



Order 2006-9-27

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

Issued by the Department of Transportation
On the 31st day of July, 2006

Served: September 29, 2006

Application of

**ACM AIR CHARTER
LUFTFAHRTGESELLSCHAFT MBH**

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

Docket OST-2006-24190

FINAL ORDER

By Order 2006-7-6, issued July 7, 2006, we directed all interested persons to show cause why we should not make final our tentative findings and conclusions stated therein and award a foreign air carrier permit in the form attached to the Order and subject to the conditions attached thereto. We gave interested persons 21 days to file objections to the Order. We said that if no objections are filed, all further procedural steps shall be deemed waived, and the Department will enter an order (subject to Presidential review under 49 USC §41307) which will make final the findings and conclusions of the Order.

No objections were received within the time period provided.

ACCORDINGLY,

1. We make final our findings and conclusions as stated in Order 2006-7-6 and award to ACM Air Charter Luftfahrtgesellschaft mbH the foreign air carrier permit and conditions attached to the Order (and attached to the present order as Appendix A).
2. 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.¹
3. We will serve a copy of this order on the applicant, any other parties to this proceeding, and the Federal Aviation Administration.

PAUL L. GRETCH
Director
Office of International Aviation

¹ This order was submitted for review under 49 USC §41307, on July 31, 2006. The 61st day is September 29, 2006. Since the President or his designee did not disapprove this order before that date, it became effective on September 29, 2006.

(SEAL)

Appendix A

Issued by
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PERMIT TO FOREIGN AIR CARRIER

ACM Air Charter Luftfahrtgesellschaft mbH

A Flag Carrier of the Federal Republic of Germany

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:

Between any point or points in Germany and any point or points in the United States; and between any point or points in the United States and any point or points in a third country or countries, provided that, except with respect to cargo charters, such service constitutes part of a continuous operation, with or without a change of aircraft, that includes air service to Germany for the purpose of carrying local traffic between Germany and 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 September 29, 2006. Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention or agreement, this permit shall terminate (1) upon the dissolution or liquidation of the holder to whom it was issued; (2) upon the effective date of any treaty, convention, or agreement or amendment, which shall have the effect of eliminating the bilateral right for the service authorized by this permit from the service which may be operated by airlines designated by the Government of the Federal Republic of Germany (or, if the right is partially eliminated, then the authority of this permit shall terminate

in like part); (3) upon the effective date of any permit granted by the Department to any other carrier designated by the Government of the Federal Republic of Germany in lieu of the holder; or (4) upon the termination or expiration of the applicable air services agreements between the United States and the Federal Republic of Germany. However, clause (4) of this paragraph shall not apply if prior to such termination or expiration, the foreign air transportation authorized herein becomes the subject of another treaty, convention or agreement to which the United States and the Federal Republic of Germany become parties.

The Department of Transportation has executed this permit and affixed its seal on July 31, 2006.

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.