



Order 99-3-28

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

Served: April 2, 1999

**Issued by the Department of Transportation
on the 30th day of March, 1999**

Agreements adopted by the Tariff :
Coordinating Conferences of the Inter- : Docket OST-98-3987
national Air Transport Association : R-1 through R-46
relating to composite cargo resolutions :

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 Composite Cargo Tariff Coordinating Conference in Geneva, Switzerland, May 4-8, 1998. 1/

The agreement is comprised of composite resolutions with worldwide application. General provisions include the consolidation of resolutions covering the same rate types and charges (reducing the number of resolutions from 140 to 97), the introduction of standard procedures for conversion and rounding of the euro, and the adoption of administrative procedures to permit the Secretariat to update the IATA Conference data base to reflect government action. The charge for the preparation of an air waybill, the dangerous goods handling fee, the fee for charges collect, and special rates for valuable cargo were increased from a number of Central American countries, excluding application to the United States.

Rate levels were increased from Tunisia between five and twenty percent (a re-adoption of previously proposed increases that were withdrawn after approval was not received from the government of Tunisia), rates were adopted from India based upon rates currently in effect, and add-on rates to Bergamo were established over Milan. A number of special and general commodity rates were deleted, and general commodity rate weightbreaks were amended to meet market requirements.

1/ IATA memoranda CTC COMP 001 and CTC COMP 0103, filed with the Department June 25, 1998, with supplemental justification filed July 1, July 2, and July 7, 1998, and supplemental justification and technical corrections filed July 9, July 21, August 10, and September 4, 1998.

Section 41309 of the Code directs us to approve any agreement or modification of an agreement if we find that it will not substantially lessen competition, and is not adverse to the public interest or in violation of the Code. For those resolutions with

application to or from the United States, the agreement re-adopts rates we have previously approved, reduces rates from India to Guam (with no changes to other U.S. points), and generally consolidates and standardizes rates and conditions, mostly in markets that are not directly served. 2/

We will approve the agreement, subject to our usual conditions that all agreed rates and charges represent maximums, with carriers free to implement rates and charges below them. We find that, as previously conditioned, the resolutions incorporated in the above docket are not adverse to the public interest, in violation of the Code, or likely to lessen competition substantially, and that they should be approved.

Furthermore, we conclude that the resolutions contained in the agreement should be granted immunity from the operation of the antitrust laws to the extent necessary to permit their implementation. In general, they amend existing rates already approved and immunized by the Department. As a result, none raise immunity issues not previously considered, and the conferral of immunity upon them is consistent with our policy of conferring immunity on amendments coextensively with the underlying agreements.

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

1. We do not find that the resolutions 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, or likely to lessen competition substantially; provided that (a) notwithstanding any provisions of these resolutions or any other resolutions, all rates and charges to or 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;

2. We do not find that the resolutions 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

2/ We reaffirm our previous condition that any carrier may establish through rates based on a combination of local rates over U.S. points (Order 86-9-88.)

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. Anti-

trust 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 agreement in Docket OST-98-3987, as set forth in finding paragraphs 1 and 2 above, subject to conditions previously imposed.

ACCORDINGLY,

We approve and grant antitrust immunity to the agreements contained in **Docket OST-98-3987**, as set forth in finding paragraphs 1 and 2 above, subject 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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Resolutions With Direct Application In Foreign
Air Transportation, Docket OST-986-3987

