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Order 99-3-24

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

Action on IATA Agreement
Issued by the Department of Transportation
on the 25th day of March, 1999

Agreement adopted by the Tariff : Docket OST-98-4964
Coordinating Conferences of the Inter- : R-1 through R-63
national Air Transport Association :
relating to TC31 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 (Code) and Part 303 of the Department's regulations. The agreement was adopted at the TC31 Passenger Tariff Coordinating Conference held in Montreal, Canada, October 15-25, 1998, for effect on April 1, 1999. 1/

The agreement is comprised of resolutions for travel between the North and Central Pacific and North America, the Caribbean, Central America and South America. The agreement, discussed in greater detail below, is grouped into five categories: Areawide; North America and Caribbean (with and without Japan); Central and South America; and Circle Pacific.

TC31 Areawide: Selected add-on amounts were increased between the United States and South East Asia and the South Asian Subcontinent to reflect changed local fares, and Canadian add-ons were increased five to seven percent. Baggage allowances based on the piece system were introduced to/from China, while piece system excess baggage rates were introduced between China and the United States.

The fares for children accompanied by a passenger paying the adult

1/ IATA memoranda PTC31 N/C 0075, PTC31 N/C 0076, PTC31 N/C 0077, PTC31 N/C 0079, and PTC31 S/CIRC 0056, filed with the Department January 4, 1999, with technical corrections filed January 6 and 26, and February 8 and 23, 1999.

fare were established at 75% of the applicable adult fare, except from Japan, Korea, and Central America, set at 67% of the adult fare.

Unaccompanied children's fares were set at 100% of the applicable adult fare, except from Japan and Korea for children aged 8-11, set at 67% of the applicable adult fare.

TC3 (Except Japan)-North America, Caribbean: Structural changes included the deletion of round trip normal fares from the South Asian Subcontinent; the establishment of fares to/from Macau at levels equal to Hong Kong, and the introduction of fares to/from Vladivostok constructed via Seoul; and the establishment of shoulder season excursion fares to Korea.

Normal fares were generally increased five percent, with exceptions by country and direction of travel ranging between 2.5 and fifteen percent. Economy fares from the United States to China and from China to the United States and Canada were not increased. Excursion fares were increased between three and five percent from the United States and Canada, with increases to the U.S. and Canada generally related to currency depreciation. Stopover, refund, cancellation, and rebooking charges were also selectively increased to offset currency depreciation.

Japan-North America, Caribbean: First and intermediate class fares were increased two percent westbound and seven percent eastbound. Economy fares were unchanged. Fares were introduced between Hiroshima and Honolulu and Kahului at approximately \$100 over fare levels to/from Tokyo. Selected APEX fares were reduced between ten and twenty percent in both directions.

Intermediate class APEX fares were introduced from Japan to Hawaii, and midweek/weekend GIT fares were added from Japan to the U.S., excluding Hawaii. Seasonal periods were extensively revised from Japan to the U.S. and Canada, reducing the number of seasonal periods to five (seven to Hawaii). With few exceptions, existing differentials were added to Tokyo, San Francisco, and Vancouver to re-establish fares to other points. Transfer provisions were deleted from Companion, Kaisuken, and First Class Senior Citizen Spouse fares from Japan to Hawaii.

TC3-Central and South America: Changes in this area were similar to those between TC3 and North America. Structural changes included the deletion of round trip normal fares from the South Asian Subcontinent, the establishment of fares to/from Macau at levels equal to Hong Kong, the introduction of fares to/from Guangzhou at levels equal to/from Beijing, and the introduction of fares to/from Vladivostok constructed via Seoul.

Normal fares were generally increased five percent, with exceptions by country and direction of travel ranging between status quo and

fifteen percent. Economy fares from Hong Kong and Japan were not increased. Excursion fares were generally increased three percent, with no increase to Japan and Korea, and with larger increases from South East Asia generally related to currency depreciation.

Circle Pacific: Circle Pacific excursion fares were generally increased five percent, except to/from Seoul, where they were increased fifteen percent for first class fares and twenty percent for business and economy class fares. Side trip fares from the United States to Buenos Aires, Lima, Montevideo, Rio de Janeiro, Santiago, and Sao Paulo were deleted, and rebooking and stopover charges were generally increased.

We will 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.

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 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.

