

Order 2004-5-23
Served: May 28, 2004



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

Issued by the Department of Transportation
on **29th** day of **March 2004**

Applications of

Continental Airlines, Inc.

Dockets OST-2001-9622

Federal Express Corporation

OST-1996-1530

Florida West International Airways, Inc.

OST-1997-2646

Polar Air Cargo, Inc.

OST-1999-6425

United Air Lines, Inc.

OST-1997-2911

OST-1997-2046

**for certificates of public convenience and necessity
under section 41102 of Title 49 U.S.C. and the orders
and regulations of the Department of Transportation**

ORDER ISSUING CERTIFICATES

The captioned applicants seek grant, renewal, and/or amendment of certificates of public convenience and necessity under section 41102 of Title 49 of the United States Code. The applications are fully described in the attachments to this order. Because the public convenience and necessity bases for granting these applications are clear, and the applications are not controversial, it is appropriate to use this simplified, Subpart B procedure to grant the requested authority.¹

¹ 14 CFR 302.212 *et seq.* Under Rule 33(b) we may, in our discretion, omit a tentative decision in proceedings under Subpart B and proceed directly to a final decision.

The applicants have filed and perfected each application as required by 14 CFR 201 and served it as required by 14 CFR 302.203(b). Each application was summarized in the Federal Register, as cited in the relevant descriptive attachment, and was also summarized in the Department's published weekly list of applications filed. These notices described the authority sought and gave interested persons an opportunity to submit evidence and objections to the award of the authority. Except to the extent noted no answers to these applications were filed.

Public Convenience and Necessity

We find that grant or amendment of these certificates is consistent with the public convenience and necessity. Where, as noted, the services authorized are the subject of a bilateral agreement, the certificate is consistent with the agreement and uses rights for which the United States has exchanged valuable operating rights. For authority which is not the subject of a bilateral agreement, the grant is consistent with the overall state of aviation relations between the United States and the foreign countries involved. All of the authority conferred here contributes to the variety of price and service options available to travelers and shippers.

Fitness/Citizenship

Each applicant is a citizen of the United States as defined in 49 U.S.C. 40102(a)(15). Each is an operating certificated air carrier for which the authority at issue here would not constitute a substantial change in operations that would require further review by the Department. No information has come to our attention which leads us to question the fitness of the applicants to conduct air transportation operations. Therefore, on the basis of data officially noticeable under Rule 24(g) of the Department's regulations, we find each applicant is fit, willing and able to provide the services authorized.

Terms, Conditions and Limitations

Each certificate of public convenience and necessity is subject to the standard terms, conditions, and limitations we consistently impose in the public interest. Duration of certificate authority is determined by the nature of the routes at issue. Where routes may be served by multiple U.S. carriers, without restrictions on additional entrants, the certificates are of indefinite duration. Where limited-entry routes are involved, we issue temporary, experimental certificates of five years' duration under 49 U.S.C. 41102(c).²

² 14 CFR Part 399.120.

The certificates issued to Federal Express to serve China, and United to serve China, South Africa, Colombia, Argentina, and Brazil are granted for a five-year term; the certificates issued to Continental to serve Peru, Florida West to serve Peru and Chile, and Polar to serve various countries are for an indefinite duration.

Pendente Lite Exemptions

For those services operated under current exemptions, those exemptions will expire in accordance with their own terms 90 days after we submit this order for review under 49 U.S.C. 41307. For those routes operated under expired exemptions and kept in force by 5 U.S.C. 558(c), the exemption renewal applications on file will be dismissed by separate order, upon the effectiveness of the corresponding certificates of public convenience and necessity. The attachments cite the relevant currently held authority.

Findings and Conclusions

In view of the foregoing and all the facts of record, we find and conclude that:

1. It is consistent with the public convenience and necessity to amend or issue each applicant a certificate in the form attached;
2. Each applicant is a citizen of the United States and is fit, willing and able to perform properly the foreign air transportation described in the attached certificate or certificate amendment and to conform to the provisions of Subtitle VII of Title 49, United States Code (Transportation), and to the Department's rules, regulations, and requirements;
3. The public interest requires that the exercise of the privileges granted by the attached certificates and certificate amendments be subject to the terms, conditions, and limitations contained in and attached to those certificates and to such others required by the public interest as the Department may prescribe;
4. Except as otherwise noted in the attachments, the issuance of each of these certificates and certificate amendments does not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975, as defined by section 313.4(a)(1) of the Department's regulations;³ and
5. The public interest does not require an oral evidentiary hearing or a show-cause proceeding on any of these applications. There are no material, determinative issues of fact requiring such procedures for their resolution.

³ Our finding is based on the fact that grant of each application would not result in a near-term increase in annual fuel consumption in excess of 10 million gallons.