1. **CTC COMP 0100, Composite Cargo Resolutions**

<u>No.</u>	<u>Designation</u>	<u>Title</u>	<u>Expiry</u>
R-1	CTC1(44)006aa CTC2(54)006aa CTC3(44)006aa CTC12(65)006aa CTC23(54)006aa CTC31(48)006aa CTC123(58)006aa	Special Administrative Resolution (New)	Indefinite
R-2	CTC1(44)012a CTC2(54)012a CTC3(44)012a CTC12(65)012a CTC23(54)012a CTC31(48)012a CTC123(58)012a	Countries, Currencies, Codes Administrative Resolution	Indefinite
R-3	CTC2(54)015aa CTC12(65)015aa CTC23(54)015aa CTC123(58)015aa	Add-On Amounts (Amending)	Indefinite
R-4	CTC1(44)033d CTC2(54)033d CTC3(44)033d CTC12(65)033d CTC23(54)033d CTC31(48)033d CTC123(58)033d	Currency Names, Codes, Rounding Off Units, And Acceptability Of Currencies (Amending)	Indefinite
R-5	CTC1(44)116bb CTC2(54)116bb CTC3(44)116bb CTC12(65)116bb CTC23(54)116bb CTC31(48)116bb CTC123(58)116bb	Special Enabling Resolution (Revalidating)	Indefinite
R-7	CTC1(44)512c CTC2(54)512c CTC3(44)512c CTC12(65)512c CTC23(54)512c CTC31(48)512c CTC123(58)512c	Charge For Preparation Of Air Waybill (Amending)	Indefinite

1. **CTC COMP 0100, Composite Cargo Resolutions** (continued)

<u>No.</u>	<u>Designation</u>	<u>Title</u>	<u>Expiry</u>
R-9	CTC1(44)519 CTC2(54)519 CTC12(65)519 CTC23(54)519 CTC31(48)519 CTC123(58)519	Fee For Charges Collect (Amending)	Indefinite

2. **CTC COMP 0103, Worldwide Area Resolutions**

<u>No.</u>	<u>Designation</u>	<u>Title</u>	<u>Expiry</u>
R-13	CTC1(44)002 CTC2(54)002 CTC3(44)002 CTC12(65)002 CTC23(54)002 CTC31(48)002 CTC123(58)002	Standard Amending Resolution (New)	9/30/00
R-14	CTC1(44)015aa CTC2(54)015aa CTC3(44)015aa CTC12(65)015aa CTC23(54)015aa CTC31(48)015aa CTC123(58)015aa	Add-On Amounts (Amending)	Indefinite
R-15	CTC1(44)501 CTC2(54)501 CTC3(44)501 CTC12(65)501 CTC23(54)501 CTC31(48)501 CTC123(58)501	Minimum Charges For Cargo (Amending)	Indefinite
R-16	CTC1(44)530 CTC2(54)530 CTC3(44)530 CTC12(65)530 CTC23(54)530 CTC31(48)530 CTC123(58)530	Rates And/Or Charges For Unitized Consignments (New)	9/30/00
R-17	CTC1(44)550 CTC2(54)550 CTC3(44)550 CTC12(65)550 CTC23(54)550	General Commodity Rates (New)	9/30/00

CTC31(48)550
CTC123(58)550

Attachment A
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2. **CTC COMP 0103, Worldwide Area Resolutions** (continued)

<u>No.</u>	<u>Designation</u>	<u>Title</u>	<u>Expiry</u>
R-18	CTC1(44)590 CTC2(54)550 CTC3(44)550 CTC12(65)550 CTC23(54)550 CTC31(48)550 CTC123(58)550	Specific Commodity Rates (New)	9/30/00
R-19	CTC1(44)002	TC1 Standard Revalidating Resolu- Tien (New)	9/30/00
R-20	CTC1(44)501bb	International Priority Service Be- tween Canada, USA And South America (Revalidating)	9/30/00
R-21	CTC1(44)517a	Charges For Shipper Owned Non- Aircraft Containers (Revalidating)	9/30/00
R-34	CTC31(48)002 CTC123(58)002	TC31/123 Standard Revalidating Reso- lution (New)	9/30/00
R-35	CTC31(48)501a CTC123(58)501a	Small Package Service Japan-Canada/ Mexico/USA (Revalidating)	9/30/00
R-37	CTC31(48)501b CTC123(58)501b	International Priority Service (Revalidating)	9/30/00
R-38	CTC31(48)501e CTC123(58)501e	International Express Service Be- tween Japan And Canada/USA (Revali- dating)	9/30/00
R-39	CTC31(48)508a CTC123(58)508a	Charges For Animal Unit Load Devices (Revalidating)	9/30/00
R-42	CTC31(48)517h CTC123(58)517h	Charges For Shipper Owned Non- Aircraft Containers USA-Japan (Revalidating)	9/30/00
R-43	CTC31(48)536c CTC123(58)536c	Unitization Discount For Carrier Owned Unit Load Devices From Canada/ USA To Japan (Revalidating)	9/30/00
R-44	CTC31(48)536d CTC123(58)536d	Unitization Discount For Carrier Owned Unit Load Devices South East	9/30/00