Several resolutions containing changes to normal fares and conditions for U.S. points have been submitted to us for approval where there is no direct service in any of the affected U.S. markets. For these markets we will not impose our standard conditions holding the proposed normal economy fares to regulatory ceilings based on the Standard Foreign Fare Level (SFFL). 2/

We do, however, continue our regulatory supervision over direct-service normal economy fares. 3/ The agreement proposes to maintain or increase economy fares that are above the Department's regulatory ceilings as established by the SFFL plus upward fare flexibility. 4/ The carriers have not furnished any economic justifi-

2/ See, for example, Orders 89-4-42, April 18, 1989, and 88-4-5, April 1, 1988.

3/ We generally 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 would maintain the San Francisco-Hong Kong economy fare at \$1,206 one-way, whereas the current regulatory

cation in support of these fare levels. Under these circumstances, we will condition our approval of the agreement to require that 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, provide a comparison of its proposed direct-service normal economy fares against the Department's SFFL ceiling levels.

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

1. We do not find that the resolutions in Docket OST-98-4964, as 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, provided that (a) normal economy fares for U.S.-TC31 direct-service markets filed by each IATA carrier in tariffs with the Department pursuant to these resolutions shall not exceed the regulatory ceilings 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;

2. We do not find that the resolutions in Docket OST-98-4964, as set forth in Attachment B 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 con-

ceiling is \$1,164.

ferences 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-98-4964, as set forth in finding paragraphs 1 and 2 above, subject to the conditions imposed therein.

ACCORDINGLY,

We approve and grant antitrust immunity to the agreement contained in Docket OST-98-4964, set forth in finding paragraphs 1 and 2 above, subject to the conditions imposed therein.

By:

A. BRADLEY MIMS
Acting Assistant Secretary for Aviation
and International Affairs

(SEAL)

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**Resolutions With Direct Application In
Foreign Air Transportation, Docket OST-98-4964**

**PTC31 N/C 0075-- Between TC3 (Except Japan) and North America,
Caribbean**

<u>Reso.</u>	<u>Description</u>	<u>No.</u>
002	Amending Resolution Between TC3 (Except Japan) And North America, Caribbean (New)	R-1
046e	Intermediate Class Fares Between TC3 (Except Japan) And North America, Caribbean (Revalidating and Amending)	R-2
056e	First Class Fares Between TC3 (Except Japan) And North America, Caribbean (Revalidating and Amending)	R-3
066w	Restricted Economy Class Fares Between TC3 (Except Japan) And North America, Caribbean (Revalidating and Amending)	R-4
070pp	Excursion Fares From North America, Caribbean To Korea, South East Asia (Revalidating and Amending)	R-5
070qq	Excursion Fares Between South Asian Subcontinent And North America, Caribbean (Revalidating and Amending)	R-6
071ba	Excursion Fares From Korea To North America, Caribbean (New)	R-7
073p	APEX Fares From Caribbean, Mexico, USA To Korea, South East Asia (Revalidating and Amending)	R-10
073r	One Way APEX Fares From Caribbean, Mexico, USA To Korea, South East Asia (Revalidating and Amending)	R-11
073u	APEX Fares From Korea, South East Asia To North America, Caribbean (Revalidating and Amending)	R-12
073v	One Way APEX Fares From Korea, South East Asia To North America, Caribbean (Revalidating and Amending)	R-13
077p	APEX Fares Between China Excluding Hong Kong SAR And North America, Caribbean (Revalidating and Amending)	R-16
077r	One Way APEX Fares Between China Excluding Hong Kong SAR and North America, Caribbean (Revalidating and Amending)	R-17

084hh Group Inclusive Tour Fares From Korea, South East Asia R-18
To North America, Caribbean (Revalidating and Amending)

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PTC31 N/C 0076-- Between Japan and North America, Caribbean

<u>Reso.</u>	<u>Description</u>	<u>No.</u>
001b 19	Special Effectiveness Resolution (Tie-In) Between Japan And North America, Caribbean (Revalidating and Amending)	R-
002	Revalidating/Amending Resolution Between Japan And North America, Caribbean (New)	R-20
046g	Intermediate Class Fares Between Japan And North America, Caribbean (Revalidating and Amending)	R-21
056g	First Class Fares Between Japan And North America, Caribbean (Revalidating and Amending)	R-22
066q	Economy Class Fares From Japan To North America, Caribbean (Revalidating and Amending)	R-23
066y	Restricted Economy Class Fares From North America, Caribbean To Japan (Revalidating and Amending)	R-24
066z	Restricted Economy Class Fares From Japan To North America, Caribbean (Revalidating and Amending)	R-25
073hh	Intermediate Class APEX Fares From Japan To Hawaii (New)	R-26
074r	PEX Fares From Japan To North America, Caribbean (Revalidating and Amending)	R-27
075rr	APEX Fares From North America, Caribbean To Japan (Revalidating and Amending)	R-28
077e	Super APEX Fares From North America To Japan (New)	R-29
085tt	GIT Fares From Japan To North America, Caribbean (Revalidating and Amending)	R-30
090c	Companion Fares From Japan To Hawaii (Revalidating and Amending)	R-31
090k	Kaisuken Fares From Japan To Hawaii (Revalidating and Amending)	R-32
091m	Intermediate Class Spouse Fares From Japan To North	R-33

