



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

Order 97-2-32
Served 3/6/97

Issued by the Department of Transportation
on the 28th day of February, 1997

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Agreements Adopted by the Tariff Coordi- :
nating Conferences of the International :      Docket OST-96-1936
Air Transport Association relating to   :      R-1 through R-3
TC31 passenger fares                   :      Docket OST-96-2017
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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. Both agreements were adopted by mail vote. 1/ The agreement in Docket OST-96-1936 amends the seasonality of excursion fares from the Cook Islands and New Zealand to North America and the Caribbean. The agreement in Docket OST-96-2017 re-establishes special excursion fares from Japan to North America and the Caribbean at 3,000 Yen over existing GIT fares from Japan.

We will approve the agreements. Our approval of the re-established level of special excursion fares from Japan is consistent with Department policy as stated in Order 85-3-8, March 4, 1985. We allow carriers wide latitude in pricing these types of fares, which are generally sensitive to market demand and other competitive pressures that obviate the need for regulatory intervention in most circumstances. We will also approve the amended seasonality from the Cook Islands and New Zealand reflecting the changes in the 1997 school year.

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

1. We do not find that the resolutions in Dockets OST-96-1936 and OST-96-2017, as set forth below and which have direct application in foreign air transportation as defined by the Code, are adverse to the public interest, in violation of the Code, or likely to lessen competition substantially;

1/ IATA memorandum PTC31 (Mail 834)070vv/073mm/073q, filed with the Department on November 8, 1996 (Docket OST-96-1936), and PTC31 (Mail 845)074r, filed December 11, 1996 (Docket OST-96-2017).

Docket OST-96-1936

Mail Vote 834, TC31 South Pacific Fare Resolutions

<u>Resolution</u>	<u>Description</u>
R-1; 070vv	Excursion Fares From Cook Islands, New Zealand To North America, Caribbean
R-2; 073mm	One Way APEX Fares From South West Pacific To North America, Caribbean
R-3; 073q	Super APEX Fares From Cook Islands, New Zealand To North America, Caribbean

Docket OST-96-2017

Mail Vote 845, TC31 North and Central Pacific Fare Resolutions

<u>Resolution</u>	<u>Description</u>
074r	Special Excursion (PEX) Fares From Japan To North America, Caribbean

2. 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 Docket OST-96-1936 and OST-96-2017, as set forth in finding paragraph 1 above, subject to previous conditions imposed.

ACCORDINGLY,

We approve and grant antitrust immunity to the agreements contained in Dockets OST-96-1936 and OST-96-2017, as set forth in finding paragraph one, subject, where applicable, 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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