



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

Order 96-10-20
 Served 10/21/96

Issued by the Department of Transportation
 on the 15th day of October, 1996

 Agreements adopted by the Tariff : **Dockets:**
 Coordinating Conferences of the Inter- : OST-96-1545, R-1 to R-14
 national Air Transport Association : OST-96-1581, R-1 to R-3
 relating to cargo resolutions : OST-96-1604, R-1 to R-6

ORDER

Various members of the International Air Transport Association (IATA) have filed agreements with the Department under section 41309 of Title 49 of the United States Code (Code) and Part 303 of the Department's regulations. The agreements were adopted at separate and composite meetings of the Cargo Tariff Coordinating Conferences in Geneva, Switzerland, May 13-18, 1996. 1/

The agreement in Docket OST-96-1545, comprised of composite resolutions with worldwide application, increases the dangerous goods handling fee for Lebanon (except for the U.S.); amends the glossary of terms; amends general commodity add-on amounts and minimum charges for cargo (except to/from the U.S.); and deletes a number of rate exceptions for Spain. The agreement in Docket OST-96-1581, TC3/TC23 to/from U.S. Territories, revalidates existing rate levels and conditions, and converts three of the four rate resolutions from "Type A" to "Type B". 2/

The agreement in Docket OST-96-1604 revalidates TC31 rate levels and conditions; adds general commodity rates to/from Ashkhabad, Bishkek, Ekaterinburg and Novosibirsk at fixed levels over Moscow, and from Chaing Mai, Phuket, and Hat Yai to U.S. West Coast points at fixed levels over Bangkok; removes a note against general commodity rates from Bangkok and Phnom Penh that excluded application

1/ IATA memoranda COMP Reso/C 0668 and COMP Reso/C 0674 (Docket 1545, filed with the Department July 15, 1996), TC3 Reso/C 0088 and TC23 Reso/C 0223 (Docket OST-96-1581, filed July 23, 1996), and TC31 Reso/C 0251 (Docket OST-96-1604, with technical correction, filed July 29, 1996).

2/ "Type A" resolutions are applied in their entirety; disapproval by any government authority of a resolution, or a portion thereof, is considered a disapproval of the entire resolution. "Type B" resolutions are considered divisible; disapproval by a government authority of a portion of a resolution is considered as rendering only that disapproved portion of the resolution as void.

by Federal Express; increases general commodity rates from Beijing to selected points in the Caribbean; and adds a specific commodity rate from Nadi to Vancouver. Several resolutions were not renewed for lack of use, and the bulk of the resolutions were converted from Type A to Type B.

Section 41309 of the Code directs us to approve any agreement or modification of an agreement if we find that it will not substantially lessen competition, and is not adverse to the public interest or in violation of the Code. With the exception of the standardization of wording and the addition of rates to/from the U.S. in markets that are not directly served, the agreements do not change the level of rates or conditions of transport. 3/

We will approve the agreements, subject to our usual conditions that all agreed rates and charges represent maximums, with carriers free to implement rates and charges below them. We find that, as previously conditioned, the resolutions incorporated in the above dockets are not adverse to the public interest, in violation of the Code, or likely to lessen competition substantially, and that they should be approved.

Furthermore, we conclude that the resolutions contained in the agreements should be granted immunity from the operation of the antitrust laws to the extent necessary to permit their implementation. In general, they amend existing rates already approved and immunized by the Department. As a result, none raise immunity issues not previously considered, and the conferral of immunity upon them is consistent with our policy of conferring immunity on amendments coextensively with the underlying agreements.

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

1. We do not find that the resolutions set forth in Attachment A to this order, and which have direct application in foreign air transportation as defined by the Code, are adverse to the public interest or in violation of the Code, or likely to lessen competition substantially; provided that (a) notwithstanding any provisions of these resolutions or any other resolutions, all rates and charges to or 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;

2. We do not find that the resolutions set forth in Attachment B

3/ We reaffirm our previous condition that any carrier may establish through rates based on a combination of local rates over U.S. points (Order 86-9-88.)

to this order, and which have indirect application in foreign air transportation as defined by the Code, are adverse to the public interest or in violation of the Code; and

3. This agreement is a product of the IATA tariff conference machinery, which the Department found to be anticompetitive but nevertheless accepted on foreign policy and comity 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, such conferral is mandatory under 49 U.S.C. 41308.

Order 85-5-32 contemplates that the products of 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 agreements in Dockets OST-96-1545, OST-96-1581, and OST-96-1323, as set forth in finding paragraphs 1 and 2 above, subject to conditions previously imposed.