ACCORDINGLY,

1. We amend or issue in the form attached, certificates of public convenience and necessity to the applicants listed in the caption of this order;
2. We dismiss, as moot, the application of Polar Air Cargo to the extent that it seeks certificate authority to serve the Argentina and Grenada markets;
3. We grant all motions for leave to file otherwise unauthorized documents in the captioned dockets;
4. We deny United's application in Docket OST-1997-2046 to the extent that it seeks to renew U.S.-Brazil authority on segments 1 and 6 for an indefinite duration;
5. To the extent not granted or dismissed, we deny all motions and requests in these dockets;
6. We will not entertain petitions for reconsideration of this order;⁴
7. Unless disapproved by the President of the United States under 49 U.S.C. 41307, this order and the attached certificates and certificate amendments shall become effective upon the 61st day after its submission for section 41307 review, or upon the date of receipt of advice from the President or his designee under Executive Order 12597 and implementing regulations that he or she does not intend to disapprove the Department's order under that section, whichever occurs earlier;⁵ and
8. We will serve this order on the parties to the captioned dockets of this order, the Ambassador in Washington, DC of each country that the applicants seek authority to serve, the U.S. Department of State (Office of Aviation Negotiations), and the Federal Aviation Administration.

By:

KARAN K. BHATIA
Assistant Secretary
for Aviation and International Affairs

(SEAL)

⁴ All parties have had a full opportunity to comment on the applications filed. In each case, no objections were filed to the applications for new or amended certificate authority included in this order.

⁵ This order was submitted for section 41307 review on March 29, 2004. On May 25, 2004 we received notification that the President's designee under Executive Order 12597 and implementing regulations did not intend to disapprove the Department's order.

Continental Airlines, Inc.

Renewal of Certificate for **Route 699**

Filed: May 4, 2001 **Docket:** OST-2001-9622 **Notice:** 66 FR (27743) 5/18/01

- I. **Authority Sought:** Renew authority to provide scheduled foreign air transportation of persons, property, and mail between Houston, Texas and Lima, Peru, and to integrate this authority with its existing certificate and exemption authority.

- II. **Relevant Currently Held Authority:** Continental currently holds certificate authority on Route 699 to serve the above route. (Order 96-6-53.) Under the terms of the certificate, Continental's authority expired on November 1, 2001. Continental filed a timely application for renewal and its authority has remained in effect pursuant to the provisions of the Administrative Procedure Act, 5 U.S.C. 558(c), pending action on its renewal application. Continental operates daily nonstop service between Houston and Lima.

- III. **Pleadings:** No answers were filed.

- IV. **Public Convenience and Necessity:** The authority is consistent with the air transport agreement governing relations between the United States and Peru.

- V. **Fitness/Citizenship:** Continental has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation of persons, property, and mail as a certificated air carrier under §41102 of Title 49 U.S.C. See, e.g., Order 2001-5-26. The foreign air transportation authorized here does not constitute a substantial change in operations under Part 204 of the Department's regulations, warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question Continental's fitness to conduct the air transportation operations authorized here.

- VI. **Terms, Conditions and Limitations:** Standard. We will reissue Continental's certificate for Route 699 to grant the requested authority.

- VII. **Duration:** The duration of certificate authority is determined by the nature of the routes at issue. Where routes may be served by multiple U.S. carriers, without restrictions on additional entrants, we issue certificates for an indefinite duration.

Where limited-entry routes are involved, we issue temporary, experimental certificates of five years' duration. Since the last time we issued the authority at issue here to Continental, the United States and Peru implemented an open-skies aviation agreement that does not place restrictions on designations, frequencies, or routes. Thus, we have renewed and reissued Continental's certificate authority for an indefinite duration.



**Certificate of Public
Convenience and Necessity**

for

**Route 699
(as reissued)**

This Certifies That

Continental Airlines, Inc.

is authorized, subject to the provisions of Subtitle VII of Title 49 of the United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign air transportation of persons, property, and mail.

This Certificate is not transferable without the approval of the Department of Transportation.

By Direction of the Secretary

**Issued by Order 2004-5-23
On March 29, 2004
Effective May 25, 2004**

**Karan K. Bhatia
Assistant Secretary for Aviation
and International Affairs**

Terms, Conditions and Limitations

Continental Airlines, Inc. for **Route 699**

is authorized to engage in foreign air transportation of persons, property, and mail:

Between Houston, Texas and Lima, Peru.

The authority is subject to the following conditions:

(1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.

(2) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any order of the Department of Transportation issued under them. To the extent that the holder has authority to serve more than one country or points in more than one country on the same route segment, that authority does not confer upon the holder any additional rights (including fifth-freedom intermediate and/or beyond rights) in limited-entry markets unless the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights and has notified the foreign country(ies) involved that any such selected carrier(s) has the required authority. In such cases, the fact that the carrier may hold authority to serve the countries (points) at issue on the same segment will not be considered as providing any preference to the holder in a carrier selection proceeding.

(3) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.

(4) The holder's authority under this certificate is effective only to the extent that such operations comply with all applicable requirements of the Federal Aviation Administration and with all applicable U.S. Government requirements concerning security. To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) to or from a foreign airport, contact its principal Security Inspector (PSI) to advise the PSI of its plans and to find out whether the Transportation Security Administration has determined that security is adequate to allow such airport(s) to be served.

