

**BEFORE THE  
U.S. DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.**

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Application of	:	
	:	
Fine Air Services, Inc.	:	
	:	
	:	Docket OST-97-2162
For Exemption Authority Pursuant	:	
to 49 U.S.C. § 40109	:	
	:	
(U.S.-Colombia, All-Cargo)	:	
	:	

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ANSWER OF TRANSPORTES AEREOS  
MERCANTILES PANAMERICANOS, S.A.

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April 24, 2000

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On April 7, 2000, Fine Air Services, Inc. (“Fine Air”) applied for an amendment to its existing exemption authority (1) to the extent necessary to permit Fine Air to engage in scheduled foreign air transportation of property and mail between any point or points in the United States, via intermediate points(s) in both directions to any point or points in Colombia and beyond Colombia to points in the Western Hemisphere, and (2) to integrate the authority requested therein with all other authority Fine Air currently holds pursuant to its exemption and certificate authorities, and consistent with applicable international agreement. Transportes Aereos Mercantiles Panamericanos, S.A. (“TAMPA”) hereby submits the following answer to Fine Air’s application:

1. TAMPA expresses no opinion as to whether the Department should grant Fine Air’s application for exemption. That is a matter for the Department to determine under its own regulations. TAMPA notes, however, that, in support of its application, Fine Air pointed out that

the “Memorandum of Consultations (“MOC”) agreed to by the U.S. and Colombia on March 15, 2000, provides for unlimited designations and frequencies for U.S. cargo carriers, which may serve points in both countries via intermediate and beyond points in the Western Hemisphere. See MOC Attachments 13, ¶ 2 and Annex II. By this application, Fine Air seeks the broad exemption authority contemplated under the MOC.” Answer at 2.

2. As the Department is aware, Fine Air has opposed two TAMPA applications for exemption authority, both filed prior to the recently-concluded bilateral discussions. The first application (filed December 2, 1999 in Docket OST-95-6593), involving a request to add Valencia, Venezuela as an intermediate point on TAMPA’s authority between points in Colombia and Miami, was opposed by Fine Air “until such time as the Government of Colombia’s permits U.S. carrier to operate via intermediary points of their own choosing, including the operation of triangular routings.” Fine Air Answer at 4.<sup>1</sup> The second application (filed February 17, 2000 in Docket OST-00-6955), involving a request to add Panama as an intermediate point on TAMPA’s authority between Colombia and Miami, was also opposed by Fine Air. In that Answer, Fine Air urged that “The Department should therefore at a very minimum, await the outcome of the upcoming (March 13-14, 2000) resumed negotiations with Colombia where hopefully, these triangular routing, reciprocity and other issues will, once again, be discussed and hopefully this time favorably resolved. Until these issues are satisfactorily resolved, the Department should defer action on the application herein.” Fine Air Answer at 4.

3. On March 15, 2000, delegations of the Government of the United States and the Government of the Republic of Colombia signed a Memorandum of Consultations that set forth

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<sup>1</sup> In support of its request, Fine Air cited unspecified difficulties encountered by U.S. carriers in attempting to obtain authority to Colombia via other countries and the asserted inability of Arrow Air, Inc. to operate air services to Colombia (an issue that, as TAMPA understands it, has since been satisfactorily resolved).

the text of an understanding and amendments to the 1956 U.S.-Colombia Air Transport Agreement. As to all-cargo services, the amendments to the Agreement provide that:

- (1) An airline or airline designated by the Government of the United States shall be entitled to operate all-cargo services between any point or points in the United States, via intermediate points, in both directions, to a point or points in Colombia, and beyond Colombia to points in the Western Hemisphere.
- (2) There shall be no limits on the number of airlines that either Party may designate to operate all-cargo services under the Agreement.
- (3) For designated airlines of either Party operating all-cargo services, there shall be no limitations on the frequency or type of aircraft.

And, the Memorandum of Consultations states that:

The United States delegation expressed its understanding that the Government of Colombia has a policy of not allowing triangular routings for all-cargo services involving points south of Colombia without comparable economic opportunities for Colombian carriers.

Since each of the objections raised by Fine Air in its previous answers have been addressed and resolved in either the amendments to the agreement or the Memorandum of Consultations and Fine Air is, indeed, relying upon the fruits of these negotiations as the basis for its application, the Department should forthwith grant TAMPA's applications for Valencia and Panama intermediate point authority that is clearly authorized by the bilateral agreement.

WHEREFORE, for the foregoing reasons, Transportes Aereos Mercantiles Panamericanos, S.A. urges that, since the issues raised by Fine Air in Dockets OST-99-6593 and

OST-00-6955 have been addressed in the recent negotiations between the U.S. and Colombia, the Department proceed to grant the authority sought by TAMPA in these two proceedings.

Respectfully submitted,

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April 24, 2000

Certificate of Service

I hereby certify that I have this day served a copy of this answer on counsel for  
Fine Air, Inc. in accordance with the Department's regulations.

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John E. Gillick

Washington, D.C.  
April 24, 2000