

Bd

BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

DEPT. OF TRANSPORTATION
MAY 11 1999
SECRETARY'S OFFICE

Application of

AEROMEXPRESS, S.A. DE C.V.

under 49 U.S.C. § 40109(c) for renewal of
exemption authority (Mexico City-Dayton/
Dallas)

Docket OST-95-135

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

Communications with respect to this
document should be addressed to:

William C. Evans
VERNER, LIIPFERT, BERNHARD,
McPHERSON AND HAND, CHARTERED
901 15th Street, N.W. - Suite 700
Washington, D.C. 20005
(202) 371-6030

Counsel for Aeromexpress, S.A. de C.V.

NOTICE: Any person wishing to support or oppose this application may do so by
filing an answer and serving a copy on counsel for Aeromexpress no
later than May 26, 1999.

Dated: May 11, 1999

BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Application of

AEROMEXPRESS, S.A. DE C.V.

under 49 U.S.C. § 40109(c) for renewal of
exemption authority (Mexico City-Dayton/
Dallas)

Docket OST-95-135
May 11, 1999

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

Pursuant to 49 U.S.C. § 40109(c), and subpart D of the Department's Rules of Practice, 14 C.F.R. §§ 302.400 et seq., Aeromexpress, S.A. de C.V.

("Aeromexpress") requests renewal of the exemption authority granted by Notice of Action Taken in Docket OST-95-135, dated March 1, 1995, confirmed in Order 95-3-47 and last renewed by Notice of Action Taken, dated June 3, 1998, permitting it to provide scheduled, all-cargo foreign air transportation between Mexico City, Mexico, on the one hand, and Dayton, Ohio and Dallas, Texas, on the other. The exemption is scheduled to expire on June 3, 1999. Aeromexpress requests that this exemption be renewed for an additional period of one year. By this application, Aeromexpress intends to invoke the automatic extension provisions of 5 U.S.C. § 558(c) and Part 377 of the Department's Special Regulations. In support of this request, Aeromexpress states as follows:

1. Aeromexpress is a flag carrier of the United Mexican States and currently holds exemption authority which authorizes scheduled, all-cargo service

between Mexico and numerous points in the United States. Pursuant to this exemption authority, Aeromexpress provides extensive service between Mexico and the United States.

2. By Notice of Action Taken in Docket OST-95-135, dated May 14, 1997, and confirmed in Order 97-6-5, the Department granted Aeromexpress an exemption to engage in scheduled, all-cargo foreign air transportation between Mexico City, on the one hand, and Dayton and Dallas, on the other. This authority is set to expire June 3, 1999. Aeromexpress currently is offering scheduled, all-cargo service in the Mexico City-Dallas market. While Aeromexpress presently is not providing service in the Mexico City-Dayton market, it anticipates initiating such service as soon as traffic between Mexico City and Dayton warrants. Consequently, Aeromexpress seeks to renew its authority to serve both of these markets for another year.

3. Under the U.S.-Mexico air transport agreement, a carrier designated by Mexico is permitted to operate in the markets listed above. Aeromexpress has been designated pursuant to Notes, dated July 3, 1995, and August 15, 1994 by the Government of Mexico to serve these routes, and those designations continue in effect. Aeromexpress also has been authorized by the Mexican DGAC to serve these markets.

4. Under 49 U.S.C. § 40109, 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 pursuant to a bilateral agreement is the most significant factor in determining whether grant of an application is in the public

interest. For example, in Linea 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); and Aerolineas Peruanas Foreign Permit, 31 C.A.B. 181 (1960). The same findings are warranted here, where Aeromexpress is a designated carrier for the routes to be served.

5. Given the fact that under the bilateral Aeromexpress has been designated for the authority requested herein and the fact that the exemption will only be effective for one year, this renewal request is limited in scope and should be noncontroversial. Moreover, grant of the exemption is warranted because of the significant service benefits to shippers Aeromexpress is able to provide in these markets.

WHEREFORE, Aeromexpress respectfully requests that the Department grant
renewal of the exemption sought herein.

Respectfully submitted,



William C. Evans

VERNER, LIIPFERT, BERNHARD,
McPHERSON AND HAND, CHARTERED
901 15th Street, N.W. - Suite 700
Washington, D.C. 20005
(202) 371-6030

Counsel for Aeromexpress, S.A. de C.V.

May 11, 1999

Certificate of Service

I hereby certify that I have, this 11th day of May 1999, caused a copy of the foregoing document to be served by first class mail, postage prepaid, on the persons named in the attached service list.

A handwritten signature in cursive script, reading "William C. Evans", is written over a solid horizontal line.

William C. Evans