



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

Issued by the Department of Transportation on March 11, 2004

NOTICE OF ACTION TAKEN -- DOCKET OST-2003-14630

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).

Applicant: PRIVATAIR GmbH

Date Filed: March 4, 2003, as amended February 11, 2004

Relief requested: Exemption from 49 USC section 41301, and Statement of Authorization under 14 CFR Part 212, to permit the applicant to conduct charter operations, carrying persons, property and mail, as follows: between any point or points in Germany on the one hand and any point or points in the United States on the other hand, either directly or via intermediate points in third countries, with or without stopovers, and beyond. The applicant proposes to conduct these operations only by wetleasing its aircraft with crews to Lufthansa German Airlines. Also, the applicant proposes on certain of these wetlease operations to Lufthansa, to display the designator code of United Air Lines in markets where Lufthansa and United hold authority to codeshare. 1/

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

Applicant representative: Malcolm L. Bengel, 202-298-8660 DOT analyst: Allen F. Brown, 202-366-2405

Responsive pleadings: None

DISPOSITION

Action: Approved in part, remainder (to carry United code-share traffic) deferred (see fn 1, below).

Action date: March 11, 2004

Effective dates of authority granted: March 11, 2004, through March 11, 2005

Except to the extent exempted/waived, this authority is subject to the terms, conditions, and limitations indicated: Standard exemption conditions.

Remarks/Special conditions: The authority we are granting is encompassed by the United States-Germany Air Transport Agreement, as amended. We found, based on the record in this case, that the applicant is properly designated and licensed, and operationally and financially qualified to undertake its proposed operations. The record indicates that the applicant is owned by citizens of Switzerland (majority ownership) and Greece, and that its control substantially rests with citizens of Germany. Despite the presence of certain non-homeland interests, we found, given the highly limited nature of the operations contemplated, that there was nothing in the ownership and control of the carrier that would be inimical to U.S. aviation policy or interests. Therefore, we concluded that waiver of our standard requirement that substantial ownership and effective control of a foreign carrier rest in the hands of citizens of its homeland was warranted. Finally, the FAA advised us that it knows of no reason to withhold this authority. In the conduct of the above-authorized operations, the applicant may only operate by wetlease of aircraft and crews to Lufthansa German Airlines (and may not carry the code of United Air Lines or any other carrier, except Lufthansa).

1/ On March 8, 2004, PrivatAir filed a motion requesting the Department to defer action on that latter portion of its request, pending confirmation that the requisite codeshare audit of the applicant has been completed by United. We grant the motion.

**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) the applicant was qualified to perform its proposed operations; (3) grant of the authority was consistent with the public interest; and (4) 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.

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