

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.**

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AIR CHINA LIMITED)	
d/b/a AIR CHINA)	Docket No. OST-2013-0049
)	
for Amendment of its Foreign Air Carrier Permit)	
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**SUPPLEMENTAL APPLICATION OF AIR CHINA LIMITED d/b/a AIR CHINA
FOR AMENDMENT OF ITS FOREIGN AIR CARRIER PERMIT**

Communications with respect to this Application should be sent to:

George N. Tompkins, III., Esq.
Wilson, Elser, Moskowitz, Edelman & Dicker LLP
150 East 42nd Street
New York, New York 10017-5639
(212) 915-5562 (Phone)
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george.tompkinsiii@wilsonelser.com

Counsel for AIR CHINA LIMITED

DATED: July 24, 2020

Notice: Any person may support or oppose this Application by filing an answer on or before August 14, 2020.

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.**

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d/b/a AIR CHINA)	DOT-OST-2013-0049
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**SUPPLEMENTAL APPLICATION OF AIR CHINA LIMITED d/b/a AIR CHINA
FOR AMENDMENT OF ITS FOREIGN AIR CARRIER PERMIT**

Pursuant to 49 U.S.C. §§41302, 41304 and 14 CFR §211.21 Air China Limited, d/b/a Air China ("Air China"), hereby applies to amend its Foreign Air Carrier Permit to include Houston, Texas and Washington, D.C. as coterminal points in the United States, together with the existing coterminal points authorized in its Foreign Air Carrier Permit.¹

In support of this Application, Air China submits the following:

1. Air China, as a flag carrier of the People's Republic of China, is the holder of a currently effective Foreign Air Carrier Permit duly issued by the Department of Transportation on May 21, 2007, effective on July 10, 2007. Order 2007-7-9. Exhibit A hereto. This Permit authorizes Air China to engage in foreign air transportation of passengers and cargo, including mail, on a scheduled combination basis only as follows:

¹ Air China previously sought an Amendment to its Foreign Air Carrier Permit on or about March 11, 2013. See DOT-OST-2013-0049-0001. In that application, Air China sought to add only Houston, Texas as a coterminal point. The application was never acted upon.

Between the coterminal points Beijing, Guangzhou, and Shanghai, The People's Republic of China; via Tokyo or another point in Japan; and the coterminal points Chicago, IL, Dallas, TX, Honolulu, HI, Los Angeles and San Francisco, CA, Portland, OR, and New York, N.Y.; with optional technical stops at Anchorage and/or Fairbanks, AK, and/or a point in Japan other than Tokyo and Osaka.

2. Air China currently holds Exemption Authority to engage in scheduled foreign air transportation of persons, property, and mail between Beijing, People's Republic of China (PEK), on the one hand, and Houston, Texas (IAH), on the other hand, Order 2013-0001, Exhibit B hereto. Subsequently, this Exemption Authority was extended to include Panama City, Panama as a beyond point. Order 2018-0019, Exhibit C hereto. Air China also holds Exemption Authority to engage in scheduled foreign air transportation between Beijing, People's Republic of China (PEK), on the one hand, and Washington, D.C. (IAD) on the other hand. Order 2014-0008, Exhibit D hereto. Air China, in accordance with its Exemption Authority, has been operating foreign air transportation between PEK and IAH and between PEK and IAD since 2013 and 2014 respectively.

3. Houston, Texas, and Washington, D.C. are points included in Route A in the Agreement between the Government of the United States of America and the Government of the People's Republic of China, Relating to Civil Air Transport, signed September 17, 1980, as amended, and as further amended by a Protocol to the Agreement dated May 22, 2007. Exhibit E hereto.

4. Air China has been duly designated by the Government of the People's Republic of China to operate the route from Beijing, PRC to Houston, TX. Exhibit F hereto. This operating authority is permanent unless and until revoked by the Civil Aviation Administration of China [CAAC].

5. Air China has been duly designated by the Government of the People's Republic of China to operate the route from Beijing, PRC to Washington, D.C. Exhibit G hereto. This operating authority is permanent unless and until revoked by the CAAC.

6. The name and address of the air transport authority in the People's Republic of China having regulatory jurisdiction over Air China is: The Civil Aviation Administration of China [CAAC], 155, Dongsi West Street, Dongcheng District, Beijing, P.R. China 100710.

7. There is no financial assistance received or expected to be received by Air China from the Government of the People's Republic of China or from the CAAC with respect to the Beijing/Houston or the Beijing/Washington, D.C. service.

8. It is the policy of the People's Republic of China to entertain and grant applications of US air carriers for scheduled and charter authority to operate to the People's Republic of China and to grant Fifth Freedom traffic rights to US air carriers, all in accordance with and as provided for in the Air Transport Agreement between the Governments of the People's Republic of China and the United States of America and the applicable regulations of the CAAC.

9. Air China has not been involved in any safety or tariff violations or in any fatal accidents in the five (5) years preceding the filing of this application.

10. Financial information for Air China for 2018 and 2019 can be found in the Annual Report for 2019 annexed hereto as Exhibit H.