(5) The holder shall at all times remain a “Citizen of the United States” as required by 49 U.S.C. 40102(a)(15).

(6) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of 49 U.S.C. or the Department’s regulations shall be sufficient grounds to revoke this certificate.

(7) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(l)), it must first comply with the requirements of 14 CFR 204.5.

(8) In the event that the holder ceases all operations for which it was found “fit, willing, and able,” its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been determined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.

(9) The holder may combine services authorized by this certificate with all services authorized by other Department of Transportation certificates or exemptions; provided that such operations are in compliance with the provisions of all applicable bilateral aviation agreements, and provided further that (a) nothing in the award of the route integration authority requested should be construed as conferring upon the holder additional rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless the holder first notifies the Department of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in this certificate by virtue of the route integration authority granted here, but that are not then being used by the holder, the holding of such authority by route integration will not be construed as providing any preference for the holder in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

This certificate shall become effective[upon notification from the White House].

*This certificate, issued by Order 96-6-53, is reissued to reflect renewal of authority to serve the Houston-Lima market. It also incorporates new standard terms and conditions applicable to U.S. carriers.

Federal Express Corporation

Renewal of Certificate for **Route 638**

Filed: May 8, 2002 **Docket:** OST-1996-1530 **Notice:** 67 FR (37906) 5/30/02

- I. **Authority Sought:** Renew authority to provide scheduled foreign air transportation of property and mail between points in the United States, via any intermediate points to a point or points in China open to scheduled international operations, and beyond to any points outside of China, with full traffic rights.

- II. **Relevant Currently Held Authority:** Federal express holds certificate authority on Route 638 to serve the above route. Order 99-2-8. Under the terms of the certificate Federal Express' authority expired on November 17, 2002. Federal Express filed a timely application for renewal and its authority has remained in effect pursuant to the provisions of the Administrative Procedure Act, 5 U.S.C. 558(c), pending action on its renewal application. Federal Express operates 11 weekly all-cargo flights between the United States and China.

- III. **Pleadings:** No answers were filed.

- IV. **Public Convenience and Necessity:** The authority requested is consistent with the aviation agreement between the United States and China.

- V. **Fitness/Citizenship:** Federal Express has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation of property and mail as a certificated carrier under §41102 Title 49 U.S.C. See, e.g., Order 2000-4-5. The foreign air transportation authorized here does not constitute a substantial change in operations under Part 204 of the Department's regulations warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question Federal Express' fitness to conduct the air transportation operations authorized here.

- VI. **Terms, Conditions and Limitations:** We will reissue Federal Express' certificate for Route 638 to reflect renewal of Federal Express' authority for an additional five years.

- VII. **Duration:** Five years. §41102(c).



**Experimental Certificate of Public
Convenience and Necessity
for**

Route 638
(as reissued)

This Certifies That

Federal Express Corporation

is authorized, subject to the provisions of Subtitle VII of Title 49 of the United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign air transportation of property and mail.

This Certificate is not transferable without the approval of the Department of Transportation.

By Direction of the Secretary

**Issued by Order 2004-5-23
On March 29, 2004
Effective on May 25, 2004**

**Karan K. Bhatia
Assistant Secretary for Aviation
and International Affairs**

Terms, Conditions and Limitations

Federal Express Corporation for **Route 638**

is authorized to engage in scheduled foreign air transportation of property and mail:

Between a point or points in the United States, via any intermediate points, to a point or points in China open to scheduled international operations, and beyond to any points outside of China, with full traffic rights.

This authority is subject to the following conditions:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.
- (2) The holder is not authorized to carry passengers (other than cargo attendants accompanying the freight shipments).
- (3) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any orders of the Department of Transportation issued under them. To the extent that the holder has authority to serve more than one country or points in more than one country on the same route segment, that authority does not confer upon the holder any additional rights (including fifth-freedom intermediate and/or beyond rights) in limited-entry markets unless the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights. In such cases, the fact that the carrier may hold authority to serve the countries (points) at issue on the same segment will not be considered as providing any preference to the holder in a carrier selection proceeding.
- (4) The authority granted to serve intermediate and beyond points on this certificate is limited to countries with which the United States has signed open-skies agreements and/or countries for which the carrier holds authority to serve under certificates or exemptions issued by the Department, and for which it holds route integration authority under this certificate or by virtue of some other action of the Department.

(5) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.

(6) The holder acknowledges that this certificate is granted to determine if the holder's projected services, efficiencies, methods, rates, fares, charges, and other projected results will, in fact, materialize and remain for a sustained period of time, and to determine whether the holder will provide the innovative and low-priced air transportation it proposed in its application for this authority.

(7) The holder's authority under this certificate is effective only to the extent that such operations comply with all applicable requirements of the Federal Aviation Administration and with all applicable U.S. Government requirements concerning security. To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) to or from a foreign airport, contact its principal Security Inspector (PSI) to advise the PSI of its plans and to find out whether the Transportation Security Administration has determined that security is adequate to allow such airport(s) to be served.

(8) The holder shall at all times remain a "Citizen of the United States," as required by 49 U.S.C. 40102(a)(15).

