

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC**

Application of)
)
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«Aircompany Constanta» PrJSC)
)

For a foreign air carrier permit pursuant to)
49 USC § 41301 and for exemption authority)
pursuant to 49 USC § 40109)
(US – Ukraine Open Skies))
_____)

Docket No. _____

**APPLICATION OF «AIRCOMPANY CONSTANTA» PrJSC
FOR A FOREIGN AIR CARRIER PERMIT AND EXEMPTION**

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Dated: February 18, 2020

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**APPLICATION OF «AIRCOMPANY CONSTANTA» PrJSC
FOR A FOREIGN AIR CARRIER PERMIT AND EXEMPTION**

«Aircompany Constanta» PrJSC (“Aircompany Constanta”), an air carrier of Ukraine, hereby applies, pursuant to 49 USC §§ 41301 and 40109, Part 211 of the Department of Transportation’s (“DOT”) economic regulations (14 CFR Part 211), Subparts B and C of the DOT’s Rules of Practice in Proceedings (14 CFR §§ 302.201 and 302.301, *et seq.*), and the DOT’s streamlined licensing procedures,¹ for a foreign air carrier permit and an exemption authorizing the carrier to engage in charter foreign air transportation of property, mail, and cargo pursuant to the Air Transport Agreement between the Government of the United States and the Government of Ukraine, signed July 14, 2015 and any applicable charters under Part 212 of the DOT’s regulations.

In support of its application, Aircompany Constanta submits the following information to the DOT:

¹ See Notice In the Matter of Streamlining Regulatory Procedures For Licensing U.S. and Foreign Air Carriers, August 23, 2005 (Docket DOT-OST-2005-22228).

(a) State the name and address of the applicant, the nature of its organization (individual, partnership, corporation, etc.), and, if other than an individual, the name of the country under the laws of which it is organized and the statutory citation of such laws, if any.

The applicant is a Private Joint-Stock Company named «Aircompany Constanta» PrJSC, organized under the laws of Ukraine, with an address of Zaporizhzhya International Airport, Building 4, Blakytina Str., Zaporizhzhya, Ukraine, 69013. Aircompany Constanta was established by resolution of the State Property Fund of Ukraine (order dated April 15, 1999 No. 6-AT) by transforming the Aircompany Constanta state-owned enterprise into a public joint stock company under the laws of Ukraine on Business Associations and Procedure for Transformation in the Course of Privatization of the State-Owned, Rental Companies with Mixed Ownership into Public Joint Stock Companies, approved by resolution of the Cabinet of Ministers of Ukraine dated September 11, 1996, No. 1099.

(b) State the name and official address of the government air transport authority of applicant's country of citizenship having regulatory jurisdiction over applicant.

The government air transport authority having regulatory jurisdiction over Aircompany Constanta is the State Aviation Administration of Ukraine, with an address of 14 Peremogy Avenue, Kiev, Ukraine, 01135.

(c) Supply the following information regarding the services proposed:

(1) A complete statement of the authority sought:

Aircompany Constanta is applying for Federal Aviation Administration ("FAA") Part 129 OpSpecs and seeks a foreign air carrier permit and exemption from the DOT pursuant to 49 USC §§ 41301 and 40109, and 14 CFR Part 211.

(2) A description of the services proposed:

Aircompany Constanta proposes to conduct cargo operations to and from the United States. Aircompany Constanta is highly experienced in cargo air transportation.

(i) The point or points in the United States proposed to be served:

Regular airport within the U.S. will be: Miami-Opa Locka Executive Airport (KOPF)

Alternate airports will be: Fort Lauderdale Executive Airport (KFXE) and Raleigh-Durham International Airport (KRDU). Other points may be served depending on demand.

Points near the United States proposed to be served:

Lynden Pindling International Airport (NAS)

Grand Bahama International Airport (FPO)

Mexico City International Airport (MEX)
Santo Domingo Airport (SDQ)
Toronto Pearson International Airport (YYZ)

(ii) The frequency of service planned at the start of operations, indicating any seasonal variations; whether the service proposed is to be scheduled, nonscheduled or charter; whether the service would be passenger, or property and mail, or a combination; and the type of equipment (and configuration) to be used:

Non-Scheduled, charter, public cargo only.