11. Air China is a company duly organized under the Companies Law of the People's Republic of China and is effectively owned and controlled by the Government and nationals of the People's Republic of China. Air China maintains its principal place of business at 30 Tianzhu Road, Airport Industrial Zone, Shunyi District, Beijing, China. The

ownership and control of Air China has not changed since the currently effective Foreign Air Carrier Permit was issued to Air China in May, 2007, although the share percentages have changed. See Exhibit H hereto.

12. The maintenance program of Air China continues to comply with the provisions of ICAO Pilots and Airmen Annexes 1, 6 (Part 1) and 7.

WHEREFORE, Air China Limited, respectfully requests that the Department of Transportation grant the requested Permit Amendment applied for herein and further requests that the Department grant such other, further and different relief as the Department finds to be consistent with this Application and with the Civil Air Transport Agreement between the Governments of the United States of America and the People's Republic of China.

Respectfully submitted,

George N. Tompkins, III

George N. Tompkins, III
Wilson, Elser, Moskowitz,
Edelman & Dicker LLP.
150 East 42nd Street
New York, New York 10017-5639
(212) 915-5562 (Phone)
(212) 490-3038 (Fax)
george.tompkinsiii@wilsonelser.com

Counsel for Applicant
Air China Limited

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Application of Air China Limited for the Amendment of its Foreign Air Carrier Permit was served by electronic mail this 24th day of July 2020 upon the following:

Houston Airport System:

rachel@trinderaviationlaw.com

President and Chief Executive Officer
Greater Houston Partnership:

rharvey@houston.org

ghp@houston.org

Chief Commercial Officer Department of
Aviation City of Houston:

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Department of Transportation:

Robert.finamore@dot.gov

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Washington Airports Task Force:

keith@washingtonairports.com

Metropolitan Washington Airports Authority

Philip.sunderland@mwaa.com

July 24, 2020

George N. Tompkins, III

George N. Tompkins, III

EXHIBIT A

Issued by
Order 2007-7-9



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

PERMIT TO FOREIGN AIR CARRIER

Air China Limited

A Flag Carrier of the People's Republic of China

is authorized, subject to the following provisions, the provisions of Title 49 of the U.S. Code, and the orders, rules, and regulations of the Department of Transportation, to engage in foreign air transportation of passengers and cargo, including mail, on a scheduled combination basis only, as follows:

Between the coterminal points Beijing, Guangzhou, and Shanghai, the People's Republic of China; via Tokyo or another point in Japan; and the coterminal points Chicago, IL, Dallas, TX, Honolulu, HI, Los Angeles and San Francisco, CA, Portland, OR, and New York, NY;² with optional technical stops at Anchorage and/or Fairbanks, AL, and/or a point in Japan other than Tokyo and Osaka.

The holder shall also be authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations of the Department's regulations governing charters.³

This permit and the exercise of the privileges granted in it shall be subject to the terms, conditions and limitations in both the order issuing this permit and the attachment to this order, and to all applicable provisions of any treaty, convention or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and the holder's homeland are or shall become parties.

This permit shall be effective on July 10, 2007. Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention or agreement, this permit shall terminate (1) upon the dissolution or liquidation of the holder to whom it was issued; (2) upon the effective date of any treaty, convention, or agreement or amendment, which shall have the effect of eliminating the bilateral right for the service authorized by this permit from the service which may be operated by airlines designated by the People's Republic of China (or, if the right is partially eliminated, then the authority of this permit shall terminate in like part); (3) upon the effective date of any permit granted by the Department to any other carrier designated by the Peoples' Republic of China in lieu of the holder; or (4) upon the termination or expiration of the

² The People's Republic of China may add a total of two intermediate or beyond points which may be served with full traffic rights. These two points may be added to a single route or allocated between Routes 1 and 2 (Annex I) of the Agreement.

³ In the conduct of charters the holder is subject to the prior approval requirements in Order 92-11-7.

applicable air services agreement between the United States and the People's Republic of China. However, clause (4) of this paragraph shall not apply if prior to such termination or expiration, the foreign air transportation authorized herein becomes the subject of another treaty, convention or agreement to which the United States and the People's Republic of China become parties.

The Department of Transportation has executed this permit and affixed its seal on May 21, 2007.

By:

PAUL L. GRETCH
Director
Office of International Aviation

(SEAL)

Foreign Air Carrier Permit Conditions

In the conduct of the operations authorized, the foreign carrier applicant shall:

- (1) Not conduct any operations unless it holds a currently effective authorization from its homeland for such operations, and it has filed a copy of such authorization with the Department;
- (2) Comply with all applicable requirements of the Federal Aviation Administration, the Transportation Security Administration, and with all applicable U.S. Government requirements concerning security, including, but not limited to, 14 CFR Parts 129, 91, and 36 and 49 CFR Part 1546 or 1550, as applicable. To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) from a foreign airport that would be the holder's last point of departure for the United States, contact its International Principal Security Inspector (IPSI) to advise the IPSI 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;
- (3) Comply with the requirements for minimum insurance coverage contained in 14 CFR Part 205, and, prior to the commencement of any operations under this authority, file evidence of such coverage, in the form of a completed OST Form 6411, with the Federal Aviation Administration's Program Management Branch (AFS-260), Flight Standards Service (any changes to, or termination of, insurance also shall be filed with that office);
- (4) Not operate aircraft under this authority unless it complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention;
- (5) Conform to the airworthiness and airman competency requirements of its Government for international air services;
- (6) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR Part 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (7) Agree that operations under this authority constitute a waiver of sovereign immunity, for the purposes of 28 U.S.C. 1605(a), but only with respect to those actions or proceedings instituted against it in any court or other tribunal in the United States that are: (a) based on its operations in international air transportation that, according to the contract of carriage, include a point in the United States as a point of origin, point of destination, or agreed stopping place, or for which the contract of carriage was purchased in the United States; or (b) based on a claim under any international agreement or treaty cognizable in any court or other tribunal of the United States. In this condition, the term "international air transportation" means "international transportation" as defined by the Warsaw Convention, except that all States shall be considered to be High Contracting Parties for the purpose of this definition;
- (8) Except as specifically authorized by the Department, originate or terminate all flights to/from the United States in its homeland;
- (9) Comply with the requirements of 14 CFR Part 217, concerning the reporting of scheduled, nonscheduled, and charter data;
- (10) If charter operations are authorized, except as otherwise provided in the applicable aviation agreement, comply with the Department's rules governing charters (including 14 CFR Parts 212 and 380); and
- (11) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department, with all applicable orders or regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

This authority shall not be effective during any period when the holder is not in compliance with the conditions imposed above. Moreover, this authority cannot be sold or otherwise transferred without explicit Department approval under Title 49 of the U.S. Code.

11/2006

EXHIBIT B



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

Issued by the Department of Transportation on January 17, 2013

NOTICE OF ACTION TAKEN -- DOCKET DOT-OST-2013-0001

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: **AIR CHINA LIMITED d/b/a AIR CHINA (Air China)**

Date Filed: December 28, 2012

Relief requested: Exemption under 49 U.S.C. § 40109 to engage in scheduled foreign air transportation of persons, property, and mail between Beijing, People's Republic of China, on the one hand, and Houston, Texas, on the other hand.

Applicant representative: George N. Tompkins, Jr., 212-915-5624 DOT analyst: Brett D. Kruger, 202-366-8025

Responsive pleadings: On January 3, 2012, the City of Houston and the Greater Houston Partnership filed an answer in support of Air China's request.

DISPOSITION

Action: Approved.

Action date: January 17, 2013

Effective dates of authority granted: January 17, 2013, through January 17, 2014.

Basis for approval: United States-China Air Transport Services Agreement

Except to the extent exempted/waived, this authority is subject to the terms, conditions, and limitations of our standard exemption conditions (attached).

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:
<http://www.regulations.gov>

Foreign Carrier Exemption Conditions

In the conduct of the operations authorized, the foreign carrier applicant(s) shall:

- (1) Not conduct any operations unless it holds a currently effective authorization from its homeland for such operations, and it has filed a copy of such authorization with the Department;
- (2) Comply with all applicable requirements of the Federal Aviation Administration, the Transportation Security Administration, and with all applicable U.S. Government requirements concerning security, including, but not limited to, 14 CFR Parts 129, 91, and 36 and 49 CFR Part 1546 or 1550, as applicable. To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) from a foreign airport that would be the holder's last point of departure for the United States, contact its International Industry Representative (IIR) (formerly referred to as International Principal Security Inspector) to advise the IIR 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;
- (3) Comply with the requirements for minimum insurance coverage contained in 14 CFR Part 205, and, prior to the commencement of any operations under this authority, file evidence of such coverage, in the form of a completed OST Form 6411, with the Federal Aviation Administration's Program Management Branch (AFS-260), Flight Standards Service (any changes to, or termination of, insurance also shall be filed with that office);
- (4) Not operate aircraft under this authority unless it complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention;
- (5) Conform to the airworthiness and airman competency requirements of its Government for international air services;
- (6) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR Part 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (7) Agree that operations under this authority constitute a waiver of sovereign immunity, for the purposes of 28 U.S.C. 1605(a), but only with respect to those actions or proceedings instituted against it in any court or other tribunal in the United States that are: (a) based on its operations in international air transportation that, according to the contract of carriage, include a point in the United States as a point of origin, point of destination, or agreed stopping place, or for which the contract of carriage was purchased in the United States; or (b) based on a claim under any international agreement or treaty cognizable in any court or other tribunal of the United States. In this condition, the term "international air transportation" means "international transportation" as defined by the Warsaw Convention, except that all States shall be considered to be High Contracting Parties for the purpose of this definition;
- (8) Except as specifically authorized by the Department, originate or terminate all flights to/from the United States in its homeland;
- (9) Comply with the requirements of 14 CFR Part 217, concerning the reporting of scheduled, nonscheduled, and charter data;
- (10) If charter operations are authorized, except as otherwise provided in the applicable aviation agreement, comply with the Department's rules governing charters (including 14 CFR Parts 212 and 380); and
- (11) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department, with all applicable orders or regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

This authority shall not be effective during any period when the holder is not in compliance with the conditions imposed above. Moreover, this authority cannot be sold or otherwise transferred without explicit Department approval under Title 49 of the U.S. Code.