(9) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of 49 U.S.C. or the Department's regulations shall be sufficient grounds to revoke this certificate.

(10) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(1)), it must first comply with the requirements of 14 CFR 204.5.

(11) In the event that the holder ceases all operations for which it was found "fit, willing, and able," its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.

*As reissued by
Order 2004-5-23
Route 638
Page 3 of 3

This certificate shall be come effective [upon notification from the White House]. It shall expire [five years from the effective date of this Order], unless the Department earlier suspends, modifies, or deletes the authority.

*This certificate, originally issued by Order 95-8-9, reissued by Order 97-10-8, and amended and reissued by Order 99-2-8, is further reissued to reflect renewal of authority in the U.S.-China market for an additional five years. It also incorporates new standard terms and conditions applicable to U.S. carriers.

Florida West International Airways, Inc.

Renewal of Certificate for **Route 712**

Filed: August 9, 2002 **Docket:** OST-1997-2646 **Notice:** 67 FR (53830-53831) 8/19/02

- I. **Authority Sought:** Renew authority to provided scheduled foreign air transportation of property and mail between the coterminal points Houston, Texas, and Miami, Florida, on the one hand, and Lima and Iquitos, Peru, on the other, and beyond to Santiago, Chile, and to integrate this authority with its existing certificate and exemption authority.

- II. **Relevant Currently Held Authority:** Florida West holds certificate authority on Route 712 to serve the Houston/Miami-Lima/Iquitos markets. Under the terms of the certificate Florida West's authority expired on February 6, 2003. Florida West filed a timely application for renewal and its authority has remained in effect pursuant to the provisions of the Administrative Procedure Act, 5 U.S.C. 558(c), pending action on its renewal application.

- III. **Pleadings:** No answers were filed.

- IV. **Public Convenience and Necessity:** The authority is consistent with the Multilateral Agreement on the Liberalization of International Air Transportation to which the United States and Chile are parties, and with the air transport agreement governing relations between the United States and Peru.

- V. **Fitness/Citizenship:** Florida West has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation of property and mail as a certificated air carrier under §41102 of Title U.S.C. See, e.g., Order 2000-8-19. The foreign air transportation authorized here does not constitute a substantial change in operations under Part 204 of the Department's regulations, warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question Florida West's fitness to conduct the air transportation operations authorized here.

- VI. **Terms, Conditions and Limitations:** Standard. We will reissue Florida West's certificate for Route 712 to reflect renewal of the authority.

- VII. **Duration:** The duration of certificate authority is determined by the nature of the routes at issue. Where routes may be served by multiple U.S. carriers, without restrictions on additional entrants, we issue certificates for an indefinite duration.

Where limited-entry routes are involved, we issue temporary, experimental certificates of five years' duration. Since the last time we issued the authority at issue here to Florida West, the United States and Peru and the United States and Chile implemented open skies aviation agreements that do not place restrictions on designations, frequencies, or routes. Thus, we have renewed and reissued Florida's certificate authority for an indefinite duration.



**Certificate of Public
Convenience and Necessity
for**

**Route 712
(as reissued)**

This Certifies That

Florida West International Airways, Inc.

is authorized, subject to the provisions of Subtitle VII of Title 49 of the United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign air transportation of property and mail.

This Certificate is not transferable without the approval of the Department of Transportation.

By Direction of the Secretary

**Issued by Order 2004-5-23
On March 29, 2004
Effective on May 25, 2004**

**Karan K. Bhatia
Assistant Secretary for Aviation
and International Affairs**

Terms, Conditions and Limitations

Florida West International Airways, Inc. for **Route 712**

is authorized to engage in scheduled foreign air transportation of property and mail:

Between the coterminal points Houston, Texas, and Miami, Florida, on the one hand, and Lima and Iquitos, Peru, on the other, and beyond to Santiago, Chile.

This authority is subject to the following conditions:

(1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.

(2) The holder is not authorized to carry passengers (other than cargo attendants accompanying the freight shipments).

(3) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any orders of the Department of Transportation issued under them. To the extent that the holder has authority to serve more than one country or points in more than one country on the same route segment, that authority does not confer upon the holder any additional rights (including fifth-freedom intermediate and/or beyond rights) in limited-entry markets unless the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights and has notified the foreign country(ies) involved that any such selected carrier(s) has the required authority. In such cases, the fact that the carrier may hold authority to serve the countries (points) at issue on the same segment will not be considered as providing any preference to the holder in a carrier selection proceeding.

(4) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.