Planned frequency: Anticipated to be approximately 92 flights for the 2020. This estimated frequency may change depending upon demand.

Type of equipment: (1) Antonov AN26 aircraft; (2) Antonov AN28 aircraft; and (3) Antonov AN32P aircraft. For the configuration of the equipment, please see the type certificates for the respective aircraft, appended hereto as Attachment 13, Attachment 14, and Attachment 15, respectively.

(iii) A service schedule stating the manner in which the service will be operated (e.g., nonstop or multi-stop, and the identity of proposed intermediate traffic and nontraffic points).

Antonov AN26 aircraft can be operated nonstop or multi-stop depending on destination and loading, and Aircompany Constanta intends to operate both nonstop and multi-stop services depending on the destination and loading.

Proposed intermediate traffic and nontraffic points:

- KOPF –Merida, Mexico (MID) (technical landing)- MEX - Merida, Mexico (MID) (technical landing) – KOPF

- KOPF – KRDU (technical landing)- YYZ - KRDU (technical landing) – KOPF

These traffic points may change depending on the specific contract request and demand.

(d) Provide the names, addresses (both residence and business), and citizenship of all Directors, Officers and key management personnel, including the President, Vice Presidents, the Directors or Supervisors of Operations, Maintenance, and Finance, and the chief pilot and chief inspector. Indicate whether any of these persons are related by blood or marriage.

See Attachment 1 – List of the Aircompany Post Holders and Top Managers contacts.

(e) Provide the names and citizenship of all persons holding five percent (5%) or more of the capital stock or capital of the applicant. Also indicate the number and percentage of shares of stock or percentage of capital held by each. If five percent or more of the applicant's stock is held by a corporation or partnership, set forth the name and citizenship of each person holding five percent

or more of the entire capital stock or capital of that corporation or partnership and the respective interest of each. If any shares are held for the benefit of another person, give the name and citizenship of that person.

Aircompany Constanta ownership structure is as follows:

- 1) Mr. Roman Milesenko - 49% (Ukrainian citizen).*
- 2) Mr. Mikhail Moiseenko – 2% (Ukrainian citizen).*
- 3) AP Holdings Ltd - 49% (a company organized under the laws of the United Arab Emirates).*

AP Holdings Ltd owners:

- 1) Mr. Justin Ryan Southerland - 50% (United States citizen).*
- 2) Mr. Andrew Douglas Little - 50% (Canadian citizen).*

See Attachment 2 – List of persons holding five percent (5%) or more of the capital stock/capital of Aircompany Constanta and their respective citizenships.

(f) If the applicant is not wholly owned by its homeland government, state whether the applicant (each officer, director, manager, or holder of five percent or more of the capital stock) holds any interest directly or indirectly (through brokers or holding companies) in any of the entities listed below. If no interest is held, so state.

- (1) Any U.S. carrier;
- (2) Any other foreign air carrier;
- (3) Any persons engaged in the business of aeronautics; and
- (4) Any common carrier, or any person whose principal business is the holding of stock in, or control of, any air carrier.

Roman Milesenko, who holds 49% of the stock in Aircompany Constanta, also holds the following stock:

- (i) 49% of the stock in a company called Aero Expedition, located in Georgia, which is a foreign air carrier. Mr. Milesenko plans to completely sell his stake in Aero Expedition this year.
- (ii) 70% of the stock in EXPEDITION AVIATION FZC (Sharjah, UAE), which is engaged in Leasing and chartering of civil aircraft and trading of civil aircraft and related parts. As of November 21, 2019, his share in EXPEDITION AVIATION FZC was reduced to 40%.
- (iii) 74.3% of the stock in ENCOMPASS LLC, a Ukrainian company that trades in goods for civil aviation.

(g) Indicate the relationship between the applicant and its homeland government. If the applicant is wholly owned or substantially owned by the government, indicate which governmental department has responsibility for managerial decisions.

Aircompany Constanta is not owned by its homeland government. The State Aviation Administration of Ukraine is an agency of the Ukrainian government under the Ministry of Infrastructure responsible for civil aviation, including certification and oversight of companies such as and including Aircompany Constanta.

(h) State whether the applicant's insurance coverage meets or exceeds the liability limits of 14 CFR part 205. State the name(s) of its insurance carrier(s).

