



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

Issued by the Department of Transportation
on the 18th day of August, 2020

Served: August 18, 2020

In the matter of

**Air China Limited d/b/a/ Air China; Beijing
Capital Airlines Co., Ltd.; China Eastern
Airlines Corporation Limited; China Southern
Airlines Company Limited; Hainan Airlines
Holding Co. Ltd.; Sichuan Airlines Co., Ltd.;
and Xiamen Airlines**

Docket DOT-OST-2020-0052

ORDER

Summary

As discussed below, the U.S. Department of Transportation is further modifying the decision reached in Order 2020-6-1 to permit Chinese carriers to operate, in the aggregate, a total of eight weekly round-trip scheduled passenger flights to and from the United States, an aggregate level of scheduled passenger services that would be equivalent to that permitted by Chinese aviation authorities for U.S. carriers. This order will be effective immediately.

Background

On June 3, 2020, the Department issued Order 2020-6-1, concluding that the Government of China had, over the objections of the U.S. Government, impaired the operating rights of U.S. carriers and denied U.S. air carriers the fair and equal opportunity to exercise their operating rights under the U.S.-China Civil Air Transport Agreement (the Agreement).¹ The Chinese Government restrictions were embodied in a March 26, 2020 Notice issued by the Civil Aviation Authority of China (CAAC). Accordingly, the Department issued Order 2020-6-1 to suspend all

¹ The Department fully set forth the basis for its conclusions in Order 2020-6-1, and before that in Order 2020-5-4.

Chinese carrier scheduled passenger air services between the United States and China, effective as of June 16, 2020, or immediately upon affirmative approval by the President.

On June 4, 2020, CAAC revised its March 26, 2020 Notice. The revisions would enable U.S. carriers to provide one weekly passenger flight each, starting June 8, 2020. Taking this into account, the Department issued Order 2020-6-3 on June 5, 2020, which modified the previous Order to permit Chinese carriers to operate an aggregate total of two weekly frequencies.

On June 12, 2020, CAAC informed the Department that, pursuant to a provision in its June 4, 2020 Notice, it would permit each of the U.S. carriers that have applied to reinstate passenger service to operate two weekly flights each. At that time, however, the concerned U.S. carriers had not yet received the necessary operating permissions. On June 15, 2020, CAAC informed the Department that all of those necessary operating permissions were granted by the relevant Chinese authorities. The Department then issued Order 2020-6-6, June 15, 2020, further modifying its previous order to permit Chinese carriers to operate, in the aggregate, a total of four weekly round-trip passenger flights to and from the United States.

On August 12, 2020, CAAC informed the Department that, pursuant to its June 4, 2020 Notice, United Airlines (“United”) and Delta Air Lines (“Delta”) qualified for additional flight frequencies. Per the terms of the Notice, United and Delta are now eligible to increase their respective frequency of service from two-times weekly to four-times weekly. CAAC further informed the Department that the four Chinese carriers currently providing scheduled passenger service to the United States have likewise qualified to increase their respective frequency of service from one-time weekly to two-times weekly. CAAC and the other relevant Chinese authorities granted United and Delta the necessary operating permissions for these additional frequencies on August 17, 2020.

Decision

We find that, while the CAAC’s recent actions continue to preclude U.S. carriers from fully exercising their rights under the Agreement and remain a significant concern to the Department, this represents positive progress and an important first step toward restoring a fair and equal opportunity for U.S. carriers to compete in the U.S.-China passenger market.

We therefore conclude that the public interest now requires a third modification, effective immediately, of Order 2020-6-1, to now permit the Chinese carriers currently providing scheduled passenger air services between the United States and China, in accordance with the schedules that were filed pursuant to Order 2020-5-4, to operate, in the aggregate, a total of eight weekly round-trip scheduled passenger flights to and from the United States.²

² By Orders 2020-6-12 and 2020-7-19 the Department disapproved all proposed schedules filed by the captioned Chinese carriers, including on a prospective basis. Therefore, at this time none of the Chinese carriers has schedules filed pursuant to Order 2020-5-4 that would meet the 30-day advance filing requirement and would not be subject to immediate disapproval per the terms of our two disapproval orders. Accordingly, strictly to the extent necessary to permit operations by Chinese carriers consistent with the terms of the present order, i.e., up to a maximum in the aggregate of four additional weekly round-trip scheduled passenger flights to and from the United States, the Department will waive the 30-day advance filing requirement for schedules filed pursuant to Order 2020-5-4 and

As the Department stated in Order 2020-6-1, our overriding goal is not the perpetuation of this situation, but rather an improved environment wherein the carriers of both parties will be able to exercise fully their bilateral rights. Only then will the Department's actions to maintain a competitive balance and fair and equal opportunity among U.S. and Chinese air carriers in the scheduled passenger service marketplace no longer be necessary. The most recent CAAC action, while a step in the right direction, has not created that environment. However, should the CAAC adjust its policies to bring about the necessary improved situation for U.S. carriers, the Department is fully prepared to once again revisit the action it announced in Order 2020-6-1 and the present order.

ACCORDINGLY,

1. We modify Order 2020-6-1 to permit, in the aggregate, eight weekly round-trip scheduled passenger operations to be operated by the Chinese carriers currently operating scheduled combination service to the United States in accordance with the schedules filed pursuant to Order 2020-5-4;
2. This order is effective immediately;
3. We may amend, modify, or revoke this Order at any time and without hearing; and
4. We will serve this Order on Air China Limited d/b/a/ Air China; Beijing Capital Airlines Co., Ltd.; China Eastern Airlines Corporation Limited; China Southern Airlines Company Limited; Hainan Airlines Holding Co. Ltd.; Sichuan Airlines Co., Ltd.; and Xiamen Airlines; all certificated U.S. carriers operating large aircraft; the Embassy of the People's Republic of China in Washington, D.C.; the Civil Aviation Authority of China (CAAC); the Department of State; the Transportation Security Administration; and the Federal Aviation Administration.

By:

JOEL SZABAT
Assistant Secretary
Aviation and International Affairs

(SEAL)

*An electronic version of this document is available on the World Wide Web at:
<http://www.regulations.gov>*

will exempt those schedules, but only those schedules, from the terms of ordering paragraphs 1 and 2 of Order 2020-7-19.