



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

Issued by the Department of Transportation
on the 15th day of January

Served: January 19, 1999

Agreement adopted by the Tariff :
Coordinating Conferences of the : Docket OST-98-4462
International Air Transport Association : R-1 through R-52
relating to TC1 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 (the Code), and Part 303 of the Department's regulations. The agreement was adopted at the TC1 Passenger Tariff Coordination Conference held in Montreal during August 5-14, 1998, and is proposed for effectiveness on January 1, 1999.^{1/}

The agreement is comprised of resolutions grouped into two categories: Areawide and Longhaul. The **Areawide** resolutions revalidate existing, approved resolutions dealing with innovative fares and add-on fare provisions.

^{1/} IATA memoranda PTC1 0086 and 0088.

The **Longhaul** resolutions propose a new fare structure for travel in most TC1 Longhaul markets through December 31, 1999.^{2/} Significant changes involving travel to/from U.S. points are outlined below:

Normal fares: On January 1, 1999, the agreement increases first and intermediate (business) class fares between the U.S. and Bolivia, Colombia, Ecuador, Panama, Peru and Venezuela between five and ten percent. Fares for first and intermediate class travel from Brazil and Chile take lesser increases of four and three percent, respectively, while first and intermediate class fares from Paraguay are established at levels equal to those from Porto Alegre, Brazil, to maintain geographical relationships. In addition, on August 1, 1999, first and intermediate class fares for travel from the U.S. to Argentina, Brazil, Chile, Paraguay and Uruguay increase two percent. In both instances, the percentage increases apply only to the midweek level in those markets where both midweek and weekend levels exist, with the new weekend levels to be set at 110 percent of the new midweek level.

Most unrestricted (Y/Y1) and restricted (Y2) normal economy fares (NEF's) for travel between the U.S. and points in Bolivia, Colombia, Ecuador, Panama, Peru and Venezuela increase five percent on January 1, 1999, except for fares between Miami and Colombia and between Los Angeles and Bolivia/Peru which remain at existing levels.

Promotional (special) fares:

Special fares for travel between the U.S. and Colombia increase two to five percent. Special fares for travel from the U.S. to Bolivia, Ecuador, Panama and Peru increase five percent, except for fares from Los Angeles to Bolivia/Peru which remain unchanged. In addition, midweek special fares to Venezuela increase three percent, with weekend levels set at \$50 above the new midweek levels. Finally, APEX fares from Miami/New York to Lima are set at levels equal to those to Quito.

Structural changes include cancellation of group excursion fares from Brazil; revision of seasonal periods to meet carrier marketing requirements and to align with 1999 holiday periods;

^{2/} However, the agreement excludes fares for travel in Canada/U.S.-Central American markets.

reduction of the minimum stay requirement on excursion fares from Brazil to three days; and a new ticketing requirement on PEX fares from Brazil that mandates ticketing within 72 hours of making reservations.

Children's fares:

The children's discount for normal fares is reduced to 33 percent of the adult fare in all cases where the discount is presently higher, while the discount for circle trip excursion fare travel from Colombia is reduced to 25 percent of the adult fare in line with the discount offered for other special fares. In addition, children's discounts will no longer apply to cancellation, rebooking and rerouting charges on special fares. Finally, unaccompanied children will now pay the full adult fare in all cases.

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

In particular, our approval of the proposed premium and promotional fares is consistent with Department policy as stated in Order 85-3-8, March 4, 1985. We allow carriers wide latitude in establishing 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.^{3/} The agreement proposes normal economy fares in some 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.^{4/} The carriers have not furnished any economic justification in support of the proposed levels. Under these circumstances, we will condition our approval of the agreement 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.

3/ We exercise regulatory control over point-to-point economy fares, generally defined as "unbundled" or "restricted" fares and, in markets where they are unavailable, the "unrestricted" economy fares.

4/ For example, the agreement re-establishes the restricted New York-Bogota normal economy fare at \$618 one way, whereas the current regulatory ceiling is \$415.

Acting under Title 49 of the United States Code, and particularly sections 40101, 40103, 41300 and 41309:

1. We do not find that the following resolutions, which are incorporated in the agreement in Docket OST-98-4462 as indicated 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, wherever 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 submits, 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 differ from 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-98-4462</u>	<u>No</u>		
R-1	001a	TC1 Special Applicability Resolution, Areawide	1
R-2	001g	TC1 Introduction of Innovative Fares (As per Resolution 002 below)	1
R-3	001jj	TC1 Special Enabling Resolution, Add-on Amounts (in USA)	1

<u>Docket</u>	<u>IATA</u>	<u>Title</u>	<u>Application</u>
<u>OST-98-4462</u>	<u>No</u>		
R-4	002	TC1 Revalidating Resolution, Areawide	1
R-5	001aa	TC1 Special Applicability Resolution, Longhaul	1
R-6	001pp	TC1 Escape Resolution, Canada-USA/ Venezuela	1
R-7	002	TC1 Revalidating Resolution, Longhaul	1
R-8	015u	TC1 USA/US Territories Add-on Amounts, Longhaul	1
R-9	015v	TC1 Add-on Amounts (except in USA),	1