See Attachment 4 – The Foreign air carriers' certificate of insurance issued by the Private Joint-Stock Insurance Company «BUSIN».

(i) Supply certified evidence, in English, of the applicant's operating authority issued by its government that relates to the operations proposed. This evidence must include a description of the applicant's present authority, the expiration date of this authority, and the manner in which it is expected to be renewed.

See Attachment 5 – Aircompany Constanta's Air Operating Certificate and SAAU Letter Confirming Operating Authority.

(j) Summarize the operating history of the applicant. Include the types of transportation services rendered, points served, etc., from the beginning of operations to the present. Also, if the applicant is a new airline (i.e., an airline that began direct air services within the past 12 months), briefly summarize the business experience of each officer, director and key management personnel, emphasizing any air transportation experience.

Aircompany Constanta is an aviation company, AOC № UK 037, registered in Ukraine. Aircompany Constanta specializes in eastern-built aircraft with the AN26 being a core airframe for its passenger and cargo airlift operations. Being an integral part of international aviation business partner-companies group, Aircompany Constanta uniquely represents the market via joint venture and shared ownership of air assets, facilities, resources and capabilities. For a detailed operation history for the last two years, showing relevant experience, see Attachment 6.

(k) Provide a list of the aircraft owned, leased and operated by the applicant. State each aircraft registration number and the country of registration. If leased, state the address and citizenship of each lessor. Describe any plans for the acquisition or lease of additional aircraft if the present permit application is granted as proposed. If any of the listed aircraft will not be used exclusively by the applicant, explain its proposed use. State whether any aircraft are or will be wet-leased.

See Attachment 7 for a list of aircraft leased to and operated by Aircompany Constanta. Aircompany Constanta has current plans to lease the following additional aircraft if the present application is granted as proposed: (1) two Antonov-26-100; (2) two Antonov-74TK-200; and

(3) two Antonov-28. All of the aircraft listed on Attachment 7 are used exclusively by Aircompany Constanta. None of the aircraft are or will be wet-leased.

(l) State where and by whom the maintenance of the aircraft is or will be performed. State whether the applicant's maintenance program complies with the provisions of ICAO Pilots and Airmen Annexes 1, 6 (Part 1) and 7. Also state whether the applicant's home country is a contracting State to the Convention on International Civil Aviation.

Maintenance of the aircraft is and will be performed at KOPF or KFXE (line maintenance), and at Zaporizhzhia Airport, Ukraine (base maintenance) by an Aircompany Constanta Approved Part 145 maintenance organization and in accordance with procedures recommended by the aircraft manufacturer. Aircompany Constanta's maintenance program complies with the provisions of ICAO Pilots and Airmen Annexes 1, 6 (Part 1) and 7. Aircompany Constanta's home country of Ukraine is a contracting State to the Convention on International Civil Aviation.

See Attachment 5 – Aircompany Constanta's Approval Certificates for Maintenance Program and SAAU Letter Confirming Maintenance Program Compliance.

(m) Briefly describe any agreements or cooperative working arrangements (e.g., block-space, wet-lease), both oral and written, entered with and between the applicant, or on behalf of the applicant, and any U.S. or foreign air carrier, affecting the proposed services to the United States that are not on file with the Department. If there are no such agreements, so state.

There are no such agreements or cooperative working arrangements.

(n) Supply financial data summaries, setting forth in U.S. dollars the applicant's profit and loss statements and balance sheets for the two (2) most recent available years (calendar or fiscal). These summaries must be accompanied by a statement from the applicant's official responsible for preparation of the summaries that the submissions are complete and accurate.

Financial data summaries on profit and loss statements and balance sheets for the two (2) most recent available years of Aircompany Constanta are shown in Attachment 9 and Auditor's Reports for the complete set of financial statements of Aircompany Constanta for 2017 and 2018 years are shown in Attachment 10 and Attachment 11, respectively. Financial data summaries are accompanied by a statement from of Aircompany Constanta Chief Accountant in Attachment 8. (Pursuant to 14 CFR § 302.12, Aircompany Constanta requests confidential treatment of Attachments 8-11.) Aircompany Constanta will supplement this application in March 2020 to provide financial data summaries on profit and loss statements and balance sheets for 2019.