12/2007

EXHIBIT C



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

Issued by the Department of Transportation on March 14, 2018

NOTICE OF ACTION TAKEN -- DOCKET DOT-OST-2018-0019

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: **AIR CHINA LIMITED d/b/a AIR CHINA (Air China)**

Date Filed: February 5, 2018

Relief requested: Exemption under 49 U.S.C. § 40109 to engage in scheduled foreign air transportation of persons, property, and mail between Beijing, People's Republic of China, on the one hand, and Houston, Texas, on the other hand, and beyond to Panama City, Panama. The applicant requests that this authority be granted for a period of not less than one year.

Applicant representative: George N. Tompkins, III, 212-915-5562

DOT analyst: David R. Christofano, 202-366-0584

Responsive pleadings:¹ Both the City of Houston and JetBlue Airways Corporation (JetBlue) filed answers in support of Air China's application. Delta Air Lines, Inc. (Delta) filed a consolidated reply to JetBlue's answer.² Air China also made an additional submission in further support of its application.

DISPOSITION

Action: Approved³

Action date: March 14, 2018

Effective dates of authority granted: March 14, 2018, through March 14, 2019.

Basis for approval: United States-China Air Transport Services Agreement

Except to the extent exempted/waived, this authority is subject to the terms, conditions, and limitations of our standard foreign air carrier exemption conditions (attached), and to the otherwise-applicable terms, conditions, and limitations of Air China's foreign air carrier permit (Order 2007-7-9).

Action taken by: Brian J. Hedberg, 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:

<http://www.regulations.gov>

¹ In the interest of attaining a complete record in this proceeding, we will accept all pleadings filed.

² In addition to stating its support for Air China's application, JetBlue also raises broader matters concerning U.S. policy on Open Skies and fifth-freedom services to the United States. Delta's reply states that these broader matters are beyond the scope of the issues posed by Air China's application. Air China, in its additional submission, takes a similar position. We have taken note of the comments of JetBlue, Delta, and Air China, and determined that we need not reach the broader issues raised in resolving the present application.

³ We note that Air China holds Beijing-Houston exemption authority most recently granted by the Department on January 29, 2016, in Docket DOT-OST-2013-0001. That authority has remained in effect under the provisions of the Administrative Procedure Act, 5 U.S.C. §558(c), and 14 CFR Part 377 of the Department's regulations. In light of our present action, that authority has been subsumed and we are dismissing Air China's January 13, 2017, renewal application in Docket DOT-OST-2013-0001 as moot.

Foreign Carrier Exemption Conditions

In the conduct of the operations authorized, the foreign carrier applicant(s) shall:

- (1) Not conduct any operations unless it holds a currently effective authorization from its homeland for such operations, and it has filed a copy of such authorization with the Department;
- (2) Comply with all applicable requirements of the Federal Aviation Administration, the Transportation Security Administration, and with all applicable U.S. Government requirements concerning security, including, but not limited to, 14 CFR Parts 129, 91, and 36 and 49 CFR Part 1546 or 1550, as applicable. To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) from a foreign airport that would be the holder's last point of departure for the United States, contact its International Industry Representative (IIR) (formerly referred to as International Principal Security Inspector) to advise the IIR 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;
- (3) Comply with the requirements for minimum insurance coverage contained in 14 CFR Part 205, and, prior to the commencement of any operations under this authority, file evidence of such coverage, in the form of a completed OST Form 6411, with the Federal Aviation Administration's Program Management Branch (AFS-260), Flight Standards Service (any changes to, or termination of, insurance also shall be filed with that office);
- (4) Not operate aircraft under this authority unless it complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention;
- (5) Conform to the airworthiness and airman competency requirements of its Government for international air services;
- (6) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR Part 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (7) Agree that operations under this authority constitute a waiver of sovereign immunity, for the purposes of 28 U.S.C. 1605(a), but only with respect to those actions or proceedings instituted against it in any court or other tribunal in the United States that are: (a) based on its operations in international air transportation that, according to the contract of carriage, include a point in the United States as a point of origin, point of destination, or agreed stopping place, or for which the contract of carriage was purchased in the United States; or (b) based on a claim under any international agreement or treaty cognizable in any court or other tribunal of the United States. In this condition, the term "international air transportation" means "international transportation" as defined by the Warsaw Convention, except that all States shall be considered to be High Contracting Parties for the purpose of this definition;
- (8) Except as specifically authorized by the Department, originate or terminate all flights to/from the United States in its homeland;
- (9) Comply with the requirements of 14 CFR Part 217, concerning the reporting of scheduled, nonscheduled, and charter data;
- (10) If charter operations are authorized, except as otherwise provided in the applicable aviation agreement, comply with the Department's rules governing charters (including 14 CFR Parts 212 and 380); and
- (11) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department, with all applicable orders or regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

This authority shall not be effective during any period when the holder is not in compliance with the conditions imposed above. Moreover, this authority cannot be sold or otherwise transferred without explicit Department approval under Title 49 of the U.S. Code.

