



Order 2006-1-4

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

Issued by the Department of Transportation
on the 2nd day of November, 2005

Served: January 10, 2006

Application of

EXECUTIVE AIRLINES, S.L.
d/b/a EUROPEAN EXECUTIVE AIRLINES

for a foreign air carrier permit under 49 U.S.C. §41301

Docket OST-2005-21157

FINAL ORDER

Summary

By this order we make final our tentative findings and conclusions set forth in Order 2005-8-17, and issue Executive Airlines, S.L. d/b/a European Executive Airlines the foreign air carrier permit contained in the Appendix to this Order.

Discussion

By Order 2005-8-17, issued August 23, 2005, we directed all interested persons to show cause why we should not make final our tentative findings and conclusions in that Order and issue a foreign air carrier permit in the form attached to that Order and subject to the conditions attached to that permit. We gave interested persons 21 days to file objections to that Order.

On August 26, 2005, Executive Airlines, Inc. d/b/a American Eagle filed an objection to Order 2005-8-17, which it subsequently withdrew.¹

¹ The objection of Executive Airlines, Inc. related to the applicant's use of the name "Executive Airlines, S.L." On October 21, 2005, the applicant filed a request under 14 CFR Part 215 to register the trade name "European Executive Airlines." In that request, Executive Airlines, S.L. stated that it "intends to do business as European Executive Airlines within the United States to address name-similarity concerns raised by Executive Airlines, Inc. d/b/a American Eagle in pleadings dated August 26, 2005 in Dockets OST-2005-21157 and 21158." On October 21, 2005, Executive Airlines, Inc. withdrew its objection in this proceeding (and a petition for review of staff action it had filed in a related matter in Docket OST-2005-21158), "in light of the amended trade name registration submitted today by Executive Airlines, S.L. under 14 CFR Part 215 to do business as European Executive Airlines within the United States." On November 2, 2005, we approved the use of the name "European Executive Airlines" by the applicant.

Decision

We have decided to finalize our tentative findings and conclusions in Order 2005-8-17, in the absence of any objections on the record to that tentative decision.

In view of the above, and acting under authority assigned by the Department in its regulations, 14 CFR Part 385, we find that our action is consistent with Department policy and is in the public interest.

ACCORDINGLY,

1. We make final our tentative findings and conclusions as set forth in Order 2005-8-17;
2. We award to Executive Airlines, S.L. d/b/a European Executive Airlines the foreign air carrier permit contained in the Appendix to this order;
3. Unless disapproved by the President of the United States under 49 USC § 41307, this order shall become effective on the 61st day after its submission for section 41307 review or upon the date of receipt of advice from the President or his designee under Executive Order 12597 and implementing regulations that he or she does not intend to disapprove the Department's order under that section, whichever occurs earlier;² and
4. We will serve a copy of this order on Executive Airlines, S.L. d/b/a European Executive Airlines; Executive Airlines, Inc. d/b/a American Eagle; the Department of State; and the Federal Aviation Administration.

By:

PAUL L. GRETCH
Director
Office of International Aviation

(SEAL)

Appendix

An electronic version of this document is available on the World Wide Web at:

² This order was submitted for review under 49 USC §41307 on November 2, 2005. On January 3, 2006, we received notification that the President's designee, under Executive Order 12597 and implementing regulations, did not intend to disapprove the Department's Order.

http://dms.dot.gov/reports/reports_aviation.asp



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

PERMIT TO FOREIGN AIR CARRIER

**Executive Airlines, S.L.
d/b/a European Executive Airlines**

A Flag Carrier of Spain

is authorized, subject to the following provisions, the provisions of Title 49 of the U.S. Code, and the orders, rules, and regulations of the Department of Transportation, to engage in charter foreign air transportation of persons, property and mail as follows:

From a point or points in Spain to a point or points in the United States

The holder shall also be authorized to engage in other charter trips in foreign air transportation, subject to the terms, conditions, and limitations of the Department's regulations governing charters.

In the conduct of these operations, the holder may only use aircraft capable of carrying no more than 60 passengers and having a maximum payload capacity of no more than 18,000 pounds.

This permit and the exercise of the privileges granted in it shall be subject to the terms, conditions and limitations in both the order issuing this permit and the attachment to this order, and to all applicable provisions of any treaty, convention or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and the holder's homeland are or shall become parties.

This permit shall be effective on January 10, 2006, and shall terminate five years thereafter; provided, that if during said period the operation of the foreign air transportation authorized becomes the subject of any treaty, convention or agreement to which the United States and the applicant's homeland are or shall become parties, then this permit is continued in effect during the period provided in such treaty, convention, or agreement.

The Department of Transportation has executed this permit and affixed its seal on November 2, 2005.

By:

PAUL L. GRETCH
Director
Office of International Aviation

(SEAL)

Foreign Air Carrier Permit Conditions

In the conduct of the operations authorized, the foreign carrier applicant 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, including, but not limited to, 14 CFR Parts 129, 91, and 36, and with all applicable U.S. Government requirements concerning security, including, but not limited to, 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 Principal Security Inspector (IPSI) to advise the IPSI 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.