

FREQUENTLY ASKED QUESTIONS ABOUT CARGO TRANSFERS AT ALASKA

NOTE: The following answers take into account the exemption authority established by USDOT in its Notice issued on August 19, 2010.

1. *May a foreign flag carrier transfer cargo to a US flag carrier at ANC or FAI:*

A. On flights to the US?

Yes – provided, of course, that the foreign flag carrier has received authority to serve Alaska. (This has always been possible. It is simply a conventional interline connection.)

B. On flights from the US?

Yes, but only if the foreign flag carrier operating the first segment (US point to ANC or FAI) is carrying the cargo on behalf of a US flag carrier under a codesharing or blocked-space arrangement, or if the cargo's air waybill has otherwise been issued by a US flag carrier.

2. *May a foreign flag carrier transfer cargo to an affiliated foreign flag carrier at ANC or FAI?*

Only if they are permitted to do so pursuant to the same rules that govern unaffiliated carriers.

A. Is there a certain percentage of ownership that entitles two distinct foreign flag carriers to be deemed a single carrier for purposes of on-line transfer authority?

No. If the two carriers operate under two separate AOCs, USDOT will treat them as two carriers regardless of the ownership structure, and the transfer therefore will be deemed an interline transfer rather than on-line.

If the cargo is moving to or from the US, such transfers are permitted only pursuant to the "Stevens Amendment," which requires that the domestic US segment be operated on behalf of a US flag carrier through a blocked space agreement, a code sharing arrangement, or some other qualifying arrangement, and that the interline connection take place in Alaska. See Question 4 below.

For cargo moving from a point of origin outside the US to a destination outside the US, such transfers are permitted regardless of whether the carriers are affiliated or not.

B. What percentage of ownership is required to transfer between foreign carriers? (Specific question: EVA owns 25% of Shanghai; can they transfer between each other?)

If the journey is between a point outside the US and a point within the US, two foreign carriers may not transfer cargo between each other regardless of whether one of them owns some portion of the other, except pursuant to the “Stevens Amendment” as described below under Question 4.

If the journey is between a point outside the US and another point outside the US, transfers between foreign carriers are allowed, whether the carriers are affiliated or not.

3. *May a foreign flag carrier transfer cargo to its own aircraft at ANC or FAI?*

Yes.

A. Are there limitations on change of gauge or starburst transfers?

There is no limit on change of gauge or starburst transfers to a foreign flag carrier’s own aircraft at ANC or FAI, subject to the conditions in B and C below.

B. Are there restrictions on the ability of a foreign flag carrier to transfer cargo to its own aircraft on flights to the US?

Not really. The transportation provided between Alaska and another point in the US must be the continuation of transportation originating outside the US, but that will typically be the case.

C. Are there restrictions on the ability of a foreign flag carrier to transfer cargo to its own aircraft on flights from the US?

Again, not really. The transportation between Alaska and the carrier’s homeland must be the continuation of transportation originating behind Alaska, either within the US or in a third country. Because this would always be the case with transferred cargo, however, this really is not a restriction.

4. *What rules govern cargo transfers between foreign carriers and US flag carriers that have “revenue relationships”?*

Pursuant to the “Stevens Amendment,” a foreign flag carrier may carry international cargo between Alaska and another point in the US that it has received from, or will transfer to, another foreign flag

carrier at Alaska if the US segment is operated under a blocked space or code share agreement with a US flag carrier, with an air way bill issued by a US flag carrier.

A. What details and restrictions are associated with BSAs (blocked space agreements)?

No special restrictions govern the use of a blocked space agreement for this purpose. It must be a typical blocked space agreement (i.e., an agreement in which the US flag carrier purchases from the foreign flag carrier, and assumes the financial risk associated with, some portion of the capacity on a foreign flag carrier's aircraft). The shipper of the cargo deals only with the US flag carrier, and the cargo moves under the US flag carrier's air way bill. The US flag carrier is required to disclose to the shipper the identity of the foreign flag carrier that will actually transport the cargo.

B. What details and restrictions are associated with code sharing arrangements?

Similarly, no special restrictions govern the use of a code sharing arrangement for this purpose. It must be a typical code sharing agreement (i.e., an agreement in which a US flag carrier sells air transportation directly to the shipper and in which the foreign flag carrier agrees to carry the cargo for a fee charged to the US flag carrier.) The shipper of the cargo deals exclusively with the US flag carrier. The US flag carrier is required to disclose to the shipper the identity of the foreign flag carrier that will actually transport the cargo.

C. What details and restrictions govern term arrangements?

There are no special requirements associated with the use of a term arrangement to satisfy the requirement that international cargo carried within the US by a foreign flag carrier and interlined at Alaska be carried on behalf of a US flag carrier. The principal requirements are that the US flag carrier be the seller of the air transportation and that the cargo is transported on the US flag carrier's air way bill.

D. What are additional mechanisms for required "revenue relationships" such as using air way bills or code sharing arrangements?

See the answer to C above.

5. *What is the process for utilizing current bilateral and transfer rights?*

A. What is the process for foreign carriers to exercise cargo transfer and/or additional rights granted under bilateral agreements?

Where cargo transfer rights are explicitly set forth in a bilateral agreement with the US, a foreign flag carrier designated to provide air transportation under the agreement must apply to USDOT either for an amendment of its foreign air carrier permit or for “exemption authority” allowing it to enjoy the rights spelled out in the agreement.

B. Is “exemption authority” for service outside their current permit necessary for bilateral rights?

Yes – either “exemption authority” or an actual amendment of their current permit (although obtaining “exemption authority” is usually a much quicker process).

6. *What additional rights, if any, do carriers need to pick up local cargo for a westbound return? (Specific question: May China Airlines pick up seafood in ANC on westbound return to Asian destination?)*

A foreign flag carrier that is authorized by USDOT to serve Alaska (either in its foreign air carrier permit or in “exemption authority”) needs no additional rights in order to pick up cargo in Alaska on its westbound return. A foreign flag carrier whose current authority does not include Alaska as a destination can obtain the necessary authority very quickly and easily, however. Indeed, in an order issued on August 19, 2010, DOT indicated its willingness to award foreign flag carriers authority to serve new points in the US provided they are served via a point in Alaska.

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