12/2007

EXHIBIT D



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

Issued by the Department of Transportation on February 10, 2014

NOTICE OF ACTION TAKEN -- DOCKET DOT-OST-2014-0008

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: **AIR CHINA LIMITED d/b/a AIR CHINA (Air China)**

Date Filed: January 21, 2014

Relief requested: Exemption under 49 USC § 40109 to engage in scheduled foreign air transportation of persons, property, and mail between Beijing, People's Republic of China, on the one hand, and Washington, D.C. (IAD), on the other hand. The applicant requests that its authority be granted for a period of not less than two years.

Applicant representative: George N. Tompkins, Jr. 212-490-3000

DOT analyst: Darren Jaffe, 202-366-2512

Responsive pleadings: On February 7, 2014, both the Washington Airports Task Force and the Metropolitan Washington Airports Authority filed pleadings in support of Air China's application.

DISPOSITION

Action: Approved in part, remainder (request for longer-term authority) dismissed.¹

Action date: February 10, 2014.

Effective dates of authority granted: February 10, 2014, through February 10, 2015.

Basis for approval (bilateral agreement/reciprocity): The authority granted is consistent with the Air Transport Agreement, as amended, between the United States and the People's Republic of China.

Except to the extent exempted/waived, this authority is subject to the terms, conditions, and limitations of our standard exemption conditions (attached).

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:
<http://www.regulations.gov>*

¹ The one-year duration of the authority we granted Air China is consistent with our usual policy of granting exemption authority in the circumstances presented. We therefore, dismissed the application to the extent that it sought authority for a longer period.

Foreign Carrier Exemption Conditions

In the conduct of the operations authorized, the foreign carrier applicant(s) shall:

- (1) Not conduct any operations unless it holds a currently effective authorization from its homeland for such operations, and it has filed a copy of such authorization with the Department;
- (2) Comply with all applicable requirements of the Federal Aviation Administration, the Transportation Security Administration, and with all applicable U.S. Government requirements concerning security, including, but not limited to, 14 CFR Parts 129, 91, and 36 and 49 CFR Part 1546 or 1550, as applicable. To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) from a foreign airport that would be the holder's last point of departure for the United States, contact its International Industry Representative (IIR) (formerly referred to as International Principal Security Inspector) to advise the IIR 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;
- (3) Comply with the requirements for minimum insurance coverage contained in 14 CFR Part 205, and, prior to the commencement of any operations under this authority, file evidence of such coverage, in the form of a completed OST Form 6411, with the Federal Aviation Administration's Program Management Branch (AFS-260), Flight Standards Service (any changes to, or termination of, insurance also shall be filed with that office);
- (4) Not operate aircraft under this authority unless it complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention;
- (5) Conform to the airworthiness and airman competency requirements of its Government for international air services;
- (6) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR Part 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (7) Agree that operations under this authority constitute a waiver of sovereign immunity, for the purposes of 28 U.S.C. 1605(a), but only with respect to those actions or proceedings instituted against it in any court or other tribunal in the United States that are: (a) based on its operations in international air transportation that, according to the contract of carriage, include a point in the United States as a point of origin, point of destination, or agreed stopping place, or for which the contract of carriage was purchased in the United States; or (b) based on a claim under any international agreement or treaty cognizable in any court or other tribunal of the United States. In this condition, the term "international air transportation" means "international transportation" as defined by the Warsaw Convention, except that all States shall be considered to be High Contracting Parties for the purpose of this definition;
- (8) Except as specifically authorized by the Department, originate or terminate all flights to/from the United States in its homeland;
- (9) Comply with the requirements of 14 CFR Part 217, concerning the reporting of scheduled, nonscheduled, and charter data;
- (10) If charter operations are authorized, except as otherwise provided in the applicable aviation agreement, comply with the Department's rules governing charters (including 14 CFR Parts 212 and 380); and
- (11) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department, with all applicable orders or regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

This authority shall not be effective during any period when the holder is not in compliance with the conditions imposed above. Moreover, this authority cannot be sold or otherwise transferred without explicit Department approval under Title 49 of the U.S. Code.

12/2007

EXHIBIT E

PROTOCOL TO THE AGREEMENT BETWEEN THE GOVERNMENT OF
THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE
PEOPLE'S REPUBLIC OF CHINA RELATING TO CIVIL AIR TRANSPORT

MEMORANDUM OF CONSULTATIONS

Delegations representing the governments of the United States of America and the People's Republic of China met in Washington, D.C. on May 21-22, 2007, and in Chengdu, China on April 25-27, 2007, to discuss their bilateral civil aviation relationship. Delegation lists appear as Appendix 1. Discussions proceeded in a warm and productive atmosphere characteristic of the close relationship between the two countries, and resulted, *inter alia*, in the following:

At the Washington meeting the delegations reached agreement *ad referendum* on a set of amendments to the 1980 U.S.-China Agreement Relating to Civil Air Transport, as amended ("the Agreement"). The text of these amendments is set out in a draft Protocol, which appears as Appendix 2. The delegations intend to submit the draft Protocol to their respective governments for approval, with the goal of its entry into force in the near future.

