



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Issued by the Department of Transportation on December 12, 2007

NOTICE OF ACTION TAKEN -- DOCKETS DOT-OST-1997-2619 DOT-OST-2000-7264
DOT-OST-2001-10833 DOT-OST-2001-11101
DOT-OST-2002-12209 DOT-OST-2004-16972
DOT-OST-2006-24705 DOT-OST-2006-26515
DOT-OST-2007-29021 DOT-OST-2007-29028
Undocketed

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Applicant: **AEROLITORAL, S.A. de C.V. D/B/A AEROMEXICO CONNECT (Aerolitoral)**

Date Filed: November 26, 2007, as supplemented December 11, 2007

Relief requested: Amendment to exemptions from 49 USC §41301 and statements of authorization under 14 CFR Part 212 contained in the above referenced Dockets, and also amendment to an undocketed statement of authorization that authorizes Aerolitoral to wet lease aircraft to Aeromexico in all Mexico-U.S. markets in which Aeromexico holds authority, to remove the small aircraft restriction on these authorized Mexico-U.S. operations.

Applicant representative: William C. Evans, 410-827-5074 DOT analyst: Robert J. Finamore, 202-366-2405

Responsive pleadings: None.

DISPOSITION

Action: Approved.

Action date: December 12, 2007

Effective dates of authority granted: December 12, 2007, through December 12, 2008.

Basis for approval (bilateral agreement/reciprocity): United States-Mexico Air Transport Services Agreement.

Except to the extent exempted/waived, the amended exemption authority granted here is subject to the terms, conditions, and limitations of our standard exemption conditions (attached) and to the code-share conditions associated with the statements of authorization granted to Aerolitoral for its code-share operations with: 1) Aerovias de Mexico, S.A. de C.V. (Aeromexico) (Dockets DOT-OST-1001-11101, DOT-OST-2002-12209, DOT-OST-2006-24705, and DOT-OST-2006-26515); 2) Compania Mexicana de Aviacion, S.A. de C.V. (Docket DOT-OST-2000-7264); 3) Delta Air Lines, Inc. (Dockets DOT-OST-2001-11101 and DOT-OST-2001-10833; and 4) Continental Airlines, Inc. (DOT-OST-2004-16972).

Special conditions/Remarks: By memorandum dated December 11, 2007, the Federal Aviation Administration advised us that it knew of no reason why we should act unfavorably on the applicant's request.

In accordance with 14 CFR §212.9(d), Aerolitoral shall not perform any charter flights to or from the United States with large aircraft unless the Department has granted a statement of authorization for such operations.¹

¹ See, e.g., Order 91-5-25, where the Department placed this condition on the foreign air carrier permit granted to Aeromexico. We note, however, that the Department has granted blanket exemption authority to existing and future Mexican carriers, relieving them of this prior approval requirement for third and fourth freedom charter operations with large aircraft if they submit to the Department advance notice of their charter operations as described in Orders 98-4-2 and 99-7-23. Prior approval and advance notice are not required for third and fourth freedom charter operations with small aircraft. However, the applicant must meet any reporting requirements set forth in its FAA Operations Specifications.

Action taken by: Paul L. Gretch, Director, Office of International Aviation

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; (2) the applicant was qualified to perform its proposed operations; (3) grant of the authority was consistent with the public interest; and (4) grant of the authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted/deferred/dismissed, we denied all requests in the referenced Dockets. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within seven (7) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

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Foreign Carrier Exemption Conditions

In the conduct of the operations authorized, the foreign carrier applicant(s) shall:

- (1) Not conduct any operations unless it holds a currently effective authorization from its homeland for such operations, and it has filed a copy of such authorization with the Department;
- (2) Comply with all applicable requirements of the Federal Aviation Administration, the Transportation Security Administration, and with all applicable U.S. Government requirements concerning security, including, but not limited to, 14 CFR Parts 129, 91, and 36 and 49 CFR Part 1546 or 1550, as applicable. To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) from a foreign airport that would be the holder's last point of departure for the United States, contact its International Industry Representative (IIR) (formerly referred to as International Principal Security Inspector) to advise the IIR of its plans and to find out whether the Transportation Security Administration has determined that security is adequate to allow such airport(s) to be served;
- (3) Comply with the requirements for minimum insurance coverage contained in 14 CFR Part 205, and, prior to the commencement of any operations under this authority, file evidence of such coverage, in the form of a completed OST Form 6411, with the Federal Aviation Administration's Program Management Branch (AFS-260), Flight Standards Service (any changes to, or termination of, insurance also shall be filed with that office);
- (4) Not operate aircraft under this authority unless it complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention;
- (5) Conform to the airworthiness and airman competency requirements of its Government for international air services;
- (6) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR Part 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (7) Agree that operations under this authority constitute a waiver of sovereign immunity, for the purposes of 28 U.S.C. 1605(a), but only with respect to those actions or proceedings instituted against it in any court or other tribunal in the United States that are: (a) based on its operations in international air transportation that, according to the contract of carriage, include a point in the United States as a point of origin, point of destination, or agreed stopping place, or for which the contract of carriage was purchased in the United States; or (b) based on a claim under any international agreement or treaty cognizable in any court or other tribunal of the United States. In this condition, the term "international air transportation" means "international transportation" as defined by the Warsaw Convention, except that all States shall be considered to be High Contracting Parties for the purpose of this definition;
- (8) Except as specifically authorized by the Department, originate or terminate all flights to/from the United States in its homeland;
- (9) Comply with the requirements of 14 CFR Part 217, concerning the reporting of scheduled, nonscheduled, and charter data;
- (10) If charter operations are authorized, except as otherwise provided in the applicable aviation agreement, comply with the Department's rules governing charters (including 14 CFR Parts 212 and 380); and
- (11) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department, with all applicable orders or regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

This authority shall not be effective during any period when the holder is not in compliance with the conditions imposed above. Moreover, this authority cannot be sold or otherwise transferred without explicit Department approval under Title 49 of the U.S. Code.

12/2007