(o) Describe the amount, type and reason for financial assistance received or expected from the applicant's home government, if any.

Aircompany Constanta has never received nor does it plan to receive financial assistance from Ukraine in the future.

(p) Submit an estimate showing the total traffic and the financial results of the proposed services for the first full year of normal operations and the supporting data employed to calculate the financial forecast.

See Attachment 16 – Forecast for 2020. (Pursuant to 14 CFR § 302.12, Aircompany Constanta requests confidential treatment of this information.) Please note that the Forecast for 2020 only covers operations using AN26 aircraft, as only AN26 aircraft will be used in 2020. The other aircraft identified herein will not be used for operations until 2021 at the earliest.

(q) If the air transportation proposed is not covered by an air transport agreement, state in narrative form each of the elements of reciprocity or comity relied upon for the requested authority. If the authority requested is governed by an agreement, state whether the applicant has been formally designated by its homeland government, and, if so, cite the diplomatic note.

The air transportation proposed is covered by the Air Transport Agreement between the Government of the United States and the Government of Ukraine, signed July 14, 2015 ("Air Transport Agreement") and ratified by Law of Ukraine No. 751-VIII dd. 04 Nov 2015. Aircompany Constanta has not been formally designated by its homeland government. The services proposed by Aircompany Constanta are consistent with the Air Transport Agreement.

(r) To the extent not described in paragraph (q), state the policy of the applicant's homeland government with respect to U.S. carriers' applications for scheduled and charter authority. Specifically, state whether the homeland government grants Fifth Freedom traffic rights to U.S. carriers.

Ukraine grants Fifth Freedom traffic rights to U.S. carriers pursuant to Article 2 of the Air Transport Agreement.

(s) For the preceding five (5) years, state whether the applicant has been involved in any safety or tariff violations or any fatal accidents. If so, furnish details.

Aircompany Constanta has not been involved in any safety or tariff violations or any fatal accidents within the past five (5) years. See Attachment 12.

(t) Submit three (3) completed copies of OST Form 4523 (Waiver of liability limits under the Warsaw Convention).

A completed copy of OST Form 4523 is appended hereto as Attachment 3.

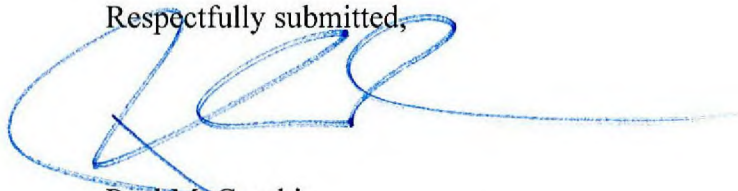
(u) A grant of Aircompany Constanta's application would not constitute a major regulatory action under 14 CFR Part 313. Specifically, granting this application will not cause a near-term net annual change in aircraft fuel consumption of 10 million (10,000,000) gallons or more, compared to the probable consumption of fuel were the application not granted. As a result, Aircompany Constanta need not submit additional information about the energy consumption and energy efficiency consequences of its proposed operations hereunder.

(v) A grant of Aircompany Constanta's application for a foreign air carrier permit is in the public interest given that Aircompany Constanta represents the continued emergence of independent, self-sustained business institutions capable of operating in developing market conditions. Moreover, this application fosters open business, allows additional services to be rendered to the public, and fosters the relationship with an ally nation.

(w) Aircompany Constanta is fit, willing, and able to perform the services for which the authority requested herein is sought. Moreover, Aircompany Constanta will comply with the DOT's rules, regulations, and applicable statutes, and will accept and comply with the DOT's standard terms and conditions imposed on foreign air carrier exemptions and foreign air carrier permits for charter cargo air services.

WHEREFORE, based upon the foregoing information, Aircompany Constanta respectfully requests that the DOT approve this application and issue an exemption and a foreign air carrier permit authorizing the charter air transportation of property and cargo as more fully described herein. Aircompany Constanta further requests that the DOT grant such other and/or additional relief as it considers consistent with this application and the public interest.

Respectfully submitted,



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Dated: February 18, 2020

TABLE OF ATTACHMENTS

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Attachment 6.	Aircompany Constanta Operating History
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Attachment 16.	Forecast for 2020 (Confidential)