

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	)	Criminal No.:
	)	
v.	)	Filed: May 27, 2011
	)	
EVA AIRWAYS CORPORATION,	)	Violation: 15 U.S.C. § 1
	)	
Defendant.	)	
_____	)	

**INFORMATION**

THE UNITED STATES, ACTING THROUGH ITS ATTORNEYS, CHARGES:

**Defendant and Co-Conspirators**

1. EVA Airways Corporation (“Defendant”) is a corporation organized and existing under the laws of Taiwan with its principal place of business in Taipei, Taiwan. During the period covered by this Information, Defendant was engaged in the business of providing air transportation services for passengers and cargo in the United States and elsewhere.

2. Various corporations and individuals, not made defendants in this Information, participated as co-conspirators in the offense charged in this Information and performed acts and made statements in furtherance of it.

3. Whenever in this Information reference is made to any act, deed, or transaction of any corporation, the allegation means that the corporation engaged in the act, deed, or transaction by or through its officers, directors, employees, agents, or other representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

### **Background of the Offense**

During the period covered by this Information:

4. Defendant and its co-conspirators provided international air transportation services for cargo (“air cargo services”). Defendant and its co-conspirators provided air cargo services to and from the United States.

5. Defendant’s air cargo services transported a variety of cargo shipments, including sensitive equipment used to manufacture LCD panels, perishable commodities such as cherries and pet food, and consumer goods, on scheduled flights within Taiwan and internationally, including to and from the United States. For its air cargo services, Defendant charged its customers a rate that consisted of both a base rate and various surcharges and fees, such as an import service charge. The rates charged by Defendant’s co-conspirators for air cargo services also included both a base rate and various surcharges and fees. The amount of the base rate charged by Defendant and its co-conspirators could vary based on the type and weight of the shipment, the origin and/or destination of the shipment, and the nature of the goods or products being shipped.

### **Conspiracy to Restrain Trade**

6. From at least as early as January 2003 and continuing until at least February 14, 2006, the exact dates being unknown to the United States, Defendant and its co-conspirators participated in a combination and conspiracy to suppress and eliminate competition by fixing particular cargo base rates or fees charged to customers for certain international air shipments, including to and from the United States. The combination and conspiracy engaged in by

Defendant and its co-conspirators was in unreasonable restraint of interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

7. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among Defendant and its co-conspirators, the substantial terms of which were to suppress and eliminate competition by fixing cargo rates to and from the United States and elsewhere.

#### **Manner and Means of the Conspiracy**

8. For purposes of forming and carrying out the charged combination and conspiracy, Defendant and its co-conspirators did those things that they combined and conspired to do, including, among other things:

- a. participating in meetings, conversations, and communications in the United States to discuss the cargo rates to be charged for certain international air shipments;
- b. agreeing, during those meetings, conversations, and communications, on particular cargo base rates or fees to charge for certain international air shipments;
- c. levying cargo rates in the United States in accordance with the agreements reached; and
- d. engaging in meetings, conversations, and communications in the United States for the purpose of monitoring and enforcing adherence to the agreed-upon cargo rates.

#### **Trade and Commerce**

9. During the period covered by this Information, proposals, contracts, invoices for payment, payments, and other documents essential to the provision of air cargo services were

transmitted in interstate and foreign trade and commerce between and among offices of Defendant and its customers located in various States and foreign countries.

10. During the period covered by this Information, Defendant and its co-conspirators transported substantial quantities of cargo, in a continuous and uninterrupted flow of interstate and foreign commerce, between various foreign countries and the United States, including through various U.S. airports to final destinations in various States.

11. During the period covered by this Information, the business activities of Defendant and its co-conspirators in connection with the air cargo services that are the subject of this Information were within the flow of, and substantially affected, interstate and foreign trade and commerce.

#### **Jurisdiction and Venue**

12. The combination and conspiracy charged in this Information was carried out in the United States and elsewhere within the five years preceding the filing of this Information excluding the period during which the statute of limitations has been suspended pursuant to agreement with Defendant (Attachment 1).

ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

Dated: May 27, 2011



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Antitrust Division  
United States Department of Justice



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# Attachment 1

*Amended Agreement Between The United States of America and EVA Airways Corporation  
Regarding Statute Of Limitations*

WHEREAS, the United States has been conducting an investigation into a combination and conspiracy to suppress and eliminate competition by fixing the cargo rates charged to customers for international air shipments (hereinafter referred to as "subject acts"); and

WHEREAS, the United States has indicated that it may seek to obtain an indictment against EVA Airways Corporation ("EVA Air") for violations of federal criminal laws based upon subject acts; and

WHEREAS, it is in the interest of both the United States and EVA Air that negotiations continue in an attempt to resolve, without resort to an indictment, the charges that the United States has indicated it may seek against EVA Air; and

WHEREAS, the negotiations have already taken several months, and it is contemplated that such negotiations may take several more weeks to complete; and

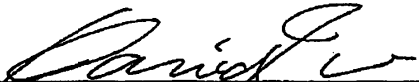
WHEREAS, the United States and EVA Air previously entered into an Agreement Between The United States of America and EVA Airways Corporation Regarding Statute of Limitations, which the parties now wish to amend to provide more time to complete negotiations;


NOW THEREFORE, the United States hereby agrees that, prior to June 15, 2011, it will not bring charges or seek an indictment against EVA Air for violations of federal criminal laws based upon subject acts, and EVA Air agrees that the time period commencing from January 1, 2011 through June 15, 2011 shall be excluded from any calculation or computation of time for the purposes of any statute of limitations applicable to the potential charges referred to above; provided, however, that nothing in this Agreement shall operate to revive any statute of limitations period which is or might be applicable to any such charges which had otherwise expired as to such charges prior to the date of this Agreement. By entering this Agreement, EVA

Air does not waive any defenses it may have to such charges, including any defense based upon any applicable statute of limitations, except that the period tolled by this Agreement must be excluded from any computation of time in connection with any such defense based upon a statute of limitations period which had not expired as of the date of this Agreement.


Nothing contained in this Agreement shall constitute or be construed as an admission by EVA Air of any civil or criminal liability or wrongdoing with respect to the matters under investigation by the United States as referred to above. Except as may be rendered necessary to enforce the terms of this Agreement itself, this Agreement shall not be introduced into evidence for any purpose in any criminal proceeding which may hereafter be instituted by the United States against EVA Air.

DATED as of April 25, 2011

BY:   
EVA AIRWAYS CORPORATION  
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Its: Executive Vice President

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