

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2006 (SECOND) Regular Session

Resolution No. (179) LS

Introduced by:

J. A. Lujan

RELATIVE TO EXPRESSING THE SENTIMENTS OF THE
PEOPLE OF GUAM IN SUPPORT OF THE ANTONIO B. WON
PAT GUAM INTERNATIONAL AIRPORT AUTHORITY'S
PETITION FOR FULL APPROVAL OF FOREIGN CARRIER
ACCESS TO AIR ROUTES BETWEEN GUAM AND POINTS
WITHIN THE CUSTOMS ZONE OF THE UNITED STATES

1 BE IT RESOLVED BY I MINA'BENTE OCHO NA LIHESLATURAN
2 GUÅHAN:

3 WHEREAS, the Antonio B. Won Pat Guam International Airport
4 Authority requested the U.S. Department of Transportation (the "Department")
5 to approve expanded air services in a petition filed on February 9, 2006, which
6 was duly scheduled for consideration as Docket No. OST-2006-23918; and

7 WHEREAS, the Department issued on August 4 an Order to Show Cause
8 in this matter, describing its tentative decision and inviting parties in interest to
9 comment within fourteen days of date of service of the Order, or no later than
10 August 23rd; and

1 **WHEREAS**, the Order tentatively denies a waiver for passenger and cargo
2 cabotage (paragraph 7, and clause 4 of paragraph 2, of tentative findings and
3 conclusions), which would, if granted, allow foreign air carriers to participate in
4 Guam - United States carriage traffic; and

5 **WHEREAS**, non-defense related travel and cargo carriage between Guam
6 and the US has been historically characterized by participating commercial
7 carriers and federal agencies other than the Department as international, rather
8 than domestic in nature; and

9 **WHEREAS**, Guam residents pay unnecessary cost premiums for Guam-
10 US air services protected from a competitive market by cabotage restrictions; and

11 **WHEREAS**, Guam is considered a domestic point by the Department on
12 the basis of its political status as a possession of the United States, despite its
13 geographical location 3,800 miles beyond the customs zone of the United States,
14 and beyond the range of aircraft suitable for efficient use in the domestic market
15 for air service; and

16 **WHEREAS**, in the decades since direct governmental regulation of the
17 domestic market for air transportation services ceased, the demonstrated benefits
18 of a more competitive domestic market for air transportation services have not
19 been effectively enjoyed by Guam residents and businesses, through all possible
20 air routes between Guam and other domestic points; and

21 **WHEREAS**, over the same period the market for air transportation within
22 Southeast and South Asia, and between those regions and North America has
23 expanded tremendously, with further growth expected from orders for long-
24 range aircraft; and

25 **WHEREAS**, air service between Southeast Asia and the United States
26 whether via Guam or overflying Guam is offered at lower rates than service on
27 the same or similar aircraft between Guam and the United States, a market

1 anomaly which can be directly attributed to cabotage restrictions, a non-market
2 distortion enforced by the Department; and

3 **WHEREAS**, non-US airlines currently authorized to serve Guam and other
4 US points are eager to competitively offer capacity to meet demand for Guam -
5 US carriage; and

6 **WHEREAS**, access by Guam residents and businesses, and by US
7 residents and businesses wishing to travel to or expand commerce with Guam, to
8 available competitive travel fares and cargo rates on Guam-US routes that
9 include an intermediary stopover outside the US, is prohibited by the same
10 cabotage restrictions also enforced by the Department; and

11 **WHEREAS**, some travelers with established regional ties surreptitiously
12 circumvent cabotage restrictions by separately purchasing US- or Guam-bound
13 round trip passage in an intermediate third country at significant cost savings
14 not available to the typical US-bound Guam traveler or Guam-bound US
15 traveler; and

16 **WHEREAS**, cabotage restrictions raise the cost of access to US goods and
17 services on Guam and thus depresses otherwise rational US-Guam commerce in
18 such diverse goods and services as perishables, medical referrals to specialized
19 US institutions, domestic tourism, domestic skilled and professional labor, and
20 consideration of Guam as a regional site for US firm branch offices; and

21 **WHEREAS**, a competitive market for air transportation will significantly
22 reduce costs for US taxpayers, investors, and travelers to Guam; and

23 **WHEREAS**, expected increases in national defense investment and
24 operations on Guam will increase demand for air transportation between Guam
25 and the United States; and

26 **WHEREAS**, federal support for US air carriers on the Guam-US route can
27 continue in other policies, such as restricting official and private contractor travel

1 and cargo shipments to flag carriers, in a manner similar to domestic mail
2 service; and

3 **WHEREAS**, the sole domestic commercial carrier serving the direct route
4 between Guam and the US recently responded favorably to an official request for
5 lower air fares for military member and dependent travel to and from Guam,
6 while simultaneously eliminating compassion fare discounts for medical
7 evacuation and accompanying family members, leaving one the impression that
8 the community of 160,000 Guam residents is subsidizing travel costs of a nation
9 of 320 million on the direct Guam-US route subject to cabotage restrictions and
10 domestic market incentives; and