ACCORDINGLY,

We approve and grant antitrust immunity to the agreements contained in **Dockets OST-96-1545, OST-96-1581, and OST-96-1604**, as set forth in finding paragraphs 1 and 2 above, subject to conditions previously 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 shall 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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Resolutions With Direct Application In Foreign Air Transportation,
Dockets OST-96-1545, OST-96-1581, and OST-96-1604

1. Docket OST-96-1545, Composite Cargo Resolutions
 (COMP Reso/C 0668)

<u>No.</u>	<u>Designation</u>	<u>Title</u>	<u>Expiry</u>
R-2	CTC1(42)012 CTC2(51)012 CTC3(42)012 CTC12(63)012 CTC23(52)012 CTC31(46)012 CTC123(56)012	Glossary Of Terms (Amending)	Indefinite
R-3	CTC1(42)015aa CTC2(51)015aa CTC3(42)015aa CTC12(63)015aa CTC23(52)015aa CTC31(46)015aa CTC123(56)015aa	Add-On Amounts (Amending)	Indefinite
R-4	CTC2(51)033a CTC12(63)033a CTC23(52)033a CTC123(56)033a	Currency Names, Codes, Rounding Off Units, And Acceptability Of Currencies (Amending)	Indefinite
R-5	CTC1(42)116bb CTC2(51)116bb CTC3(42)116bb CTC12(63)116bb CTC23(52)116bb CTC31(46)116bb CTC123(56)116bb	Special Enabling Resolution (Revalidating)	9/30/98

2. Docket OST-96-1581, TC3/TC23/TC123 To/From U.S. Territories
 (TC3 Reso/C 0088 and TC23 Reso/C 0223)

R-1	CTC3(42)001aa	Special Applicability Resolution To/From U.S. Territories (New)	9/30/98
R-2	CTC3(42)002	Standard Revalidating/Amending Resolution To/From U.S. Terri- tories (New)	9/30/98
R-3	CTC23(52)002	Standard Revalidating/Amending	9/30/98

Resolutions With Direct Application In Foreign Air Transportation,
Dockets OST-96-1545, OST-96-1581, and OST-96-1604

3. **Docket OST-96-1604, TC31 North/Central/South Pacific Cargo Resolutions** (TC31 Reso/C 0251)

<u>No.</u>	<u>Designation</u>	<u>Title</u>	<u>Expiry</u>
R-1	CTC31(46)002 CTC123(56)002	Standard Revalidating/Amending Resolution (New)	9/30/98
R-2	CTC31(46)556a CTC123(56)556a	North And Central Pacific General Commodity Rates (Revalidated and Amended)(TC1-TC3 via TC2)	9/30/98
R-3	CTC31(25)590 CTC123(30)590	North And Central Pacific Specific Commodity Rates (Revalidated and Amended)(TC1-TC3 via TC2)	9/30/98
R-4	CTC31(26)516f CTC123(34)516f	South Pacific Contract Rates And Charges From USA To Australia And New Zealand (Revalidated and Amended)	9/30/98
R-5	CTC31(46)556 CTC123(56)556	South Pacific General Commodity Rates (Revalidated and Amended)	9/30/98
R-6	CTC31(25)590 CTC123(30)590	South Pacific Specific Commodity Rates (Revalidated and Amended)	9/30/98

Resolutions With Indirect Application In Foreign Air
Transportation,
Dockets OST-96-1545, OST-96-1581, and OST-96-1604

1. **Docket OST-96-1545, Composite Cargo Resolutions**
(COMP Reso/C 0668 and COMP Reso/C 0674)

<u>No.</u>	<u>Designation</u>	<u>Title</u>	<u>Expiry</u>
R-1	CTC2(51)001mm CTC12(63)001mm CTC23(52)001mm CTC123(56)001mm	Dangerous Goods Handling Fee (Ex- cept USA And U.S. Territories) (Amending)	Indefinite
R-6	CTC2(51)501 CTC3(42)501 CTC12(63)501 CTC23(52)501 CTC31(46)501 CTC123(56)501	Minimum Charges For Cargo (Except USA, U.S. Territories)(Amending)	Indefinite
R-7	CTC2(51)511	Rates For Live Animals (Amending)	Indefinite
R-8	CTC12(63)511 CTC23(52)511 CTC123(56)511	Rates For Live Animals (Except To/From USA/U.S. Territories (Amending)	Indefinite
R-9	CTC2(51)518 CTC12(63)518 CTC23(52)518 CTC123(56)518	Dangerous Goods Handling Fee (Amending)	Indefinite
R-10	CTC2(51)595 CTC12(63)595 CTC23(52)595 CTC123(56)595	Special Rates For Valuable Cargo (Amending)	Indefinite
R-11	CTC2(51)596 CTC12(63)596 CTC23(52)596 CTC123(56)596	Newspapers And Periodicals (Amending)	Indefinite
R-12	CTC2(51)597	Carriage Of Human Remains (Amending)	Indefinite
R-13	CTC12(63)597 CTC23(52)597 CTC123(56)597	Carriage Of Human Remains (Amending)	Indefinite

R-14	CTC2(51)598	Baggage Shipped As Cargo (Except	Indefinite
	CTC12(63)598	To/From USA/U.S. Territories	
	CTC23(52)598	(Amending)	
	CTC123(56)598		