



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

Issued by the Department of Transportation on **February 10, 2020**

NOTICE OF ACTION TAKEN – DOCKETS DOT-OST-2009-0337 and DOT-OST-2020-0018

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).

Joint Application of **American Airlines, Inc. (American) and GOL Linhas Aereas S.A. f/k/a VGR Linhas Aereas S.A. (GOL) (together, the “Joint Applicants”)** filed **2/4/20**, for:

1. Docket DOT-OST-2009-0337

XX Amendment of exemption for two years under 49 U.S.C. § 40109 to permit American to provide the following service:

Scheduled foreign air transportation of persons, property, and mail between points in the United States and points worldwide on a third-country code-share basis pursuant to blanket code-sharing statements of authorization.^{1 2}

2. Docket DOT-OST-2020-0018

XX Blanket statement of authorization under 14 C.F.R. Part 212 to permit American to engage in the following code-share services:

The Joint Applicants request a blanket statement of authorization to display the G3* designator code of GOL on American-operated flights in conjunction with scheduled foreign air transportation of persons, property, and mail from points behind the United States via the United States and intermediate points to a point or points in Brazil and beyond.

XX Blanket statement of authorization under 14 C.F.R. Part 212 to permit GOL to engage in the following code-share services:

The Joint Applicants request a blanket statement of authorization to display the AA* designator code of American on GOL-operated flights in conjunction with scheduled foreign air transportation of persons, property, and mail from points behind Brazil via Brazil and intermediate points to a point or points in the United States and beyond.

XX Waiver of the 45-day advance filing requirement under 14 C.F.R. Part 212.

¹ American's foreign code-share partners are: Air Pacific Limited d/b/a Fiji Airways; Air Tahiti Nui; British Airways, PLC; Cathay Pacific Airways, Limited; Hong Kong Dragon Airlines Ltd., DBA Dragonair, DBA Cathay Dragon; Etihad Airways PJSC; Finnair Oyj; Gulf Air Company; Hainan Airlines Co., Limited; Iberia, Líneas Aéreas de España, S.A; Japan Airlines International Co., Ltd.; Jet Airways (India) Ltd; Jetstar Airways Pty. Limited (Australia); Jetstar Japan Co., Ltd; Lan Airlines S.A.; Lan Argentina, S.A.; Aerolane, Lineas Aereas Nacionales Del Ecuador S.A. d/b/a Lan Ecuador; Lan Peru, S.A.; Malaysia Airlines System Berhad; Qantas Airways Limited; Royal Air Maroc; Alia – The Royal Jordanian Airlines; TAM Linhas Aereas S.A.; Vueling airlines, S.A.; and WestJet. We note, with respect to the display of American's code on Gulf Air flights, these operations are suspended until the Government of Bahrain attains a Category I rating under the FAA's International Aviation Safety Assessment (IASA) program.

² American requests that its blanket code-share exemption authority be amended to the extent necessary to permit it to also place its designator code on flights operated by GOL.

Applicant representatives: **Robert A. Wirick (American) (682) 278-0096; and Luiz Henrique Moz Teixeira (GOL) (407) 633-1421**

DOT Analyst: **Darren Jaffe (202) 366-2512**

DISPOSITION

XX Granted, amended exemption authority to American (subject to conditions, see below)

XX Granted, blanket statement of authorization to American (subject to conditions, see below)

XX Granted, blanket statement of authorization to GOL (subject to conditions, see below)

XX Granted, waiver of 45-day advance filing requirement under 14 C.F.R. Part 212.

The above action granting amended exemption authority to American is effective: **February 10, 2020**, through **February 10, 2022**.

The above action granting a blanket statement of authorization to American is effective **February 10, 2020**, and will remain in effect indefinitely, subject to conditions.

The above action granting a blanket statement of authorization to GOL is effective **February 10, 2020**, and will remain in effect indefinitely, subject to conditions.

The above action granting a waiver of the 45-day advance filing requirement under 14 C.F.R. Part 212 was effective when taken on **February 10, 2020**.

**Action taken by: Brian J. Hedberg, Director
Office of International Aviation**

XX The authority granted is consistent with the U.S.-Brazil Air Transport Agreement signed March 19, 2011.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

XX American's certificates of public convenience and necessity

XX Standard U.S. carrier exemption conditions (attached as Appendix A)

XX Conditions for blanket statements of authorization (attached as Appendix B)

XX Conditions attached to relevant previously issued statements of authorization³

Remarks: We note that American has conducted a safety audit of GOL under the Department's Code-Share Safety Audit Program and the FAA has advised us that it has reviewed the relevant audit report and found it to be acceptable.

