



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

Served: August 5, 2004

NOTICE

U.S.-China Charter Flights

By this Notice we notify U.S. carriers of procedures to distribute the newly available charter opportunities between the United States and the People's Republic of China (PRC).

On June 18, 2004, the United States and the People's Republic of China initialed a protocol amending the U.S.-PRC aviation agreement. The amended agreement greatly expands the opportunities for the air carriers of both countries, including the opportunities for charters. In this regard, (among other things) under the new agreement, each Party shall approve applications by the airlines of the other Party for 75 one-way charter flights annually from August 1 of each year, between points in China Zone 1¹ and U.S. points on city pairs served by Chinese carriers' scheduled services of the same type (combination or all-cargo) as the proposed charter flight, and 75 one-way charter flights annually from August 1 of each year, between points in China Zone 2² and U.S. points on city pairs served by Chinese carriers' scheduled services of the same type (combination or all-cargo) as the proposed charter flight. These rights are available August 1, 2004, under the terms of the agreement.

By Notice dated July 16, 2004, we granted Kalitta Air's request for 29 charter flights in China Zone 1 for services in the Shanghai-Chicago market.³ In awarding this authority to Kalitta, we stated that "we intend, on an expedited basis, to address by subsequent separate action the question of procedures for allocating the remaining numerically limited charter opportunities available."⁴

We find that the public interest warrants our placing the remaining 46 charters for Zone 1, and the 75 charters for Zone 2, into a charter pool for distribution on a first-come, first-

¹ China Zone 1 consists of Shanghai, Beijing, and Guangzhou.

² China Zone 2 consists of Anhui, Fujian, Guangdong (except Guangzhou), Hebei, Henan, Hubei, Hunan, Jiangsu, Jiangxi, Shandong, Shanxi, Tianjin, and Zhejiang.

³ An electronic version of this Notice is available on the World Wide Web at:
http://dms.dot.gov/reports/reports_aviation.asp.

⁴ Notice, at 2. Subsequent to this action, by letters dated July 23 and July 26, Polar Air Cargo and Kalitta Air each requested an allocation of U.S.-China cargo charters in China Zone 1. Evergreen and Kalitta filed answers to Polar's request, and Polar filed a reply. We will address these requests by subsequent separate actions under the procedures set forth in this Notice.

served basis, consistent with procedures we have used in other similar markets with limited charter opportunities.⁵ The late summer/autumn is the peak season for U.S.-China cargo traffic, and U.S. carriers interested in operating the remaining available charters should be accorded as much time as possible, with as little procedural delay as possible, to be able to plan and implement their services. Thus, in order for U.S. carriers to make immediate use of these valuable rights, we have, as noted above, structured the procedures for this charter year to be similar to those that we have used for charter pools in other limited charter markets. The carriers are familiar with those procedures and can thus use them without delay.

Under the first-come, first-served procedures, as soon as arrangements are firm for operating a charter flight to or from China that is subject to the numerical limitation, carriers should so advise the U.S. Air Carrier Licensing Division (X-44), Office of International Aviation, 400 Seventh Street, SW, Washington, DC 20590.⁶ We will provide the carrier with a Notice of Consistency acknowledging its right to perform the charter operation. Applications must identify the type of charter (passenger or cargo); the date of each one-way flight; the charterer(s); the city-pair markets; whether the requested charters fall within China Zone 1 or China Zone 2 (applicants should also identify the specific Chinese carrier scheduled services associated with the Zone 1 or Zone 2 determination); the type of aircraft to be used; the type of cargo transported (for cargo charters); and a statement affirming that the carrier has firm plans to use the charters. Applicants may request confidentiality under Rule 12 of our procedural regulations (14 CFR 302.12). Carriers receiving a Notice of Consistency shall, in writing, return to the U.S. Air Carrier Licensing Division immediately any flight(s) that they will not use.⁷

Applicants should be aware that the information requested here does not relieve U.S. carriers of their obligation to file a separate notification of proposed charter flights with the Chinese authorities. In notifying the Chinese authorities, U.S. carriers should also submit a copy of the Notice of Consistency showing Departmental approval of the charter flights.⁸

U.S. carriers holding scheduled combination or all-cargo authority in the U.S.-China market will not be eligible applicants until the last two months of the charter year when the pool will be available to all carriers with no restrictions. It has been our general policy where charter opportunities are limited to reserve the available flights for carriers that have no other access to the market.⁹ We have made exceptions to this policy only

⁵ See Orders 98-4-19 and 98-6-14 (Brazil) and Orders 92-6-32 and 92-9-21 (Japan).

⁶ Because of security procedures in place at DOT involving incoming mail, we urge carriers to send these requests by fax to 202-366-6780 or 202-366-3694.

⁷ This notification must be received within two business days of the carrier's determination that an allocated flight or flights will not operate.

⁸ We will post an electronic version of the Notice of Consistency on the World Wide Web at: http://dms.dot.gov/reports/reports_aviation.asp.