11 **WHEREAS**, the preference of US-flag carriers for North Pacific routes,
12 combined with denial of competitive access by foreign flag carriers to Guam on a
13 mid-Pacific route, has stifled rational development of Guam's airport, a
14 federally-developed modern facility, as a significant regional point, except for
15 "technical stops"; and

16 **WHEREAS**, the Department is authorized by law to grant commercial
17 access by foreign carriers between U.S. points, under 49 U.S.C., section 40109(g),
18 so approval of a general policy of passenger cabotage between Guam and other
19 US points within the customs zone of the United States would not diminish the
20 Department's continuing power to deny specific applicants for route authority in
21 the national or public interest, nor would it compromise standards of safety or
22 security; and

23 **WHEREAS**, requiring otherwise capable foreign applicants for cabotage
24 approval to first provide reciprocal access to their home markets may be
25 irrelevant or impractical, especially where geographical (as with Singapore) or
26 market (United Arab Emirates) features lack such specifically corresponding
27 national concessions; and

1 **WHEREAS**, formal comments opposing Guam’s petition represent private
2 interests who stand to profit exclusively through the Department’s denial of
3 Guam’s petition, rather than the public interest, whose members seek
4 competitive pricing through effective relief from government-maintained market
5 distortions that allow significantly higher profit margins than in deregulated
6 markets; and

7 **WHEREAS**, the public whose interest is served by the Department’s
8 decision is necessarily disaffected members of the traveling public and
9 consumers in the market served by the subject route, the majority of whom are
10 represented by duly elected members of the Twenty-Eighth Guam Legislature
11 and the Governor of Guam who support the petitioner in this matter; and

12 **WHEREAS**, the practical effect of domestic air deregulation policy cannot
13 be accomplished by approving Guam’s petition for exemption from residual
14 policy restrictions that continue to prevent effective competition, for a term of
15 only two years, and objects to paragraph four of findings and conclusions; and

16 **WHEREAS**, the Twenty-Eighth Guam Legislature acknowledges the
17 recommendation of the Department to exclude certain countries from blanket
18 approval, with whom negotiations regarding air service are ongoing, to be in the
19 public interest; and

20 **WHEREAS**, it is in the public interest for the Department to extend the
21 practical effect of a United States commitment to the United Nations regarding
22 the economic development and welfare of the inhabitants of Guam, specifically,
23 the United Nations Charter declaration regarding non self-governing territories
24 at Chapter XI, Article 73, as implemented by the General Assembly’s
25 implementing Resolution 1514(xv) of 14 December 1960, and more recently by
26 General Assembly Resolution A/RES/38/42 of 7 December 1983 with specific
27 reference to Guam, which calls upon the United States to “...remove the

1 constraints which limit growth in the economic development of the Territory,
2 particularly with regard to... the transportation industry;" and

3 **WHEREAS**, it is in the public interest for the Department to recognize and
4 consider Guam's continuing political status as a non self-governing community,
5 which lacks effective national participation in establishing laws or administrative
6 procedures that affect it, including cabotage or exemptions thereto; and

7 **WHEREAS**, it is in the public interest for the Department to recognize and
8 consider the political significance of its Final Order in this matter as exhibiting
9 the Department's role as trustee and guardian of territorial inhabitant welfare, or
10 defender of colonial prerogative; and

11 **WHEREAS**, a formal objection to the tentative findings and conclusions
12 described and listed in the Order must be formally filed by August 23rd; now,
13 therefore, be it

14 **RESOLVED**, that the Twenty-Eighth Guam Legislature expresses its
15 responsibility for the well-being and prosperity of Guam residents by objecting
16 to the tentative denial of passenger transfer activities and cabotage by the U.S.
17 Department of Transportation, and approval for a term of only two years, in its
18 Order of August 4, to Guam's Expanded Air Services petition Docket No. OST-
19 2006-23918; and now be it further

20 **RESOLVED**, that the Twenty-Eighth Guam Legislature requests the Board
21 of Directors of the Antonio B. Won Pat Guam International Airport Authority to
22 file a timely and supported objection to the proposed denial of passenger transfer
23 authority and cabotage, and approval for only two years, by the U.S. Department
24 of Transportation; and now be it further

25 **RESOLVED**, that this Resolution be filed with the Office of the Secretary
26 of Transportation and served on other parties who have filed pleadings in the
27 matter of U.S. Department of Transportation Docket No. OST-2006-23918, as an

1 answer and objection to the Order of August 4 on behalf of the People of Guam;
2 and now be it further

3 **RESOLVED**, that the Speaker certify, and the Secretary of the Legislature
4 attest to the adoption hereof, and that copies of the same be thereafter
5 transmitted to the Honorable Frank F. Blas, Chairman, Board of Directors,
6 Antonio B. Won Pat Guam International Airport Authority; to the United States
7 Department of Transportation; to those parties of record who have filed
8 pleadings under Docket No. OST-2006-23918; and to the Governor of Guam.

**DULY AND REGULARLY ADOPTED BY *I MINA'BENTE OCHO NA*
LIHESLATURAN GUÅHAN ON THE DAY OF 2006.**

MARK FORBES
Speaker

EDWARD J.B. CALVO
Senator and Secretary of the Legislature