



UNITED STATES OF AMERICA Order 96-10-11
DEPARTMENT OF TRANSPORTATION served 10/15/96
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Issued by the Department of Transportation
on the

Agreements adopted by the Tariff : Docket OST-96-1706
Coordinating Conferences of the : R-1 through R-5
International Air Transport Association : Docket OST-96-1712
relating to passenger fares : R-1 through R-3

ORDER

Various members of the International Air Transport Association (IATA) have filed two agreements with the Department under section 41309 of Title 49 of the United States Code, and Part 303 of the Department's regulations. The agreements were adopted at TC1 and TC12 North Atlantic-Middle East Passenger Tariff Coordinating Conferences held in Montreal on August 7-16, 1996, and in Geneva on September 2-6, 1996, respectively, for expedited effectiveness on various dates.^{1/}

The agreements propose a number of minor revisions to existing, approved, IATA-agreed TC1-Longhaul and North Atlantic-Middle East fare structures. The agreement in Docket OST-96-1706, insofar as U.S. points are concerned, reduces all agreed Orlando-Brazil fares to Miami-Brazil levels, and lowers all agreed add-on levels used to construct special fares from the U.S. to Brazil by amounts ranging between \$77 and \$264. The agreement in Docket OST-96-1712 adjusts black-out periods for excursion and APEX fare travel to Saudi Arabia to reflect 1997 Hajj pilgrimage dates, and introduces new special roundtrip Hajj pilgrimage fares to Jeddah and Medina at levels equal to one-way normal economy fares.

We have decided to approve the agreements, subject to conditions. Based on our review of the information submitted and other relevant material, we conclude that the agreements, as conditioned below, will not result in fares that are unlawful or injurious to competition in the markets at issue.

In particular, our approval of levels proposed for premium and promotional fares is consistent with Department policy as stated

^{1/} IATA memorandum PTC1 0002, Docket OST-96-1706; and IATA memorandum PTC12 NMS/ME 0001, Docket OST-96-1712.

in Order 85-3-8, March 4, 1985. We allow carriers wide latitude in establishing levels for these types of fares, which are generally sensitive to market demand and other competitive pressures that obviate the need for regulatory intervention in most cases.

We continue our regulatory supervision over direct-service normal economy fares.^{2/} The agreement proposes normal economy fares in several Orlando-Brazil direct-service markets at levels that exceed the Department's regulatory ceilings as formed by the Standard Foreign Fare Level (SFFL) plus upward fare flexibility.^{3/} The carriers have not furnished any economic justification in support of the proposed levels. Under these circumstances, we will condition our approval of the agreements to require that such direct-service normal economy fares shall be no higher than the Department's applicable regulatory ceilings, and that each carrier, when filing tariffs implementing the agreement, must provide a comparison of its proposed direct-service normal economy fares against the Department's SFFL base levels.

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

1. We do not find that the following resolutions, which are incorporated in the agreements in Dockets OST-96-1706 and OST-96-1712 and which have either direct or indirect application in foreign air transportation as defined by the Code, are adverse to the public interest or in violation of the Code, provided that approval is subject, where applicable, to previously imposed conditions, and provided further that (a) normal economy fares for direct-service markets filed by each IATA carrier in tariffs with the Department pursuant to these resolutions shall not exceed the applicable regulatory ceilings in effect at the time of filing, and (b) each IATA carrier must submit, at the time of filing and for comparative purposes, its SFFL base fares, proposed direct-service normal economy fares, and the percentages by which its proposed direct-service normal economy fares exceed the SFFL base levels for each market for which it files revised direct-service normal economy fares:

<u>Docket</u>	<u>IATA</u>	<u>Title</u>	<u>Application</u>
<u>OST-96-1706</u>	<u>No</u>		

^{2/} By normal economy fares, we are referring to the restricted normal economy fares or, in markets where they are unavailable, the unrestricted economy fares.

^{3/} For example, the agreement proposes an Orlando-Rio de Janeiro normal economy fare of \$816 one way, whereas the current regulatory ceiling is \$715.

R-1	041c	TC1 Intermediate Class Fares, Longhaul (As per Resolution 002o)	1
R-2	041c	TC1 Economy Class Fares, Longhaul (As per Resolution 002o)	1

<u>Docket</u>	<u>IATA</u>	<u>Title</u>	<u>Application</u>
<u>OST-96-1706</u>	<u>No</u>		

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 agreements in Dockets OST-96-1706 and OST-96-1712 as set forth in finding paragraph 1 above, subject, where applicable, to the conditions imposed.

ACCORDINGLY,

We approve and grant antitrust immunity to the agreements contained in Dockets OST-96-1706 and OST-96-1712, as set forth in finding paragraph one above, subject to the conditions imposed.

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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