

BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

Application of)
)
AEROVIAS DE MEXICO, S.A. DE C.V.)
) Docket OST-96-2062
for Renewal of an Exemption from 49 U.S.C.)
§ 41301 (Cozumel-Miami))
_____)

APPLICATION OF
AEROVIAS DE MEXICO, S.A. DE C.V.
FOR RENEWAL OF EXEMPTION AUTHORITY

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NOTICE: **Any person may support or oppose this application by filing an answer and serving a copy of the answer on counsel for Aerovias de Mexico, S.A. de C.V., and upon persons served with this application no later than January 21, 1998.**

DATED: January 6, 1998

BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

Application of _____)
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AEROVIAS DE MEXICO, S.A. DE C.V.)
) Docket OST-97-2062
for Renewal of an Exemption from 49 U.S.C.) January 6, 1998
§ 41301 (Cozumel-Miami))
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APPLICATION OF
AEROVIAS DE MEXICO, S.A. DE C.V.
FOR RENEWAL OF EXEMPTION AUTHORITY

Pursuant to 49 U.S.C. 40109(c), Aerovias de Mexico, S.A. de C.V.

("Aeromexico") respectfully requests renewal of the exemption authority granted by Notice of Action Taken dated January 29, 1997, and confirmed in Order 97-3-28, to engage in foreign air transportation of persons, property and mail between Cozumel, Mexico, and Miami, Florida. The exemption authority currently is set to expire January 29, 1998. By this application, Aeromexico intends to invoke the automatic extension provisions of 5 U.S.C. § 558(c) and Part 377 of the Department's Special Regulations. The renewal is requested for one year. In support of this application, Aeromexico states as follows:

1. Aeromexico is a flag carrier of the United Mexican States and currently holds a foreign air carrier permit which authorizes service between Mexico and numerous U.S. points. Order 91-5-25. Pursuant to its permit and various exemption authority, Aeromexico provides extensive service between Mexico and the United States.

2. By this application, Aeromexico seeks renewal of its exemption authority to provide service between Cozumel, Mexico, and Miami, Florida. Aeromexico currently is offering daily round trip nonstop service in the market via a code share arrangement with Compania Mexicana de Aviacion, S.A. de C.V.. The authority is set to expire on January 29, 1998.

3. Effective November 21, 1991, the governments of the United Mexican States and the United States amended the 1960 Air Transport Agreement by establishing new route annexes describing the routes available for carriers designated by each country. Under Annex I, a carrier designated by the Government of Mexico is entitled to operate "[f]rom a point or points in Mexico to a point or point in the United States." The Agreement provides further that "[e]ither Party may designate more than one airline on the same city pair when this has been mutually agreed by the Parties." By Note dated January 31, 1997, Aeromexico was designated for the Cozumel-Miami route, and that designation continue in effect. In addition, Aeromexico continues to hold authority from the DGAC to serve the market.

4. Under Section 416 (b), the Department may renew an exemption if it finds that such is consistent with the public interest. It is clear that the designation of a carrier by its homeland government is the most significant factor in determining whether grant of an application is in the public interest. For example, in Linca Aerea Nacional de Chile, Foreign Permit, 26 C.A.B. 604 (1958), the Civil Aeronautics Board stated as follows:

Where, as here, the applicant has shown that it holds the appropriate designation under an effective bilateral agreement to operate the route embraced by the application, the applicant has presented highly significant evidence bearing on the public Interest.

See also Application of Aerovias Venezolanas S.A., Order 86-8-88 at 3 (provision for authority in a bilateral is prima facie evidence that grant thereof is in the public interest); Aerolineas Peruanas Foreign Permit, 31 C.A.B. 181 (1960). The same findings are warranted here, where Aeromexico has been designated for the route in issue.

5. Given the fact that under the bilateral Aeromexico has been designated for the authority requested herein and the fact that the exemption will only be effective for one year, the request is limited in scope and should be noncontroversial. Moreover, grant of the exemption is warranted because of the significant service benefits resulting from Aeromexico's service in the Cozumel-Miami market.

WHEREFORE, Aerovias de Mexico, S.A. de C.V. respectfully requests that the
Department grant renewal of the exemption referred to herein.

Respectfully submitted,



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