In order to facilitate provision of adequate air transport capacity at the time of the 2008 Beijing Olympics, the delegations intend to recommend that their aeronautical authorities exercise the au-

thorities they have in the Agreement, as amended, to give favorable consideration to applications to operate extra sections of scheduled service and additional charter flights exceeding the limits specified in the Agreement during the period from July to September 2008 for the 2008 Olympic Games.

The two delegations confirmed their understanding that upon elimination of restrictions on the number of U.S. cargo designations as of March 2011, as provided in the draft Protocol, the United States may take designations previously assigned to cargo carriers for use on Route B and reassign them to combination carriers to use on Route A.

Both delegations confirmed their understanding that full liberalization of air transport markets, as referred to in Article 5 of the draft Protocol, includes the following elements: unlimited designations; unrestricted capacity and frequencies on all routes; unrestricted route and traffic rights; double-disapproval pricing; liberal charter arrangements; a liberal cargo regime; liberal conversion and remittance arrangements; open code

126,255f China

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sharing opportunities; provision for self-handling; pro-competitive provisions on commercial opportunities; change of gauge, user charges, fair competition and inter-modal rights; and modern provisions on safety and security.

The Chinese delegation expressed concerns about U.S. visa policy, stating that U.S. visa policy and processing practices hinder market demand and Chinese carriers' ability to compete in the market. The Chinese delegation expressed its desire that the U.S. Government make modifications in visa policy and procedures to promote travel to the United States by Chinese citizens. The Chinese delegation said such modifications would be conducive to expanding the bilateral air services agreement with a view to reaching full liberalization of air transport between China and the United States as the ultimate objective. The U.S. delegation provided information demonstrating recent progress in terms of increases in visa issuance rates, improvements in processing times, and the extent of travel by Chinese citizens to the United States. A letter from the responsible U.S. Government official to her Chinese counterpart providing additional details appears as Appendix 3. The Chinese delegation took note of the efforts made by the U.S. Government, and responded by urging the U.S. Government to ease further visa policy and procedures for Chinese citizens traveling to the United States. Both delegations noted the progress made by the governments toward conclusion of a separate bilateral Memorandum of Understanding (MOU) to expand Chinese outbound group leisure travel to the United States and expressed the view that such an MOU would

have a positive impact on air travel between the two countries.

In keeping with the two sides' intention, stated in their Memorandum of Consultations of March 15, 2007, to work toward a final resolution of their differences over the scheduling operations discussed therein, the Chinese side stated its intention to allow U.S. cargo carriers, through the IATA 2010 Winter Season, to undertake operations comparable in extent to those previously approved that involve open jaw,¹ changes of plane/gauge and/or layovers of over twenty-four hours at beyond points or terminal points, be the terminal points beyond or in China, without requiring the use of a second frequency. The delegations noted that the elimination of restrictions on cargo frequencies as of March 2011, as provided in the draft Protocol, would render such past disagreements moot.

Nothing in this Memorandum or the draft Protocol is intended to restrict the rights of carriers that establish hubs pursuant to Article 11bis of the Agreement.

The delegations expressed their expectation that their aeronautical authorities would permit operations consistent with the terms of the draft Protocol on the basis of comity and reciprocity pending its entry into force.

Done at Washington this 22nd day of May 2007.

For the Delegation of The United States of America

/s/ Mr. Thomas S. Engle

For the Delegation of the People's Republic of China

/s/ Dr. Liu Fang

Appendix 1

[Delegation lists not reproduced.—CCH]

Appendix 2

PROTOCOL TO AMEND THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA RELATING TO CIVIL AIR TRANSPORT

The Government of the United States of America and the Government of the People's Republic of China (hereinafter, the "Parties") desiring to:

Increase travel and tourism between their countries and promote cultural, business and governmental exchanges between them;

Promote their shared, ultimate objective of full liberalization of their bilateral air transport market; and

Facilitate cooperative agreements between their air carriers so as to enable the mutually beneficial development of their aviation industries;

Have agreed to further amend the Agreement between the Government of the United States of America and the Government of the People's Republic of China Relating to Civil Air Transport, signed September 17, 1980, as amended (hereinafter "the Agreement") as follows:

¹ For the purposes of this memorandum, the term "open jaw" refers to an operation where the third-country termination point of an outbound flight from the U.S. is different from the third-country origin point of a corresponding inbound

flight to the U.S. For example, the following is an "open jaw" pattern: the outbound flight's route is ANC-PVG-NRT, and the corresponding inbound flight's route is FRA-PVG-ANC.

Article 1 Designations

Subparagraphs (d) and (e) of Paragraph (1) of Article 3 of the Agreement shall be deleted in their entirety and replaced by the following:

(d) The People's Republic of China may designate an unlimited number of airlines to operate the agreed services on China Routes A and B. Airlines designated pursuant to this subparagraph may begin services as of August 1, 2007.

(e) The United States may designate one additional airline to operate the agreed services on U.S. Route A or one additional airline to operate the agreed services on U.S. Route B. Airlines designated pursuant to this subparagraph may begin services as of August 1, 2007.

