



Order 98-2-5

Served: February 12, 1998

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

Issued by the Department of Transportation
on the 16th day of January, 1998

Suspension of Cargo Air Operations Between
the United States and Sudan

Docket OST-97-3204

FINAL ORDER

By Order 97-12-7, we tentatively found that the public interest requires the regulatory prohibition of cargo air service, and all transactions related to cargo aviation, between the United States and Sudan. This tentative finding was based on Executive Order 13067, issued November 3, 1997, in which the President ordered the imposition of various sanctions against Sudan, and directed all U.S. government agencies "to take all appropriate measures within their authority to carry out the provisions" of the executive order.¹ We proposed to put certain conditions on all U.S. air carrier certificates, all section 402 permits held by foreign air carriers, and all exemptions held by U.S. and foreign air carriers, which conditions would apply to indirect as well as direct air carriers, and directed interested persons to show cause why we should not make these findings final. We allowed five days for comments, and have received none.

Accordingly, we add the following condition to all certificates, permits, and exemptions held by U.S. and foreign (indirect as well as direct) air carriers:

Effective immediately, and until further order of the Department, the holder and its agents:

¹ Exec. Order 13,067, § 5, 62 Fed. Reg. 59989 (1997).

This order was submitted for section 41307 review on January 16, 1998. On February 6, 1998, we received notification that the President's designee, under Executive Order 12597 and implementing regulations, did not intend to disapprove the Department's order.

- (a) shall not sell in the United States any transportation of cargo by air that includes a stop in Sudan, and
- (b) may not engage in foreign air transportation of cargo to or from the United States with any aircraft of Sudanese registry.

In addition, we add the following condition to the certificate and exemption authority of all U.S. air carriers (direct and indirect):

Effective immediately, and until further order of the Department, the holder and its agents may not engage in any transaction relating to air transportation of cargo to or from Sudan.

Finally, we add the following condition to the permits and exemption authority of all foreign air carriers (direct and indirect):

Effective immediately, and until further order of the Department, the holder and its agents may not engage in any transaction in the United States relating to air transportation of cargo to or from Sudan.

As described in the show-cause order, this action prohibits any air carrier or foreign air carrier from engaging in air transportation between the United States and Sudan using aircraft of Sudanese registry; prohibits the issuance in the United States of any air waybill that includes a stop in Sudan, regardless of whether the flight in question serves the United States; and forbids U.S. air carriers from selling any transportation of cargo to or from Sudan anywhere in the world.

In Order 97-12-7, we also noted that, under 49 U.S.C. § 41110(a)(2)(A), the Secretary may amend, modify, or suspend any certificate if required by the public convenience and necessity. 40 U.S.C. § 41109(a)(2)(A) allows the Secretary to prescribe terms for providing air transportation under certificates, and that 49 U.S.C. § 41304 allows the Secretary to amend, modify, suspend, or revoke a foreign air carrier permit if he finds it in the public interest. We find that these actions are required by both the public interest and the public convenience and necessity.

ACCORDINGLY,

1. We amend all certificates issued under Chapter 411 of Title 49 of the United States Code, all permits issued under Chapter 413 of Title 49 of the United States Code, and all exemptions from any provisions of those chapters granted under 49 U.S.C. § 40109, to add the following conditions:

Effective immediately, and until further order of the Department, the holder and its agents:

- (a) shall not sell in the United States any transportation of cargo by air that includes a stop in Sudan, and
- (b) may not engage in foreign air transportation of cargo to or from the United States with any aircraft of Sudanese registry.

2. We amend all certificates issued under Chapter 411 of Title 49 of the United States Code, and all exemptions from any provisions of that chapter granted under 49 U.S.C. § 40109, to add the following condition:

Effective immediately, and until further order of the Department, the holder and its agents may not engage in any transaction relating to air transportation of cargo to or from Sudan.

3. We amend all permits issued under Chapter 413 of Title 49 of the United States Code, and all exemptions from any provisions of that chapter granted under 49 U.S.C. § 40109, to add the following condition:

Effective immediately, and until further order of the Department, the holder and its agents may not engage in any transaction in the United States relating to air transportation of cargo to or from Sudan.

4. We will not entertain petitions for reconsideration of this order;

5. We will serve this order on all U.S. and foreign air carriers holding certificates of public convenience and necessity, foreign air carrier permits, or exemption authority; the Air Transport Association; the National Air Carrier Association; the International Air Transport Association; the Air Freight Association; the Ambassador of Sudan in Washington, D.C.; and the United States Department of State; and

6. Unless disapproved by the President of the United States 49 U.S.C. § 41307, this order shall become effective on the 61st day following 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.

By:

CHARLES A. HUNNICUTT
Assistant Secretary for
Aviation and International Affairs

(SEAL)

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