

§ 297.1

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AUTHORITY: 49 U.S.C. Chapters 401, 417.

SOURCE: ER-1159, 44 FR 69635, Dec. 4, 1979, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 297 appear at 57 FR 40103, Sept. 2, 1992.

Subpart A—General

§ 297.1 Purpose.

This part establishes registration procedures and operating rules for foreign air carriers that engage indirectly in interstate or foreign air transportation of property. It relieves these carriers from certain provisions of Subtitle VII of Title 49 of the United States Code (Transportation), and establishes simplified reports for them.

[ER-1294, 47 FR 19684, May 7, 1982, as amended at 60 FR 43527, Aug. 22, 1995]

§ 297.2 Applicability.

This part applies to interstate air transportation of property and to foreign air transportation of property outbound from the United States by foreign indirect air carriers. It also applies to applications for registration as a foreign indirect air carrier of property.

[ER-1294, 47 FR 19684, May 7, 1982, as amended at 60 FR 43527, Aug. 22, 1995]

§ 297.3 Definitions.

For purpose of this part:

(a) *Foreign air freight forwarder* means a foreign indirect air carrier that is responsible for the transportation of property from the point of receipt to

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point of destination, and utilizes for the whole or any part of such transportation the services of a direct air carrier or its agent, of another foreign indirect cargo air carrier as defined in part 296 of this chapter.

(b) *Foreign cooperative shippers association* means a bona fide association of shippers operating as a foreign indirect air carrier on a nonprofit basis that undertakes to ship property by air for the account of such association or its members, and utilizes for the whole or any part of such transportation the services of a direct air carrier or its agent, of a foreign indirect cargo air carrier as defined in part 296 of this chapter.

(c) *Direct air carrier* means an air carrier or foreign air carrier directly engaged in the operation of aircraft under a certificate, regulation, order, or permit issued by the Department of Transportation or the Civil Aeronautics Board.

(d) *Foreign indirect air carrier* means any person, not a citizen of the United States, who undertakes indirectly to engage in the air transportation of property.

[ER-1159, 44 FR 69635, Dec. 4, 1979, as amended by ER-1294, 47 FR 19684, May 7, 1982; Docket No. 47939, 57 FR 40103, Sept. 2, 1992]

§ 297.4 Joint loading.

Nothing in this part shall preclude joint loading, meaning the pooling of shipments and their delivery to a direct air carrier for transportation as one shipment, under an agreement between two or more indirect air carriers or foreign indirect air carriers.

§ 297.5 Foreign air freight forwarder as agent.

A foreign air freight forwarder may act as agent of a shipper, or of a direct air carrier that has authorized such agency, if it expressly reserves the option to do so when the shipment is accepted. A foreign air freight forwarder shall not act as the agent of any direct air carrier with respect to shipments accepted for forwarding.

§ 297.6 Foreign cooperative shippers association as agent.

A foreign cooperative shippers association may act as agent of a shipper,

or of a direct air carrier that has authorized such agency, if it expressly reserves the option to do so when the shipment is accepted. A cooperative shippers association shall not act as an agent of any direct air carrier with respect to shipments accepted in its capacity as an indirect air carrier.

[ER-1235, 46 FR 38496, July 28, 1981]

Subpart B—Exemption for Foreign Indirect Air Transportation of Property

§ 297.10 Exemption from the Statute.

(a) Foreign indirect air carriers with an effective registration under this part are exempted from the following provisions of the Statute only if and so long as they comply with the provisions of this part and the conditions imposed herein, and to the extent necessary to permit them to arrange their air freight shipments:

- (1) Section 41302 (Permits);
- (2) Sections 41504 and 41510(a) (Tariffs);
- (3) Section 41510(b) (Solicitation of rebates) to the extent necessary to permit them to solicit, accept, or receive fees from direct air carriers;
- (4) Section 41501 (Carrier's duty to establish just and reasonable rates, etc.); and

(5) If awarded interstate air transportation operating rights, any other provision of the Statute that would otherwise prohibit them from engaging in the interstate indirect air transportation of property.

(6) Section 41310 (nondiscrimination) with respect to interstate and overseas air transportation.

(b) Direct air carriers are exempted from Chapter 415 of the Statute to the extent necessary to permit them to pay, directly or indirectly, fees to foreign air freight forwarders and foreign cooperative shippers associations on consolidated shipments.

[ER-1336, 48 FR 22705, May 20, 1983, as amended by ER-1382, 49 FR 25226, June 20, 1984; Docket No. 47939, 57 FR 40103, Sept. 2, 1992; 60 FR 43527, Aug. 22, 1995]

§ 297.11 Disclaimer of jurisdiction.

The Department declines to exercise its jurisdiction over foreign indirect

air carriers of property with respect to shipments that originate in a foreign country. The Department reserves the right to exercise its jurisdiction over any foreign indirect air carrier of property at any time it finds that such action is in the public interest.

§ 297.12 General requirements.

(a) The direct air transportation provided must be performed by direct air carriers that hold authority under section 41102, 41103, 41302, or 41701 of the Statute or are operating under part 298 of this chapter;

(b) Only U.S. citizen direct air carriers may provide direct air transportation operations in interstate air transportation.

(c) Foreign indirect air carriers that hold authority to engage in foreign air transportation must apply additionally for permission to consolidate freight in interstate air transportation.

[ER-1294, 47 FR 19684, May 7, 1982, as amended at 60 FR 43527, Aug. 22, 1995]

Subpart C—Registration for Foreign Air Freight Forwarders and Foreign Cooperative Shippers Associations

§ 297.20 Filing for registration.

(a) Not later than 60 days before the start of operations as a foreign indirect air carrier, every foreign air freight forwarder and foreign cooperative shippers association shall apply for registration with the Department, unless upon a showing of good cause, the Director, Office of Aviation Analysis, allows application at a later time.

(b) Application shall consist of filing with the Department's Office of Aviation Analysis, Special Authorities Division, two copies of completed OST Form 4506, which may be obtained from the Department of Transportation, Special Authorities Division.

[ER-1159, 44 FR 69635, Dec. 4, 1979, as amended by ER-1265, 46 FR 56602, Nov. 18, 1981; Docket No. 47939, 57 FR 40103, Sept. 2, 1992; 60 FR 43527, Aug. 22, 1995]