(f) The United States may designate one additional airline to operate the agreed services on U.S. Route A and one additional airline to operate the agreed services on U.S. Route B. Airlines designated pursuant to this subparagraph may begin services as of March 25, 2009.

(g) The United States may designate one additional airline to operate the agreed services on U.S. Route A or one additional airline to operate the agreed services on U.S. Route B. Airlines designated pursuant to this subparagraph may begin services as of March 25, 2010.

(h) The United States may designate an unlimited number of airlines to operate the agreed services on U.S. Route B. Airlines designated pursuant to this subparagraph may begin services as of March 25, 2011.

Article 2 Frequencies

Paragraphs (2) and (3) of Annex V of the Agreement shall be deleted in their entirety and replaced by the following:

(2) In addition to the frequencies available under paragraph (1) above, the designated

(a) Effective August 1, 2004:

(b) Effective March 25, 2005:

(c) Effective March 25, 2006:

(d) Effective March 25, 2007:

(e) Effective March 25, 2008:

(f) Effective March 25, 2009:

(g) Effective March 25, 2010:

airlines of each Party shall be entitled to operate weekly frequencies for combination services on Routes LA or IIA of Annex I on flights to and from Beijing, Shanghai and Guangzhou (hereinafter "China Zone 1") or to and from Fujian, Guangdong (except Guangzhou), Hebei, Jiangsu, Shandong, Tianjin, and Zhejiang (hereinafter "China Zone 2") according to the following schedule:

(a) Effective August 1, 2004: an additional 14 weekly frequencies

(b) Effective March 25, 2005: an additional 7 weekly frequencies

(c) Effective March 25, 2006: an additional 7 weekly frequencies

(d) Effective March 25, 2007: an additional 7 weekly frequencies

(e) Effective August 1, 2007: an additional 7 weekly frequencies

(f) Effective March 25, 2008: an additional 7 weekly frequencies (restricted to nonstop Guangzhou service)

(g) Effective March 25, 2009: an additional 28 weekly frequencies

(h) Effective March 25, 2010: an additional 21 weekly frequencies

(i) Effective March 25, 2011: an additional 14 weekly frequencies

(j) Effective March 25, 2012: an additional 14 weekly frequencies

Airlines designated by the People's Republic of China may freely convert these frequencies between combination and all-cargo services, and between Route IIA and Route IIB of Annex I. U.S. airlines designated on Route LA may use the frequencies for combination services only.

(3) In addition to the frequencies available under paragraphs (1) and (2) above, the designated airlines of each Party shall be entitled to operate additional weekly frequencies for all-cargo services on any of the routes provided in Annex on flights to and from points in China Zone 1 or China Zone 2 according to the following schedule:

an additional 21 weekly frequencies

an additional 18 weekly frequencies

an additional 12 weekly frequencies

an additional 15 weekly frequencies

an additional 15 weekly frequencies

an additional 15 weekly frequencies

an additional 15 weekly frequencies

(h) Effective March 25, 2011:

Airlines designated by the People's Republic of China may freely convert the frequencies listed in (a) through (g) between combination and all-cargo services, and between Route IIA and Route IIB of Annex I. U.S. airlines designated for Route IA may not use these frequencies for combination or passenger services.

Article 3 Special Aviation Area

Annex V of the Agreement shall also be amended by deleting paragraph (6) in its entirety and replacing it with the following:

(6) All U.S. and Chinese airlines may be designated to operate services between the United States and points in China Zone 3 notwithstanding the limitation on the number of designations provided in Article 3 of this Agreement. Such services may be operated without frequency limitations. China Zone 3 consists of the points in the following areas: Anhui, Chongqing, Gansu, Guangxi, Guizhou, Hainan Island, Heilongjiang, Henan, Hubei, Hunan, Inner Mongolia, Jiangxi, Jilin, Liaoning, Ningxia, Qinghai, Shaanxi, Shanxi, Sichuan, Tibet, Xinjiang, and Yunnan. Notwithstanding any other provisions of the Agreement, each Party may choose 5 points in China Zone 3 that its airlines may serve without limitations on the number of designations and without frequency limitations on: 1) services carrying fifth-freedom traffic between such points and intermediate or beyond points in third countries on the specified routes, and 2) combination services carrying fifth-freedom traffic between such points and Japan. Each Party shall notify the other Party of the five points it has selected, with not less than 30 days' written notice. The points selected may, at the discretion of each Party, be changed with not less than 30 days' written notice to the other Party. However, service to a point in China Zone 3 via a point in China Zone 1 or Zone 2 shall be subject to the designation, frequency and Japan fifth-freedom traffic rights limitations set forth in Annex V of this Agreement.

Article 4 Code Sharing

Subparagraphs (1)(b) and (c) of paragraph 5 of Article 11 of the Agreement shall be deleted in their entirety and replaced by the following:

(b) Airlines of each Party may code share with airlines of the same Party, on the specified routes, without an airline of the other Party, according to the following:

unlimited frequencies for the airlines designated by each Party

(i) Each Party shall be permitted one such code share arrangement as of January 1, 2006; and

(ii) Each Party shall be permitted one additional such code share arrangement as of January 1, 2008; and

(iii) Each Party shall be permitted one additional such code share arrangement as of March 25, 2009; and

(iv) One of the three arrangements under this subparagraph (b) may include two airlines and the other two may include up to three airlines.

