U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of the Chief Counsel

800 Independence Ave., S.W.
Washington, D.C. 20591

FEB -9 2015

Luc Audoore
Deputy Manager
CAE Aviation
Luxembourg Airport
L-1110 Luxembourg

Re: Use of a foreign pilot license while operating a U.S.-registered aircraft outside the United States

Dear Mr. Audoore:

This letter responds to your request for a legal interpretation dated October 1, 2014. You have asked about the use of a foreign pilot license when operating a U.S.-registered civil aircraft within a foreign country.

Section 61.3(a) of Title 14 of the Code of Federal Regulations permits a pilot, when operating a U.S.-registered aircraft within a foreign country, to use a pilot license issued by that country.

Prior to 1966, FAA regulations stated that, within the United States, no person was permitted to act as pilot in command of a U.S.-registered aircraft unless the pilot held a current pilot certificate with the appropriate ratings issued under 14 C.F.R. part 61. In a 1966 final rule, the FAA removed the words "within the United States," thereby requiring a pilot to hold a U.S. pilot certificate when operating a U.S.-registered aircraft outside the United States. 31 FR 8354 (June 15, 1966). The FAA explained that the rule change was to assure that operations of U.S.-registered aircraft outside the United States conformed to U.S. obligations under the 1944 Chicago Convention on International Civil Aviation (the "Chicago Convention"). Specifically, Article 32 of the Chicago Convention requires that the flightcrew members of every aircraft engaged in international navigation must hold a certificate of competency and licenses issued or rendered valid by the State in which the aircraft is registered. In addition to requiring a U.S. pilot certificate when operating a U.S.-registered aircraft outside the United States, the 1966 final rule introduced the current provision that permits a person to use a pilot license issued by a foreign country when operating a U.S.-registered aircraft within that country.

You have asked whether "within a foreign country" refers to the legal borders of a country (i.e. landmass and territorial waters) or the Flight Information Region that would include the sea outside the territorial waters.

The FAA is required to act consistently with U.S. obligations under international agreements. 49 U.S.C. § 40105 (b). The Chicago Convention uses the term "State" rather than "country" when addressing a contracting State's responsibilities. Under Article 2 of the Chicago Convention, a State's territory is "deemed to be the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection, or mandate of such State." As such, the FAA considers operation "within a foreign country" to be operation within the territory of a State. Although a country may be responsible for providing navigation services outside its territory, the FAA would not consider operations of a U.S-registered airplane in those areas to be an operation "within that country" for the purpose of § 61.3. Thus, the operation described in your request would require the pilot to hold a pilot certificate issued by the FAA.

This response was prepared by Anne Moore, an attorney in the Regulations Division of the Office of the Chief Counsel, and coordinated with the General Aviation and Commercial Division of the Flight Standards Service. If you have any additional questions regarding this matter, please contact my office at (202) 267-3073.

Sincerely,

Mark W. Bury
Assistant Chief Counsel for Regulations