America, Caribbean (Revalidating and Amending)

091p	Intermediate Class Spouse Fares From Japan To Hawaii (Revalidating and Amending)	R-34
091z	First Class Senior Citizen Spouse Fares From Japan To Hawaii (Revalidating and Amending)	R-35

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PTC31 N/C 0079-- North and Central Pacific Areawide

<u>Reso.</u>	<u>Description</u>	<u>No.</u>
001oo 53	General Escape Resolution (Revalidating)	R-
002	Revalidating Resolution Areawide (New)	R-54
006p	Conditions Of Service Areawide (Revalidating)	R-55
015b	Add-On Amounts (U.S./U.S. Territories)(Amending)	R-56
301	Baggage Allowance Piece System (Amending)	R-59
311p	Excess Baggage Charges (To/From USA)(Revalidating and Amending)	R-60

PTC31 S/CIRC 0056B Circle Pacific Resolutions

<u>Reso.</u>	<u>Description</u>	<u>No.</u>
002	Revalidating/Amending Resolution (New)	R-62
073c	Circle Pacific APEX Fares (Revalidating and Amending)	R-63

**Resolutions With Indirect Application In
Foreign Air Transportation, Docket OST-98-4964**

PTC31 N/C 0075, TC3 (Except Japan)-North America, Caribbean		
<u>Reso.</u>	<u>Description</u>	<u>No.</u>
071LL	One Way Excursion Fares From Canada To Korea, South East Asia (Revalidating and Amending)	R-8
071zz	Excursion Fares From Canada To Korea, South East Asia (Revalidating and Amending)	R-9
075r	APEX Fares From Canada To Korea, South East Asia (Revalidating and Amending)	R-14
075w	One Way APEX Fares From Canada To Korea, South East Asia (Revalidating and Amending)	R-15

PTC31 N/C 0077, TC3-Central and South America		
<u>Reso.</u>	<u>Description</u>	<u>No.</u>
002	Revalidating/Amending Resolution Between TC3 And Central America, South America (New)	R-36
046f	Intermediate Class Fares Between TC3 And Central America, South America (Revalidating and Amending)	R-37
056f	First Class Fares Between TC3 And Central America, South America (Revalidating and Amending)	R-38
066g	Economy Class Fares From Japan To Central America, South America (Revalidating)	R-39
066i	Economy Class Fares From Central America, South America To Japan (Revalidating and Amending)	R-40
066v	Economy Class Fares From South America To TC3 (Except Japan) (Revalidating and Amending)	R-41
066x	Restricted Economy Class Fares Between TC3 and Central America, South America (Revalidating and Amending)	R-42
070c	Excursion Fares From South America To Japan (Revalidating and Amending)	R-43
070p	Excursion Fares From South Asian Subcontinent To Central America, South America (Revalidating and Amending)	R-44
074ca	PEX Fares From Central America, South America To Korea,	R-45

South East Asia (New)

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PTC31 N/C 0077, TC3-Central and South America (continued)

<u>Reso.</u>	<u>Description</u>	<u>No.</u>
074rr	PEX Fares From Japan To Central America, South America (Revalidating and Amending)	R-46
074u	PEX Fares From Central America, South America To TC3 (Except Japan)(New)	R-47
078cc	PEX Fares From Korea, South East Asia To Central America, South America (Revalidating and Amending)	R-48
078tt	PEX Fares From Central America, South America To Japan (Revalidating and Amending)	R-49
081w	IIT Fares From Japan To Central America, South America (Revalidating and Amending)	R-50
086bb	GIT Fares Between TC3 (Except Japan) And Central America, South America (Revalidating and Amending)	R-51
091s	Intermediate Class Spouse Fares From Japan To Central America, South America (Revalidating)	R-52

PTC31 N/C 0079, North And Central Pacific Areawide

<u>Reso.</u>	<u>Description</u>	<u>No.</u>
015v	Add-On Amounts (Except In USA) Areawide (Amending)	R-57
300	Baggage Allowance Weight System (Amending)	R-58
311w	Excess Baggage Charges (Except To/From USA)(Re-validating and Amending)	R-61