³ See Notices of Action Taken dated November 30, 2011, in Docket DOT-OST-2011-0197 (American-Air Pacific); July 5, 2012, in Docket DOT-OST-2012-0092 (American-Air Tahiti); Order 2010-7-8 (American-British Airways, PLC); January 8, 2003, in Docket DOT-OST-2000-6824 (American-Cathay Pacific); April 12, 2019, in Docket DOT-OST-2018-0213 (American-Cathay Dragon); July 24, 2009, in Docket DOT-OST-2009-0154 (American-Etihad); January 7, 2000, in Docket DOT-OST-1999-6544 (American-Finnair); August 4, 2008, in Docket DOT-OST-2008-0195 (American-Gulf Air); February 15, 2012, in Docket DOT-OST-2011-0228 (American-Hainan Airlines); Approval dated March 13, 2008, in Docket DOT-OST-2008-0044 (American-Iberia); February 18, 1999, in Docket DOT-OST-1999-4994 (American-JAL); January 7, 2008, in Docket DOT-OST-2007-0078 (American-Jet Airways); October 29, 2010, in Docket DOT-OST-2010-0265 (American-Jetstar); October 10, 2014, in Docket DOT-OST-2014-0176 (American-Jetstar Japan); January 7, 2000, in Docket DOT-OST-1999-6546 (American-Lan); June 26, 2009, in Docket DOT-OST-2007-0034 (American-Lan Argentina); December 13, 2011, in Docket DOT-OST-2011-0210 (American-Lan Ecuador); February 16, 2007, in Docket DOT-OST-2004-19965 (American-Lan Peru); February 28, 2013, in Docket DOT-OST-2013-0022 (American-MAS); May 23, 2008, in Docket DOT-OST-2008-0138 (American-Qantas); December 4, 2019, in Docket DOT-OST-2019-0157 (American-Royal Air Maroc); March 23, 2007, in Docket DOT-OST-2006-26716 (American-Royal Jordanian); January 25, 2013, in Docket DOT-OST-2012-0209 (American-TAM); November 18, 2019, in Docket DOT-OST-2019-0141 (American-Vueling); and March 10, 2011, in Docket DOT-OST-2011-0040 (American-WestJet).

We acted on the application without awaiting the expiration of the answer period with the consent of all parties served.

On the basis of data officially noticeable under Rule 24(g) of the Department's regulations, we found American qualified to provide the exemption services authorized.

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) grant of the authority was consistent with the public interest; and (3) 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, we denied all requests in the referenced dockets. 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.

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www.regulations.gov

U.S. Carrier Exemption Conditions

In the conduct of the operations authorized, the U.S. carrier applicant(s) shall:

- (1) Hold at all times effective operating authority from the government of each country served;
- (2) Comply with applicable requirements concerning oversales contained in 14 CFR 250 (for scheduled operations, if authorized);
- (3) Comply with the requirements for reporting data contained in 14 CFR 241;
- (4) Comply with requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (6) 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, 49 CFR Part 1544. 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;
- (7) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation, with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

The authority granted shall be effective only during the period when the holder is in compliance with the conditions imposed above.

The statements of authorization granted are subject to the following conditions:

- (a) The statements of authorization will remain in effect only as long as (i) American and GOL continue to hold the necessary underlying authority to operate the code-share services at issue, and (ii) the code-share agreement providing for the code-share operations remains in effect.
- (b) American and GOL must promptly notify the Department (Office of International Aviation) if the code-share agreement providing for the code-share operations is no longer effective or if the carriers decide to cease operating all or a portion of the approved code-share services. Such notices should be filed in Docket DOT-OST-2020-0018.⁴
- (c) American and/or GOL must notify the Department no later than 30 days before they begin any new code-share service under the code-share services authorized here. Such notice shall identify the market(s) to be served, which carrier will be operating the aircraft in the code-share market added, and the date on which the service will begin. Such notices should be filed in Docket DOT-OST-2020-0018.⁵
- (d) The code-sharing operations conducted under this authority must comply with 14 CFR 257 and with any amendments to the Department's regulations concerning code-share arrangements that may be adopted. Notwithstanding any provisions in the contract between the carriers, our approval here is expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service in the computer reservation systems and elsewhere; that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept responsibility for the entirety of the code-share journey for all obligations established in its contract of carriage with the passenger; that the passenger liability of the operating carrier be unaffected; and that the operating carrier shall not permit the code of its U.S. code-sharing partner to be carried on any flight that enters, departs, or transits the airspace of any area for whose airspace the Federal Aviation Administration has issued a flight prohibition.
- (e) Any service provided shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, (i) nothing in the award of this blanket statement of authorization should be construed as conferring upon American rights (including code-share, fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier rights are limited unless American notifies us of its intent to serve such 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;⁶ and (ii) should there be a request by any carrier to use the limited-entry route rights that are included in American's authority by virtue of the blanket statement of authorization granted here, but that are not being used by American, the holding of such authority will not be considered as providing any preference for American in a carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.
- (f) The authority granted here is specifically conditioned so that neither American nor GOL shall give any force or effect to any contractual provisions between themselves that are contrary to these conditions.
- (g) We may amend, modify, or revoke the authority granted at any time without hearing at our discretion.

⁴ We expect this notification to be received within 10 days of such non-effectiveness or of such decision.

⁵ Pursuant to the Department's February 9, 2009 Notice concerning blanket notification of code-share service to Open Skies partners and points, the Joint Applicants provided notice covering new code-share service for Open Skies points. The Joint Applicants also provided notice of code-share service to non-open-skies points as set forth in the Joint Applicants' codeshare agreement, attached to the application as Exhibit 1. The Joint Applicants state that they will notify the Department at least 30 days before commencing codeshare services to/from any additional non-open-skies points.

⁶ The notice referenced in condition (c) above may be used for this notification.