⁹ See, e.g., Order 98-4-19.

where there are special needs for cargo shipments (such as livestock charters) that could not be accommodated by scheduled services. Should such special needs arise, we would be prepared to consider them on a case-by-case basis.

In terms of reporting, each U.S. carrier granted U.S.-China charters is to report, in writing, to the U.S. Air Carrier Licensing Division, on its operations for the preceding month by the tenth day of each month.

We will also impose the reporting and return requirements established above on the 29 charters awarded to Kalitta Air by Notice of Action Taken dated July 16, 2004.

The Director of the Office of International Aviation is assigned the authority to administer distribution of flights from the charter pool for this and subsequent charter years, and, where deemed in the public interest, to waive the restrictions on the charter pool.

Given our interest in deriving maximum benefit for U.S. carriers, travelers, and shippers, we seek to assure that Notices of Consistency are given to direct air carriers for flights actually to be operated. To this end, the Department reserves the right to require operating carriers to produce contracts or other additional information about the flights they propose to operate.

We will serve this notice on all U.S. certificated air carriers.

By:

KARAN K. BHATIA
Assistant Secretary
for Aviation and International Affairs

Dated: August 5, 2004

(SEAL)

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

SERVICE LIST

Marshall S Sinick
Alaska Airlines
Aloha Airlines
Florida West
Suite 500
1201 Pennsylvania Ave NW
Washington DC 20004

Brian T Hunt
American Trans Air
7337 West Washington St
Indianapolis IN 46251

Ed Faberman
MN Airlines
Ungaretti & Harris
1500 K Street NW #250
Washington DC 20005

Jonathan B Hill
Hawaiian Airlines
Dow Lohnes & Albertson
Suite 800
1200 New Hampshire NW
Washington DC 20036

Nathaniel Breed
Pan American Airways
Zuckert Scoutt & Rasenberger
888 Seventeenth Street NW
Washington DC 20006-3309

Gary Garafalo
Air Transport Intl
1200 New Hampshire Ave NW
Washington DC 20036

Steve Lachter
ASTAR Air Cargo
1150 Connecticut Av NW
Washington DC 20036

Joanne Young/David Kirstein
North American, World Airways,
& America West
Baker & Hostetler, Suite 1100
1050 Connecticut Ave NW
Washington DC 20036

Aaron Goerlich
Sunworld International
Garafalo, Goerlich, Hainbach
1200 New Hampshire Ave NW
Washington DC 20036

R Bruce Keiner Jr
Continental Airlines
Crowell & Moring
1001 Pennsylvania Ave NW
Washington DC 20004

Jeffrey Manley
United Air Lines
Wilmer Cutler Pickering
Hale and Dorr LLP
2445 M Street NW
Washington DC 20037-1420

Megan Rosia
Northwest Airlines Inc.
901 15th Street NW #310
Washington DC 20005

David E Vaughan
United Parcel Service
Kelley Drye & Warren
1200 19th St NW #500
Washington DC 20036

John L Richardson
Amerijet International
John L Richardson PLLC
1156 15TH St NW #1105
Washington DC 20005

Carl Nelson Jr
American Airlines &
TWA LLC
Suite #600
1101 17th Street NW
Washington DC 20036

Robert E. Cohn
Delta Air Lines
Midway Air Lines
Shaw Pittman
2300 N Street NW
Washington DC 20037

Lorraine Halloway
Continental Micronesia/
Air Micronesia
1001 Pennsylvania Ave NW
Washington DC 20004

Howard Kass
US Airways
2345 Crystal Drive
Arlington, VA 22227

Robert P Silverberg
ABX Air, Kitty Hawk
& Midwest Airlines
Silverberg Goldman
& Bikoff
1101 30th Street NW
Washington DC 20007

Kevin Montgomery
Polar Air Cargo
1747 Pennsylvania Ave NW
Suite 875
Washington DC 20006

Russ Pommer
Atlas Air
1747 Pennsylvania Ave NW
Suite 875
Washington DC 20006

Tom Lydon
Evergreen International
1401 New York Ave NW
Washington DC 20005-2147

Moffett Roller
Gemini Air Cargo
Roller & Bauer
1020 19th St NW #400
Washington DC 20036

Mark W Atwood
Custom Air Transport &
Kalitta Air
Sher & Blackwell
1850 M Street NW #900
Washington DC 20036

Nancy Sparks
Federal Express
1101 Pennsylvania Ave NW
Washington DC 20004

Stephen Alterman
Northern Air Cargo & Horizon
Meyers & Alterman
1220 19th Street NW
Washington DC 20036-2438

Lawrence Wasko
Arrow Air
1150 Connecticut Ave NW
Washington DC 20036

Pierre Murphy
Airways
d/b/a USA3000
1200 New Hampshire NW
Washington DC 20036

Air Transport Association
International Department
Suite 1100
1301 Pennsylvania Ave NW
Washington DC 20004-1707

National Air Carrier Assn. Brendan
1000 Wilson Blvd
Suite 1700
Arlington, VA 22209