed should include all data, evidence, and arguments upon which the respondents rely to support their positions, and should cover all substantive and procedural issues that they wish the Department to consider. Replies to any answers should be filed no later than five calendar days thereafter.

After receipt and consideration of responsive pleadings and any supporting evidence submitted, we will issue a further order in this proceeding.

ACCORDINGLY,

1. We invite interested persons to file answers to the Joint Complaint of American Airlines Inc.; Federal Express Corporation; United Air Lines, Inc.; and United Parcel Service Co. in Docket OST-2003-15092, no later than fourteen days from the service date of this order; and if answers are filed, replies to those answers should be filed no later than five calendar days thereafter.² Answers to the complaint and replies, if any, should be served upon the persons named in ordering paragraph 4, below;

¹While the Joint Complainants had sought a more expedited procedural schedule, specifically with answers due by May 8, we believe that the schedule established properly balances our desire to consider this matter expeditiously and to provide all interested parties a reasonable opportunity to respond to the issues raised in the complaint.

²We will authorize service by facsimile. We also encourage parties to use the electronic submission capability through the Dockets DMS Internet site (<http://dms.dot.gov>) by following the instructions at the web site. Parties should include their fax numbers on their submissions and should indicate on the certificates of service the methods of service used.

2. If timely and properly supported answers are filed, we will give full consideration to the matters and issues raised by the answers before we take further action;
3. We dismiss the request of the Joint Complainants to the extent it sought a more expedited procedural schedule in this matter; and
4. We will serve this order on the Joint Complainants, all parties served with the Joint Complaint; the Ambassador of Argentina in Washington, D.C.; the U.S. Department of State (Office of Aviation Negotiations); the Assistant U. S. Trade Representative (Office of the United States Trade Representative); the U.S. Department of Commerce (Office of Service Industries); and the Air Transport Association.

By:

READ C. VAN DE WATER
Assistant Secretary for Aviation
and International Affairs

(SEAL)

*An electronic version of this notice is available on the World Wide Web at
http://dms.dot.gov//reports/reports_aviation.asp.*