- (5) The holder's authority under this certificate is effective only to the extent that such operations comply with all applicable requirements of the Federal Aviation Administration and with all applicable U.S. Government requirements concerning security. To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) to or from a foreign airport, contact its principal Security Inspector (PSI) to advise the PSI of its plans and to find out whether the Transportation Security Administration has determined that security is adequate to allow such airport(s) to be served.
- (6) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).
- (7) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of 49 U.S.C. or the Department's regulations shall be sufficient grounds to revoke this certificate.
- (8) Should the holder propose any substantial changes in ownership, management, or operations (as that term is defined in 14 CFR 204.2(l)), it must first comply with the requirements of 14 CFR 204.5.
- (9) In the event that the holder ceases all operations for which it was found "fit, willing, and able," its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been determined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.
- (10) The holder may combine services authorized by this certificate with all services authorized by other Department of Transportation certificates or exemptions; provided that such operations are in compliance with the provisions of all applicable bilateral aviation agreements, and provided further that (a) nothing in the award of the route integration authority requested should be construed as conferring upon the holder additional rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless the holder first notifies the Department of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in this certificate by virtue of the route

*As reissued by
Order 2004-5-23
Route 712
Page 3 of 3

integration authority granted here, but that are not then being used by the holder, the holding of such authority by route integration will not be construed as providing any preference for the holder in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

This certificate shall become effective [upon notification from the White House]

*This certificate, issued by Order 98-2-6, is reissued to reflect renewal of authority in the Houston/Miami-Lima/Iquitos market. It also incorporates new standard terms and conditions applicable to U.S. carriers.

Polar Air Cargo, Inc.

Amendment of Certificate for **Route 651**

Filed: April 16, 2002 **Docket:** OST-1999-6425 **Notice:** 67 FR (37907) 5/30/02

I. Authority Sought: Scheduled foreign air transportation of property and mail between a point or points in the United States and the following countries:

Angola	Gambia, The	Peru
Antigua & Barbuda	Grenada	Pitcairn Islands
Anguilla	Guadeloupe	Rwanda
Argentina	Guinea	Samoa
Bangladesh	Guinea-Bissau	Sao Tome & Principe
Belize	Guyana	Serbia-Montenegro
Benin	Haiti	Seychelles
Bermuda	Italy	Sierre Leone
Bhutan	Kazakhstan	Solomon Islands
Bolivia	Kiribati	Somalia
Burkina Faso	Laos	St. Barthelemy
Burundi	Lesotho	St. Kitts & Nevis
Cambodia	Madagascar	St. Lucia
Cameroon	Maldives	St. Vincent & Grenadines
Canada	Mali	Suriname
Cape Verde	Marshall Islands	Swaziland
Cayman Islands	Martinique	Togo
Central African Republic	Mauritius	Tonga
Chad	Micronesia, Federated States of	
Colombia	Mongolia	Turks and Caicos
Comoros	Montserrat	Tuvalu
Congo, Republic of	Mozambique	Vanuatu
Cook Islands	Myanmar	Virgin Islands (U.K.)
Cyprus	Nauru	Wallis/Futuna Islands
Djibouti	Nepal	Yemen
Dominica	New Caledonia	Zambia
Equatorial Guinea	Niger	
Eritrea	Nigeria	
France	Niue	
French Polynesia	Palau	
Gabon	Papua New Guinea	

- II. Relevant Currently Held Authority:** Polar currently holds broad certificate authority on Route 651 between U.S. points and various countries. (See Order 99-12-7.)
- III. Pleadings:** No answers were filed.
- IV. Public Convenience and Necessity:** The authority requested is consistent with either the governing aviation agreement or the overall state of aviation relations with the foreign countries involved. Polar was granted certificate authority to serve Argentina on Route 651 by Order 2002-7-31, and granted certificate authority to serve Grenada on Route 651 by Order 99-12-7. In these circumstances, we have decided to dismiss that portion of Polar's application to the extent it seeks duplicative authority to serve Argentina and Grenada.
- V. Fitness and Citizenship:** Polar has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation of property and mail as a certificated air carrier under §41102 of Title 49 U.S.C. See, e.g. Order 2002-7-31.
- VI. Fuel:** Given the large number of countries Polar seeks to serve, it is possible that the services proposed would exceed a near-term increase in annual fuel consumption in excess of 10 million gallons, and thus, that award of such authority would constitute a major regulatory action under the Energy Policy and Conservation Act of 1975, as defined by §313.4(a)(1) of the Department's regulations. To the extent Polar's service would exceed the 10 million gallon provision, we find that the additional service to be provided under this authority and resulting public benefits outweigh any adverse effects that may be caused by the increased fuel consumption.
- VII. Terms, Conditions and Limitations:** Standard. We will award the authority requested by adding the various countries to Polar's certificate for Route 651. The attached certificate awards authority between a point or points in the United States and the countries at issue, subject to compliance with the respective bilateral aviation agreements. As a result, for several countries the applicant can only provide service between the United States and/or foreign gateways specified in the relevant agreement.
- VIII. Duration:** Indefinite.



**Certificate of Public
Convenience and Necessity
for**

**Route 651
(as reissued)**

This Certifies That

Polar Air Cargo, Inc.

is authorized, subject to the provisions of Subtitle VII of Title 49 of the United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign air transportation of property and mail.

This Certificate is not transferable without the approval of the Department of Transportation.