(c) If a code share arrangement permitted under subparagraph (b) above is expanded to include an airline of the other Party, such code share arrangement shall be governed by subparagraph (a) above and therefore shall no longer count against the limit of three such arrangements permitted in subparagraph (b).

Article 5 Future Negotiations

The Parties acknowledge that their mutual, ultimate objective is the full liberalization of their bilateral air transport market. The Parties agree to begin no later than March 25, 2010, to negotiate an agreement and timetable for the full liberalization of their bilateral air transport market and to work together to complete the new agreement as soon as possible.

Article 6 Guam and the Northern Mariana Islands

A new Annex VI shall be added to the Agreement and read as follows:

ANNEX VI Service to Guam and the Northern Mariana Islands

1. Notwithstanding any other provision of this Agreement, the airlines of the People's Republic of China may provide unlimited scheduled air services between the People's Republic of China and Guam and the Northern Mariana Islands.

2. Notwithstanding any other provision of this Agreement, the airlines of the United States may provide unlimited scheduled air services between three points in the People's Republic of China and Guam and the Northern Mariana Islands. The points selected by the United States in the People's Republic of China shall not include either Beijing or Shanghai. The United States shall notify

the People's Republic of China in writing of the points it has selected with at least 30 days' advance notice. The points selected may be changed at the discretion of the United States with not less than 30 days' written notice.

3. Air services provided pursuant to paragraphs (1) and (2) of this Annex shall not be subject to limitations as to the number of designations or frequencies.

Article 7
Entry into Force

This Protocol shall enter into force upon completion of an exchange of notes through diplo-

matic channels confirming that each Party has completed its necessary internal procedures.

IN WITNESS WHEREOF, the undersigned being duly authorized by their respective governments, have signed the present Protocol.

DONE at Seattle, in two originals, this 9th day of July, 2007, in the Chinese and English languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE PEOPLE'S
REPUBLIC OF CHINA:

/s/ Yang Yuanyuan

FOR THE GOVERNMENT OF THE UNITED
STATES OF AMERICA:

/s/ Mary E. Peters

EXHIBIT F

No. 2012-57

The Operational Permit for Beijing-Houston v.v. Service

Air China Ltd.;

Date: Nov 22nd, 2012

The Civil Aviation Administration of China (CAAC) reviewed *The Application for the Operation of Beijing-Houston etc v.v. Services* of your company (2012-534).

In accordance with the provisions of the Air Service Agreement (ASA)and protocols between the People's Republic of China and the United States of America, you are authorized to operate the Beijing-Houston v.v. service, daily flight under the operational conditions as required by the said ASA and protocols.

Please submit the flight plan application, and start the service by the approved start date, schedule, aircraft type and other requirements.

The permit takes effects on the date of issue and will remain valid till further notice by CAAC.

The Civil Aviation Administration of China (Sealed)

中国民用航空局

局内许[2012]57号

北京-休斯敦(往返)航线经营许可

中国国际航空股份有限公司：

中国民用航空局审议了你公司《关于开通北京-休斯敦等定期往返航线的请示》(国航股份[2012]534号)。

根据中国与美国政府之间民用航空运输协定及议定书的规定,同意你公司按上述协定及议定书规定的经营条件开通北京-休斯敦往返航线,每日一班。

请你公司按规定报批航班计划,并应按照经批准的开航日期、班次、运力和条件开航。

本经营许可自颁发之日起生效,至中国民用航空局另行通知的日期失效。



EXHIBIT G

No. 2013-127

The Operating Permit for Beijing-Washington v.v. Service

Air China Ltd.,

Date: Dec 26th, 2013

The Civil Aviation Administration of China (CAAC) reviewed *The Application for the Operation of Beijing-Washington Service* of your company (2013-601).

In accordance with the provisions of the Air Service Agreement (ASA)and the associated protocols between the People's Republic of China and the United States of America, you are authorized to operate Beijing-Washington combination services, with the approved route, type of aircraft and schedule, and as per the operational conditions as required by the said ASA and protocols.

Accordingly, please submit the detailed flight schedule application, and start the service by the approved start date, route, schedule and aircraft type.

The permit takes effects on the date of issue and will remain valid till further notice by CAAC.

The Civil Aviation Administration of China (Seal)

中国民用航空局

局内许[2013]127号

北京-华盛顿往返航线经营许可

中国国际航空股份有限公司：

中国民用航空局审议了你公司《关于开通北京-华盛顿定期往返航线的请示》(国航股份[2013]601号)。

根据中国与美国两国政府签订的《中华人民共和国政府和美利坚合众国政府民用航空运输协定》以及关于该协定的议定书，我局同意你公司按上述协定及议定书规定的经营条件，以及我局批准的航路、机型、班次和班期时刻在北京至华盛顿往返航线上经营协议客、货混合航班。

请你公司按规定报批具体航班计划，并按照经批准的开航日期、航路、机型、班次和班期时刻开航。

本经营许可自颁发之日起生效，至中国民用航空局另行通知的日期失效。

