

Posted: 9/8/98

Order 98-9-9

10:30 a.m.



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

Issued by the Department of Transportation
on the 8th day of September, 1998

Agreements adopted by the Tariff : Docket OST-98-3874
Coordinating Conferences of the : R-1 through R-4
International Air Transport Association : Docket OST-98-4337
relating to cargo rates :

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 (the Code) and Part 303 of the Department's regulations. The agreements were adopted either at the Composite Cargo Tariff Coordinating Conference, held in Geneva during May 4-8, 1998, or by mail vote.1/

In general, the agreements are a consequence of the introduction in January 1, 1999, of the euro as the currency for countries in the European Economic and Monetary Union (EMU). The existing national currencies will also continue in use during a transition period that is to end July 1, 2002, but their values will be fixed to the euro.2/ During this transition period, prices to consumers in EMU countries may be quoted in either euros or the national currency. To this end, the agreements establish standard procedures to follow when converting and rounding cargo rates, add-on amounts and related charges specified in EMU national currencies into euros for rate quotation and sales purposes.

Additionally, agreement OST-98-3874 proposes numerous changes to existing cargo rate structures throughout the world. Insofar as rates to/from United States points are concerned, it specifies general cargo rates (GCRs) for Guangzhou, China, at levels equal to those in place for Beijing plus the current add-on amounts, and cancels all add-ons for Odense, Denmark, due to the cessation of air services.

We will approve the agreements. Based on the information submitted and other relevant material, we conclude that the agreements, as conditioned below, will not result in rates that are unlawful or injurious to competition in the markets at issue. The rate changes will have little, if any, impact on U.S. carrier revenues. Our approval of the newly specified Guangzhou GCRs, however, will be subject to the conditions that we routinely attach to our approval of IATA cargo rate agreements: that all rates 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 CTC COMP 0099 and 0102, Docket OST-98-3874; and IATA COMP Cargo Mail Vote 951, Docket OST-98-4337. The agreements were filed with the Department on May 28 and August 18, 1998. Corrections to agreement OST-98-3874 were filed on May 28 and July 9, 1998.

2/ The fixed rates of exchange between the various national currencies and the euro are not expected to be announced until sometime in December of 1998.

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 agreements in Dockets OST-98-3874 and OST-98-4337 and 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 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:

Docket	IATA No	Title	Application	R-1
OST-98-3874 033k	Special Cargo	Currency Conversion	1;2;1/2;2/3; 3/1;1/2/3	
R-2	002bb	Special Amending Resolution (Expedited)	1;2;3;1/2;2/3; 3/1;1/2/3	
R-3	015aa	Add-on Amounts (Expedited)	1;2;3;1/2;2/3; 3/1;1/2/3	
R-4	501	Minimum Charges for Cargo (Expedited)	3	
Docket	IATA Resolution		OST-98-4337	
CTC1;2;3;1/2;2/3;3/1;1/2/3	(Mail Vote 951) 033k			

2. These agreements are 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 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 agreements in Dockets OST-98-3874 and OST-98-4337 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 agreements contained in Dockets OST-98-3874 and OST-98-4337, 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)

*An electronic version of this document is available
on the World Wide Web at
<http://dms.dot.gov/dotinfo/general/orders/aviation.html>*