By Direction of the Secretary

**Issued by Order 2004-5-23
On March 29, 2004
Effective on May 25, 2004**

**Karan K. Bhatia
Assistant Secretary for Aviation
and International Affairs**

Terms, Conditions and Limitations

Polar Air Cargo, Inc. for **Route 651**

is authorized to engage in scheduled foreign air transportation of property and mail:

Between a point in the United States and:

(New authority in bold)

Albania	Cameroon	Gambia
Algeria	Canada	Georgia
Angola	Cape Verde	Germany
Antigua & Barbuda	Cayman Islands	Ghana
Anguilla	Central African Republic	Greece
Argentina	Chad	Grenada
Armenia	Colombia	Guadelope
Aruba	Comoros	Guatemala
Australia	Congo, Democratic Republic of	Guinea
Austria	Congo, Republic of	Guinea-Bissau
Azerbaijan	Cook Islands	Guyana
Bahamas	Côte d'Ivoire	Haiti
Bahrain	Costa Rica	Honduras
Bangladesh	Croatia	Hong Kong
Barbados	Cyprus	Hungary
Belarus	Czech Republic	Iceland
Belgium	Denmark	India
Belize	Djibouti	Indonesia
Benin	Dominica	Ireland
Bermuda	Dominican Republic	Israel
Bhutan	Egypt	Italy
Bolivia	El Salvador	Jamaica
Bosnia and Herzegovina	Estonia	Jordan
Botswana	Ethiopia	Kazakhstan
Brunei Darussalam	Equatorial Guinea	Kiribati
Bulgaria	Eritrea	Kenya
Burkina Faso	Fiji	Korea, Republic of
Burundi	Finland	Kuwait
Cambodia	France	Kyrgyzstan
	Gabon	

Laos	Papua New Guinea	Turks & Caicos
Latvia	Paraguay	Tuvalu
Lesotho	Peru	Uganda
Liberia	Pitcairn Islands	United Arab Emirates
Lithuania	Poland	United Kingdom
Luxembourg	Portugal	Uruguay
Madagascar	Qatar	Uzbekistan
Macau	Romania	Vanuatu
Macedonia	Rwanda	Virgin Islands (U.K.)
Malawi	Samoa	Wallis/Futuna Islands
Malaysia	Sao Tome & Principe	Yemen
Maldives	Senegal	Zambia
Mali	Serbia-Montenegro	Zimbabwe
Malta	Seychelles	
Marshall Islands	Sierre Leone	
Martinique	Singapore	
Mauritius	Slovakia	
Micronesia, Federal States of	Slovenia	
Moldova	Solomon Islands	
Mongolia	Somalia	
Montserrat	South Africa	
Morocco	Spain	
Mozambique	Sri Lanka	
Myanmar	St. Barthelemy	
Namibia	St. Kitts & Nevis	
Nauru	St. Lucia	
Nepal	St. Vincent & Grenadines	
Netherlands	Suriname	
Netherlands Antilles	Swaziland	
New Caledonia	Sweden	
New Zealand	Switzerland	
Nicaragua	Tajikistan	
Niger	Taiwan	
Nigeria	Tanzania	
Niue	Togo	
Norway	Tonga	
Oman	Trinidad and Tobago	
Pakistan	Tunisia	
Palau	Turkey	
Panama	Turkmenistan	

This authority is subject to the following conditions:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.
- (2) The holder is not authorized to carry passengers (other than cargo attendants accompanying the freight shipments).
- (3) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any order of the Department of Transportation issued under them. To the extent that the holder has authority to serve more than one country or points in more than one country on the same route segment, that authority does not confer upon the holder any additional rights (including fifth-freedom intermediate and/or beyond rights) in limited-entry markets unless the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights and has notified the foreign country(ies) involved that any such selected carrier(s) has the required authority. In such cases, the fact that the carrier may hold authority to serve the countries (points) at issue on the same segment will not be considered as providing any preference to the holder in a carrier selection proceeding.
- (4) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.
- (5) The holder's authority is effective only to the extent that such operations comply with all applicable requirements of the Federal Aviation Administration and with all applicable U.S. Government requirements concerning security. To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) to or from a foreign airport, contact its Principal Security Inspector (PSI) to advise the PSI of its plans and to find out whether the Transportation Security Administration has determined that security is adequate to allow such airport(s) to be served.
- (6) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).

(7) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of 49 U.S.C. or the Department's regulations shall be sufficient grounds to revoke this certificate.

(8) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(1)), it must first comply with the requirements of 14 CFR 204.5.

(9) In the event that the holder ceases all operations for which it was found "fit, willing, and able," its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.

(10) The holder may combine services on this certificate with all services authorized by other Department of Transportation certificates or exemptions, provided, that such operations are consistent with the applicable bilateral aviation agreements; and provided further, that (a) nothing in the award of the route integration authority requested should be construed as conferring upon the holder additional rights (including fifth-freedom intermediate and/or beyond rights) to serve the markets where U.S. carrier entry is limited unless the holder first notifies the Department of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in the holder's authority by virtue of the route integration authority granted here, but that are not then being used by the holder, the holding of such authority by route integration will not be considered as providing any preference for the holder in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

(11) The authority to serve South Africa shall expire January 12, 2005, unless the Department earlier suspends, modifies, or deletes the authority.

