

Order 97-11-12
Served: November 13, 1997



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

Issued by the Department of Transportation
on the 4th day of November, 1997

```

-----
Agreement adopted by the Tariff           :
Coordinating Conferences of the           :      Docket OST-97-2861
International Air Transport Association    :      R-1 through R-4
relating to passenger fares               :
-----

```

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 and Part 303 of the Department's regulations. The agreement was adopted at a meeting of the TC1 Passenger Tariff Coordinating Conference held in Montreal during August 6-15, 1997, for expedited effectiveness on October 1, 1997.^{1/}

The agreement revises the existing TC1 Longhaul fare structure approved by the Department in Order 97-1-7, January 8, 1997. Insofar as travel to/from U.S. points is concerned, it revises levels for all-week travel on discount (special) fares to/from Belem, Fortaleza, Manaus and Recife in Brazil so as to align these fares with existing discount fares for other U.S.-Brazil markets. Under this realignment, the current all-week levels will become the new midweek levels with new weekend levels established at \$50 above the midweek levels. Finally, the agreement introduces new add-on levels for Montes Claros, Brazil, and Ponte del Este, Uruguay, to facilitate construction of through fares to/from these points, and deletes add-on amounts for Uberlandia, Brazil, due to the cessation of air services.

We will approve the agreement. Based on the information submitted and other relevant material, we conclude that the agreement will not result in fares that are unlawful or injurious to competition in the markets at issue.

In particular, our approval of the proposed promotional fares is consistent with Department policy as stated in Order 85-3-8, March 4, 1985. We allow carriers wide latitude in pricing this type of fare which is generally sensitive to market demand and other competitive pressures that obviate the need for regulatory intervention in most circumstances.

^{1/} IATA memorandum PTC1 0048.

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

1. We do not find the following resolutions, which have either direct or indirect application in foreign air transportation as defined by the Code, to be adverse to the public interest or in violation of the Code, provided that approval is subject, where applicable, to conditions previously imposed:

<u>Docket</u>	<u>IATA</u>	<u>Title</u>	<u>Application</u>
OST-97-2861 R-1	No 002h	Expedited TC1 Special Amending Resolution, Longhaul	1
R-2	015v	Expedited TC1 Add-on Amounts (Except in USA), Longhaul	1
R-3	071yy	Expedited TC1 Excursion Fares from Caribbean, Central America to Argentina, Brazil, Chile, Paraguay, Uruguay via Miami	1
R-3	087LL	Expedited TC1 Group Excursion Fares between Cuba and Central America, South America	1

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 antitrust immunity is mandatory under 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-97-2861 as set forth in finding paragraph 1 above, subject, where applicable, to conditions previously imposed.

ACCORDINGLY,

We approve and grant antitrust immunity to the agreement contained in Docket OST-97-2861, as set forth in finding paragraph one

above, 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 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. Such actions are subject to judicial review under 49 USC 46110.

By:

Paul L. Gretch
Director, Office of International Aviation

(SEAL)