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Order 2004-6-21



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

Served: June 24, 2004

Issued by the Department of Transportation
on the 24th day of June, 2004

In the matter of

**COMPANIA DE TRANSPORTURI AERIENE ROMANE
(TAROM)**

Undocketed

requirement to obtain prior approval or approved
routings for charter operations

ORDER

Summary

In this order we are removing the requirement that, for national security reasons, Compania de Transporturi Aeriene Romane (Tarom), a foreign air carrier of Romania, obtain approved routings, or prior approval under 14 CFR Part 212, for its charter operations to or from the United States.

Background

In 1981, the former Civil Aeronautics Board (CAB) revised its rules concerning charter operations by allowing foreign air carriers, with some exceptions, to conduct unlimited third- and fourth-freedom charter services without prior approval. (Prior approval for fifth-freedom charters continued in effect.) Following issuance of the revisions to Part 212, the CAB issued orders noting its intent to retain control over third- and fourth-freedom charter flights by foreign carriers from countries where national security issues or reciprocity concerns required such control. Order 81-5-41 dealt with national security issues and Order 81-5-44 dealt with reciprocity concerns. Both orders remain in effect.

Order 81-5-41 required a number of foreign air carriers for national security reasons to seek prior approval under §§ 212.4 and 212.5 before operating any charter flights to or from the United States.¹ One of the foreign carriers included in that order was Compania de Transporturi Aeriene Romane (Tarom), a foreign air carrier of Romania. Tarom was required to provide notice to the CAB (now the Department) prior to operating the first thirty (30) charter flights each calendar year (determined by diplomatic agreement between the United States and Romania). The notice requirement was not subject to prior approval but was used to establish satisfactory flight routings supplied by the Federal Aviation Administration (FAA) and Department of Defense. Order 81-5-41 further provided that for charter flights in excess of the first thirty (30), Tarom was required to obtain our prior approval in the form of a statement of authorization before operating any additional flights. Tarom also holds a foreign air carrier permit, issued by Order 85-2-72, which authorizes it to conduct scheduled combination services between Romania and New York, via named intermediate points; and authority to conduct charters subject to a notification and prior approval requirement identical to those contained in Order 81-5-41.

Current Situation

On February 12, 2004, the FAA (Air Traffic System Operations-Special Operations Division) notified the Department that aircraft registered in Romania and Bulgaria would no longer receive special routing authorizations from the FAA in conjunction with diplomatic clearances, TSA waivers, or DOT grants of economic authority. The FAA further stated that Romania and Bulgaria are now members of the North Atlantic Treaty Organization (NATO) and are no longer considered special interest countries requiring special flight routings.

Department Action

The FAA has advised us that national security interests no longer require that foreign air carriers of Romania or Bulgaria be restricted to specific approved routings for their flights over U.S. airspace.² In light of this advice, we find that the requirement imposed on Tarom,

¹ Under § 212.4(f), we may, in the interest of national security, require foreign air carriers of some countries to obtain a statement of authorization before operating any charter flight.

² Tarom is currently the only foreign air carrier from Romania holding Department authority. Currently, no foreign air carrier of Bulgaria holds Department authority to serve the United States. The Bulgarian carrier Vega Airlines Ltd. previously held Department authority, but that authority has lapsed. Vega has a pending request for new exemption authority in Docket OST-2002-14162.

a foreign air carrier of Romania, to obtain approved routings or prior approval under 14 CFR § 212.4(f) for its charter operations is no longer required in the public interest, and should be removed.³

ACCORDINGLY,

1. We amend Order 81-5-41 to delete the requirement in Ordering paragraph 2 that Compania de Transporturi Aeriene Romane (Tarom) file a Notice prior to performing the first thirty (30) charter flights each calendar year, and the further requirement that it obtain our prior approval in the form of a statement of authorization before operating any charter flights in excess of the first thirty (30) charter flights to or from the United States;
2. We amend Order 85-2-72 to delete the requirements in ordering paragraph 3 that Tarom file notice before operating the first thirty (30) charter trips each calendar year and that it file requests for approved routings for all charter flights in excess of that number;
3. In the conduct of charter operations authorized by its foreign air carrier permit (Order 85-2-72) Tarom shall remain subject to the applicable provisions of 14 CFR Part 212, as discussed in this order; and
4. We shall serve a copy of this order on Compania de Transporturi Aeriene Romane (Tarom), Vega Airlines, Ltd., the Ambassadors of Romania and Bulgaria in the United States, the Federal Aviation Administration (Air Traffic System Operations, Special Operations Division), and the Department of State (Office of Aviation).

By:

KARAN K. BHATIA
Assistant Secretary for Aviation
and International Affairs

(SEAL)

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

³ Our action here does not relieve Tarom from the requirement that it obtain a statement of authorization that may be required under any applicable provision of Part 212 other than § 212.4(f).