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Order 2003-12-16  
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UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, DC

Issued by the Department of Transportation  
on the 15<sup>th</sup> day of December, 2003

In the matter of

U.S.-Vietnam Code Sharing

Dockets OST-2002-12496 - 27  
OST-2000-7194 - 68

**ORDER AMENDING ORDERS**

**Summary**

By this order, we amend our previous orders that allocated frequencies for U.S.-Vietnam third-country code sharing in order to remove all frequency limits, in light of a new Agreement with Vietnam.

**Background**

Under an Air Transport Agreement, signed December 4, 2003, the United States and Vietnam agreed to eliminate the limitations on code-share frequencies and on code-share arrangements that the parties had included in a March 2000 Memorandum of Discussion (MOD).<sup>1</sup>

The Department, pursuant to the March 2000 MOD, had previously allocated weekly U.S.-Vietnam code-sharing frequencies to American Airlines, Inc. (American), Delta Air Lines, Inc. (Delta), Northwest Airlines, Inc. (Northwest), and United Air Lines, Inc. (United).<sup>2</sup>

<sup>1</sup> The terms of this new agreement have been provisionally applied based on a Memorandum of Consultations (MOC), signed October 9, 2003.

<sup>2</sup> See Orders 2001-8-21 and 2002-10-8. Order 2001-8-21 allocated frequencies to Delta, Northwest, and United, but Northwest never implemented service with its frequencies, and its frequencies reverted to the Department; therefore, Order 2002-10-8 allocated frequencies to American and an additional frequency to United.

## **Motion of American Airlines**

On October 24, 2003, American filed a motion requesting the Department to amend Order 2002-10-8 to reflect the liberalization provided by the new Agreement and its effectiveness under the October 9 MOC, which does not contain third-country code-share restrictions, including designation and frequency limits. American states that it wishes to expand its code-share service with Japan Airlines and, thus, requests expedited action on this motion.

United filed an answer joining American's request that frequency limitations in Order 2002-10-8 be eliminated but also requesting that the Department's previous allocations in Order 2001-8-21 also be eliminated for all carriers holding authority under those two orders. United states that it will increase its services with its code-share partners at such time as United is able to offer more service. United also gives notice that it will offer code-share services to Hanoi with Thai in addition to its service to Ho Chi Minh City. United states that it has other third-country code-share partners that serve Vietnam, such as Lufthansa and Asiana, and states that it will submit notices 30 days in advance of implementation of code-share services to points in Vietnam with its other partners.<sup>3</sup>

## **Decision**

The recent Agreement with Vietnam and the Agreement's liberal provisions for code sharing frequencies and arrangements change the circumstances that existed at the time we made our previous allocations. Therefore, we have decided to grant American's motion and United's request to remove the limits deriving from our previous allocation determinations under the MOD regarding weekly U.S.-Vietnam code-sharing frequencies for those carriers authorized to perform code-share operations to Vietnam.

The changed circumstances, however, do not warrant changes in certain of our other requirements. Specifically, our standard blanket code-share conditions require U.S./foreign air carriers to give 30-day advance notification to the Department of new code-share services. We also have required U.S. carriers having multiple code-share partners for code-sharing services to Vietnam to give advance notification or to secure separate authorization of the code-share partner for the services offered. Nothing in our present action is intended to eliminate our requirements in this regard.

## **Accordingly,**

1. We grant the motion of American Airlines and the request of United Air Lines in Docket OST-2002-12496, and amend Orders 2001-8-21 and 2002-10-8 to remove the frequency limits for operations of U.S.-Vietnam code sharing and to reflect the fact that there no longer exist cooperative arrangement limits for code-sharing operations between the two countries;

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<sup>3</sup> In the Department's allocations, carriers with existing code-share relationships with authorized multiple partners were given the flexibility to use the authorized frequencies among a carrier's various partners as long as the carrier gave notification of change of partner and change of point. (See Orders 2001-8-21 at 2 and 2002-10-8 at 4-5.)

2. Carriers offering code-share services to Vietnam must comply with the Department's code-share and exemption conditions; and
3. We will serve this order on all parties to Dockets OST-2002-12496 and 2000-7194, the Ambassador of Vietnam in Washington DC, the Federal Aviation Administration, and the U.S. Department of State (Office of Negotiations).

By:

**MICHAEL W. REYNOLDS**  
Acting Assistant Secretary for  
Aviation and International Affairs

(SEAL)

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