*As reissued by
Order 2004-5-23
Route 651
Page 5 of 5

This certificate shall become effective [upon notification from the White House]; provided, however, that prior to the date on which the certificate would otherwise become effective, the Department, either on its own initiative or upon the timely filing of a petition for reconsideration of the order issuing this certificate, may by order or orders extend such effective date from time to time.

*This certificate, originally issued by Order 94-7-4, reissued by Orders 94-7-12, 96-5-9, and 99-12-7, and amended by Order 2002-7-31, is further reissued to reflect new authority in numerous foreign markets. The reissued certificate also incorporates revised standard terms and conditions applicable to U.S. carriers.

United Air Lines, Inc.

Renewal and Amendment of Certificate for **Route 747**

Filed: March 6, 2002 **Docket:** OST-1997-2911 **Notice:** 67 FR (13401) 3/22/02

- I. **Authority Sought:** (1) Renew authority to provide scheduled foreign air transportation of persons, property, and mail between a point or points in the United States, the intermediate point Frankfurt, Germany, and the coterminal points Johannesburg and Cape Town, South Africa, and beyond South Africa to Harare, Zimbabwe, and (2) amend this authority to permit United to operate between any points in the United States, via intermediate points in third countries, and the coterminal points Johannesburg and Cape Town, South Africa, and beyond South Africa to Harare, Zimbabwe.

- II. **Relevant Currently Held Authority:** United holds certificate authority on Route 747 to serve the above route for which it seeks renewal. Under the terms of the certificate United's authority expired on October 23, 2002. United filed a timely application for renewal and its authority has remained in effect pursuant to the provisions of the Administrative Procedure Act, 5 U.S.C. 558(c), pending action on its renewal application. United operates weekly flights between the United States and Johannesburg and Cape Town via Frankfurt under a code-share arrangement with Lufthansa.

- III. **Pleadings:** No answers were filed.

- IV. **Public Convenience and Necessity:** The authority granted is consistent with the overall state of aviation relations between the United States and South Africa and between the United States and Zimbabwe.

- V. **Fitness/Citizenship:** United has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation of persons, property, and mail as a certificated air carrier under §41102 of Title U.S.C. See, e.g., Order 2000-8-19. The foreign air transportation authorized here does not constitute a substantial change in operations under Part 204 of the Department's regulations, warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question United's fitness to conduct the air transportation operations authorized here.

- VI. **Terms, Conditions and Limitations:** Standard. We will reissue United's certificate for Route 747 to reflect renewal of the authority for another five years.
- VII. **Duration:** Five years. 49 U.S. C. §41102(c).



**Experimental Certificate of Public
Convenience and Necessity
for**

Route 747
(as reissued)

This Certifies That

United Air Lines, Inc.

is authorized, subject to the provisions of Subtitle VII of Title 49 of the United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign air transportation of persons, property, and mail.

This Certificate is not transferable without the approval of the Department of Transportation.

By Direction of the Secretary

**Issued by Order 2004-5-23
On March 29, 2004
Effective on May 25, 2004**

**Karan K. Bhatia
Assistant Secretary for Aviation
and International Affairs**

Terms, Conditions and Limitations

United Air Lines, Inc. for **Route 747**

is authorized to engage in scheduled foreign air transportation of persons, property, and mail:

Between a point or points in the United States, via intermediate points in third countries, and the coterminal points Johannesburg and Cape Town, South Africa, and beyond South Africa to Harare, Zimbabwe.

This authority is subject to the following conditions:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.
- (2) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any orders of the Department of Transportation issued under them. To the extent that the holder has authority to serve more than one country or points in more than one country on the same route segment, that authority does not confer upon the holder any additional rights (including fifth-freedom intermediate and/or beyond rights) in limited-entry markets unless the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights and has notified the foreign country(ies) involved that any such selected carrier(s) has the required authority. In such cases, the fact that the carrier may hold authority to serve the countries (points) at issue on the same segment will not be considered as providing any preference to the holder in a carrier selection proceeding.
- (3) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.

(4) The holder's authority under this certificate is effective only to the extent that such operations comply with all applicable requirements of the Federal Aviation Administration and with all applicable U.S. Government requirements concerning security. To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) to or from a foreign airport, contact its principal Security Inspector (PSI) to advise the PSI of its plans and to find out whether the Transportation Security Administration has determined that security is adequate to allow such airport(s) to be served.

(5) The holder acknowledges that this certificate is granted to determine if the holder's projected services, efficiencies, methods, rates, fares, charges, and other projected results will, in fact, materialize and remain for a sustained period of time, and to determine whether the holder will provide the innovative and low-priced air transportation it proposed in its application for this authority.

(6) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).

(7) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of 49 U.S.C. or the Department's regulations shall be sufficient grounds to revoke this certificate.

(8) Should the holder propose any substantial changes in ownership, management, or operations (as that term is defined in 14 CFR 204.2(l)), it must first comply with the requirements of 14 CFR 204.5.

(9) In the event that the holder ceases all operations for which it was found "fit, willing, and able," its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been determined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.