Longhaul

R-10	041c	TC1 Intermediate Class Fares, Longhaul	1
R-11	051c	TC1 First Class Fares, Longhaul	1
R-12	061c	TC1 Economy Class Fares, Longhaul (As per Resolution 002 above)	1
R-13	070k	TC1 Circle Trip Excursion Fares from Colombia to USA via Mexico	1
R-14	071d	TC1 Excursion Fares from Bahamas, Canada, Mexico USA to Argentina, Brazil, Chile, Paraguay, Uruguay	1
R-15	071dd	TC1 Excursion Fares between Mexico and Peru	1
R-16	071yy	TC1 Excursion Fares from Caribbean, Central America to Argentina, Brazil, Chile, Paraguay, Uruguay via Miami	1
R-17	072ba	TC1 Excursion Fares between Central America and Ecuador	1
R-18	072h	TC1 Excursion Fares from Brazil to Bahamas, Canada, Mexico, USA	1
R-19	072i	TC1 Excursion Fares from Argentina, Uruguay to Bahamas, Canada, Mexico, USA	1
R-20	072L	TC1 Excursion Fares from Canada, USA to Venezuela	1

<u>Docket</u>	<u>IATA</u>	<u>Title</u>	<u>Application</u>
<u>OST-98-4462</u>	<u>No</u>		
R-21	072oo	TC1 Excursion Fares from Mexico to Venezuela, from Venezuela to Canada, Mexico, USA	1
R-22	072pp	TC1 Excursion Fares within Central America, between Caribbean and Central America, South America, between Central America and South America	1
R-23	072qq	TC1 Excursion Fares between Caribbean, Central America, Puerto Rico and Argentina, Brazil, Chile, Paraguay,	1

Uruguay

R-24	072rr	TC1 Excursion Fares from Canada, Mexico, USA to Bolivia, Colombia, Ecuador, Panama, Peru	1
R-25	072tt	TC1 Excursion Fares from Bolivia, Colombia, Ecuador, Panama, Peru to Canada, Mexico, USA	1
R-26	072uu	TC1 Excursion Fares from Paraguay to Bahamas, Canada, Mexico, USA	1
R-27	072ww	TC1 Excursion Fares from Chile to Bahamas, Canada, Mexico, USA	1
R-28	073t	TC1 APEX Fares from Bolivia, Peru to Canada, USA	1
R-29	074fd	TC1 PEX Fares from Bahamas, Canada, Mexico, USA to Argentina, Brazil, Chile, Paraguay, Uruguay	1
R-30	074nn	TC1 PEX Fares from Argentina, Uruguay to Bahamas, Canada, Mexico, USA	1
R-31	074o	TC1 PEX Fares between Mexico and Venezuela	1
R-32	075ff	TC1 APEX Fares from Canada, USA to Venezuela	1
R-33	075kk	TC1 APEX Fares between Canada, USA and Bolivia, Colombia, Ecuador, Panama, Peru	1
R-34	075L	TC1 APEX Fares from Canada, USA to Bolivia, Ecuador, Peru	1
R-35	075vv	TC1 APEX Fares from Chile to Bahamas, Canada, USA	1

<u>Docket</u>	<u>IATA</u>	<u>Title</u>	<u>Application</u>
OST-98-4462	No		
R-36	075x	TC1 APEX Fares from Venezuela to Canada, USA	1
R-37	076ff	TC1 PEX Fares from Aruba, Netherlands Antilles to Argentina, Uruguay, from Argentina, Chile, Paraguay, Uruguay to Aruba, Netherlands Antilles	1

R-38	076ge	TC1 PEX Fares from Bahamas, Canada, Mexico, USA to Argentina, Brazil, Chile, Paraguay, Uruguay	1
R-39	076hh	TC1 PEX Fares between Caribbean and Venezuela	1
R-40	076mm	TC1 PEX Fares from Venezuela to Canada, USA	1
R-41	076n	TC1 PEX Fares from Canada, USA to Venezuela	1
R-42	076s	TC1 PEX Fares between Caribbean and South America	1
R-43	076vv	TC1 PEX Fares from Paraguay to Bahamas, Canada, Mexico, USA	1
R-44	076yy	TC1 PEX Fares from Brazil to Bahamas, Canada, Mexico, USA	1
R-45	078ff	TC1 PEX Fares between Mexico and Colombia	1
R-46	078vv	TC1 PEX Fares from Chile to Bahamas, Canada, Mexico, USA	1
R-47	084dd	TC1 GIT Fares between Caribbean and Peru	1
R-48	085ss	TC1 GIT Fares between Caribbean and Ecuador, Peru	1
R-49	087h	TC1 Group Excursion Fares between Costa Rica and Colombia	1
R-50	087LL	TC1 Group Excursion Fares between Cuba and Central America, South America	1
R-51	087r	TC1 Group Excursion Fares between Mexico and Ecuador	1
R-52	153a	TC1 Air/Sea Transportation between Canada, USA and 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 Title 49 of the United States 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-98-4462 as set forth in finding paragraph 1 above, subject, wherever applicable, to conditions previously imposed or imposed therein.

ACCORDINGLY,

We approve and grant antitrust immunity to the agreement contained in Docket OST-98-4462, as set forth in finding paragraph one above, subject, where applicable, to conditions previously imposed or imposed therein.

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation
and International Affairs

(SEAL)

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