

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

Order 96-10-8
Served 10/10/96

Issued by the Department of Transportation
on the 4th day of October, 1996

Agreement adopted by the Tariff :
Coordinating Conferences of the : Docket OST-96-1602
International Air Transport Association : R-1 and R-2
relating to cargo rates :

ORDER

Various members of the International Air Transport Association (IATA) have filed an agreement with the Department under section 41309 of Title 49 of the United States Code (the Code) and Part 303 of the Department's regulations. The agreement was adopted at the TC1/TC12 Cargo Tariff Coordinating Conference, held in Geneva during May 13-18, 1996, for effectiveness on October 1, 1996.^{1/}

The agreement revalidates, with no change in levels, the current Western Hemisphere rate structure, including U.S. points, which was approved by the Department in Order 95-12-31 (December 21, 1995) and now is due to expire September 30, 1996, for an additional two year period through September 30, 1998. In addition, the agreement increases all general commodity rates (GCR's) from Yemen to points in the Western Hemisphere by five percent to offset depreciation in the national currency of Yemen.

We will approve the agreement. Based on the information submitted and other relevant material, we conclude that the agreement, as conditioned below, will not result in rates that are unlawful or injurious to competition in the markets at issue. Our approval of these revalidated Western Hemisphere rates and the increased GCR's from Yemen, however, will be subject to the conditions that we routinely attach to our approval of these IATA cargo rate agreements: that all rates and charges to/from U.S. points are maximums with carriers free to implement rates and/or charges in the marketplace that are below those established by the agreement.

^{1/} IATA memoranda TC1 Reso/C 0259 and TC12 Reso/C 0931, filed with the Department on July 29, 1996.

Pursuant to authority assigned by the Department's Regulations, 14 CFR 385.13:

1. We do not find the following resolutions, which are incorporated in the agreement in Docket OST-96-1602 and which have direct application in foreign air transportation as defined by the Code, to be adverse to the public interest or in violation of the Code, provided further that (a) notwithstanding any provisions of these resolutions or any other resolutions, all rates and charges to/from U.S. points established pursuant to these resolutions shall be maximums; and (b) each and every carrier operating pursuant to such resolutions may implement rates and charges below those established by these resolutions:

<u>Docket</u>	<u>IATA</u>	<u>Title</u>	<u>Application</u>
<u>OST-96-1602</u>	<u>No</u>		
R-1	002	TC1 Standard Revalidating/Amending Resolution	1
R-2	003kk	TC12 General Increase Resolution from Republic of Yemen to TC1	1/2

2. This agreement is a product of the IATA tariff conference machinery, which the Department found to be anticompetitive but nevertheless approved on foreign policy grounds by Order 85-5-32, May 6, 1985. The Department found that important transportation needs were not obtainable by reasonably available alternative means having materially less anticompetitive effects. Antitrust immunity was automatically conferred upon these conferences because, where an anticompetitive agreement is approved in order to attain other objectives, the conferral of an antitrust immunity is mandatory under section 41308 of the Code.

Order 85-5-32 contemplates that the products of the fare and rate conferences will be subject to individual scrutiny and will be approved, provided they are of a kind specifically sanctioned by Order 85-5-32 and are not adverse to the public interest or in violation of the Code. As with the underlying IATA conference machinery, upon approval of a conference agreement, immunity for that agreement must be conferred under the Code. Consequently, we will grant antitrust immunity to the agreement in Docket OST-96-1602 as set forth in finding paragraph 1 above, subject, where applicable, to the conditions imposed therein.

ACCORDINGLY,

We approve and grant antitrust immunity to the agreement contained

in Docket OST-96-1602, as set forth in finding paragraph one above, subject, where applicable, to the conditions imposed therein.

Persons entitled to petition the Department for review of this order, under 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Department of Transportation upon expiration of the above period, unless within such period a petition for review is filed or the Assistant Secretary for Policy and International Affairs gives notice that he will review this order on his own motion.

By:

Paul L. Gretch
Director, Office of International Aviation

(SEAL)

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