(10) The holder may combine services authorized by this certificate with all services authorized by other Department of Transportation certificates or exemptions; provided that such operations are in compliance with the provisions of all applicable bilateral aviation agreements, and provided further that (a) nothing in the award of the route integration authority requested should be construed as conferring upon the holder

additional rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless the holder first notifies the Department of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and (b) should there be a request by any carrier to use the limited-entry route rights that are included in this certificate by virtue of the route integration authority granted here, but that are not then being used by the holder, the holding of such authority by route integration will not be construed as providing any preference for the holder in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

(11) The authority to serve intermediate points is limited to countries with which the United States has signed open-skies agreements and/or countries for which the carrier holds authority to serve under certificates or exemptions issued by the Department, and for which it holds route integration authority, by virtue of either the present action or other action of the Department, and is subject to all conditions attached to that authority.

This certificate shall become effective [upon notification for the White House]. It shall expire [five years after the service date of this Order], unless the Department earlier suspends, modifies, or deletes the authority.

*This certificate, issued by Order 97-10-14, is reissued to reflect renewal and amendment of authority in the U.S.-Johannesburg/Cape Town-Harare market for an additional five years. It also incorporates new standard terms and conditions applicable to U.S. carriers.

United Air Lines, Inc.

Renewal of Certificate for **Route 632**

Filed: May 7, 2002 **Docket:** OST-1997-2046 **Notice:** 67 FR (37907) 5/30/02

- I. **Authority Sought:** Renew segments 1 and 6 of Route 632 to provide scheduled foreign air transportation of persons, property, and mail between various named points in the United States and Sao Paulo, Rio de Janeiro, Brasilia, and Belem, Brazil; Barranquilla, Colombia; and Buenos Aires, Argentina. United requested that the authority be renewed for an indefinite period. United also urged the Department to act on its pending application in Docket OST-1995-495 for broad U.S.-Brazil authority.¹

- II. **Relevant Currently Held Authorities:** United holds certificate authority on segments 1 and 6 of Route 632 to provide scheduled foreign air transportation of persons, property, and mail on the above route. Under the terms of the certificate, United's authority on segments 1 and 6 expired on November 17, 2002. United filed a timely application for renewal, and its authority has remained in effect pursuant to the provisions of the Administrative Procedure Act, 5 U.S.C. 558(c), pending action on its renewal application.

- III. **Pleadings:** No answers were filed.

- IV. **Public Convenience and Necessity:** The authority granted is consistent with the aviation agreements between the United States and Brazil, the United States and Colombia, and the United States and Argentina.

- V. **Fitness/Citizenship:** United has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation persons, property, and mail as a certificated air carrier under §41102 Title 49 U.S.C. See, e.g., Order 2000-8-19. The foreign air transportation authorized here does not constitute a substantial change in operations under Part 204 of the Department's regulations warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question United's fitness to conduct the air transportation operations authorized here.

¹ See United's application at 3.

- VI. Terms, Conditions and Limitations:** Standard. We will amend United's certificate for Route 632 to reflect renewal of the authority on segments 1 and 6 for an additional five years. We will deny United's request that its certificate authority to serve Brazil be renewed for an indefinite duration. United has not persuasively demonstrated that the public interest calls for deviating from our standard practice limiting U.S. carrier route authority to five years in country-pair markets where U.S. carrier rights are not fully open.²
- VII. Duration:** Five years. §41102(c).

² See, e.g., Order 98-6-22 at 4, regarding services in the U.S.-Japan market, and Order 2002-2-1, Attachment F.

United Air Lines, Inc. for **Route 632**

Amend condition (10) to read as follows:

(10) The following authority shall expire [five years after the effective date of this order]

- a. Segment 1: Sao Paulo, Rio de Janeiro, Brasilia, and Belem, Brazil;

Barranquilla, Colombia; and

Buenos Aires, Argentina
- b. Segment 6 : Rio de Janeiro, Brazil

Add the following new conditions:

() The holder's authority under this certificate is effective only to the extent that such operations comply with all applicable requirements of the Federal Aviation Administration and with all applicable U.S. Government requirements concerning security. To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) to or from a foreign airport, contact its principal Security Inspector (PSI) to advise the PSI of its plans and to find out whether the Transportation Security Administration has determined that security is adequate to allow such airport(s) to be served.

() The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).

() Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(n), it must first comply with the requirements of 14 CFR 204.5.

() In the event that the holder ceases all operations for which it was found “fit, willing and able,” its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.

This certificate amendment shall become effective [upon notification from the White House], provided, however, that prior to the date on which this certificate would otherwise become effective, the Department, either on its own initiative or on the timely filing of a petition for reconsideration, may by order or orders extend such effective date from time to time.

*This certificate authority, issued by Order 92-7-9, and amended by Order 97-10-8, is further amended to reflect renewal of authority to serve Sao Paulo, Rio de Janeiro, Brasilia, and Belem, Brazil; Barranquilla, Colombia; and Buenos Aires, Argentina on segment 1 and Rio de Janeiro, Brazil on segment 6 for another five years. It also incorporates new standard terms and conditions applicable to U.S. carriers.