



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

Issued by the Department of Transportation on October 7, 2003

NOTICE OF ACTION TAKEN -- DOCKET OST 1999-5212

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).

Joint Applicants: SCANDINAVIAN AIRLINES SYSTEM (SAS) and LUFTHANSA GERMAN AIRLINES

Date Filed: September 23, 2003.

Relief requested: Amend Statement of Authorization under 14 CFR Part 212 to permit Lufthansa to carry the code of SAS, for an indefinite duration, on certain scheduled flights operated by Lufthansa, between Frankfurt, Germany, and Portland, Oregon.

If renewal, date and citation of last action: New authority.

Applicants' representatives: David Heffernan (Lufthansa), 202-663-6000 & Michael Goldman (SAS), 202-944-3305

DOT analyst: Allen F. Brown, 202-366-2405

Responsive pleadings: None.

DISPOSITION

Action: Approved.

Action date: October 7, 2003

Effective dates of authority granted: indefinite duration (see below).

Basis for approval: Air Transport Agreements between the U.S. and Germany, Denmark, Norway, and Sweden.

Remarks/Conditions: The code-share authority that we granted is subject to the following conditions: 1) The Statement of Authorization will remain in effect only as long as (i) SAS and Lufthansa continue to hold the necessary 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. 2) SAS and Lufthansa must promptly notify the Department (Office of International Aviation) if the subject agreement providing for these code-share operations is no longer effective or the carriers decide to cease operating any or all of the approved services. (We expect this notice to be received within ten days of such noneffectiveness or of such decision and filed in Docket OST 1999-5212). 3) The code-share operations conducted under this authority must comply with the terms, conditions and limitations of Order 96-11-1 (antitrust immunity order) and any subsequent order(s) of the Department regarding the alliance. 4) The code-share operations conducted under this authority must comply with 14 CFR Part 257 and with any amendments to the Department's regulations concerning code-share arrangements that may be adopted. 5) Notwithstanding any provisions in the contract between the subject 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 the service in computer reservation systems and elsewhere; that the carrier selling such transportation (that is, 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. 6) The code-share authority granted here is specifically conditioned so that neither carrier shall give any force or effect to any contractual provisions between themselves that are contrary to these conditions.

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

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 authority 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/deferred/dismissed, 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*