Asia To USA (Revalidating)

R-45	CTC31(48)593	Carriage of Automotive Vehicles	9/30/00
	CTC123(58)593	(Revalidating)	
R-46	CTC31(48)501c	International Priority Service USA-	9/30/00
	CTC123(58)501c	Australia (Revalidating)	

Resolutions With Indirect Application In Foreign Air
Transportation, Docket OST-98-3987

1. **CTC COMP 0100, Composite Cargo Resolutions**

<u>No.</u>	<u>Designation</u>	<u>Title</u>	<u>Expiry</u>
R-6	CTC1(44)511	Rates For Live Animals (Except To/From USA/US Territories)(Amending)	Indefinite
R-8	CTC1(44)518 CTC3(44)518 CTC12(65)518 CTC23(54)518 CTC31(48)518 CTC123(58)518	Dangerous Goods Handling Fee (Except To/From USA/US Territories) (Amending)	Indefinite
R-10	CTC1(44)595	Special Rates For Valuable Cargo (Except USA/US Terr.)(Amending)	Indefinite
R-11	CTC1(44)597	Carriage Of Human Remains (Except To/From USA/US Territories) (Amending)	Indefinite
R-12	CTC3(44)598	Baggage Shipped As Cargo (Except To/From USA/U.S. Territories) (Amending)	Indefinite

2. **CTC COMP 0103, Worldwide Area Resolutions**

R-22	CTC2(54)002	TC2 Standard Revalidating Resolution (New)	9/30/00
R-23	CTC2(54)116yy	Europe To Middle East Rates (Revalidating)	9/30/00
R-24	CTC2(54)500	Special Rates System Resolution Within Europe Except Between EC Member States, Switzerland (Revalidating)	9/30/00
R-25	CTC2(54)500e	Special Rates System Resolution Between EC Member States, Switzerland (Revalidating)	9/30/00
R-26	CTC2(54)500ee	Special Rates System Resolution Between EC Member States, Switzerland (Revalidating)	9/30/00
R-27	CTC3(44)002	TC3 Standard Revalidating Resolution (New)	9/30/00
R-28	CTC3(44)501f	International Priority Service (Except To/From South Asian Subcontin-	9/30/00

ent, US Territories)(Revalidating)

2. **CTC COMP 0103, Worldwide Area Resolutions** (continued)

<u>No.</u>	<u>Designation</u>	<u>Title</u>	<u>Expiry</u>
R-29	CTC3(44)593	Carriage of Automotive Vehicles From Japan To South West Pacific (Revalidating)	9/30/00
R-30	CTC23(54)002 CTC123(58)002	TC23/123 Standard Revalidating Resolution (New)	9/30/00
R-31	CTC23(54)501d CTC123(54)501d	International Priority Service Be- tween Europe and TC3 (Except To/From Greece, Italy, Switzerland, South Asian Subcontinent, US Territories) (Revalidating)	9/30/00
R-32	CTC23(54)508aa CTC123(54)508aa	Charges For Animal Unit Load Devices From Japan/Korea To Europe (Revali- dating)	9/30/00
R-33	CTC23(54)593 CTC123(54)593	Carriage of Automotive Vehicles From Japan To Europe (Revalidating)	9/30/00
R-36	CTC31(48)501aa CTC123(58)501aa	Small Package Service South East Asia-Canada (Revalidating)	9/30/00
R-40	CTC31(48)516b CTC123(58)516b	Unitization Incentive From Canada to South East Asia (Revalidating)	9/30/00
R-41	CTC31(48)516c CTC123(58)516c	Unitization Incentive From Singapore to Canada (Revalidating)	9/30/00