144265

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

Issued by the Department of Transportation on November 29, 2001

NOTICE OF ACTION TAKEN -- DOCKET OST-2001-10835-2

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: **G5 Executive AG** Date Filed: October 12, 2001

Relief requested: Exemption from 49 U.S.C. 41301 to conduct charter foreign air transportation of persons, property and mail between Switzerland and the United States, and between the United States and third country points, provided that such charter traffic is carried on a flight that serves Switzerland for purposes of carrying traffic between the United States and Switzerland; and other charters pursuant to 14 CFR 212 of the Department's regulations. (The applicant proposes to operate these services using corporate jet aircraft, including one Gulfstream V and one Hawker HS 125-800B.)

If renewal, date and citation of last action: New authority

Applicant representative: Sheryl Israel 202-663-8312

Responsive pleadings: None

DISPOSITION

Action: Approved Action date: November 29, 2001

Effective dates of authority granted: November 29, 2001 - November 29, 2003

Basis for approval: The authority is provided for in the U.S.-Switzerland Air Transport Agreement. We found, based on the record, [1] that the carrier is properly designated, licensed, and operationally and financially qualified to undertake the proposed operations. The record indicates that the carrier is owned 51% by citizens of Switzerland and 49% by citizens of Germany. However, despite the presence of non-homeland interests, we found that there was nothing in the ownership and control of the carrier that would be inimical to U.S. aviation policy or interests. Therefore, we concluded that waiver of our standard requirement that substantial ownership and effective control of a foreign carrier rest in the hands of its homeland citizens was warranted. Finally, the FAA has advised us that it knows of no reason why the Department should act unfavorably on the carrier's application.

Except to the extent exempted/waived, this authority is subject to the terms, conditions, and limitations indicated:
X Standard exemption conditions (attached) __ Foreign air carrier permit conditions (Order - -)
X Special conditions: In the conduct of the services authorized above, G5 Executive may only use aircraft capable of carrying no more than 60 passengers, consistent with its homeland air operator certificate and operating proposal.

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) grant of the authority was consistent with the public interest; and (3) 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 Docket. 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 ten (10) 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.

An electronic version of this document is available on the World Wide Web at:
http://dms.dot.gov//reports/reports_aviation.asp

[1] G5 Executive incorporated by reference into this proceeding its foreign air carrier permit application filed contemporaneously in Docket OST-2001-10834.

FOREIGN AIR CARRIER CONDITIONS OF AUTHORITY

In the conduct of the operations authorized, the holder 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;

(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, comply (except as otherwise provided in the applicable bilateral agreement) 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 (formerly the Federal Aviation Act of 1958, as amended).