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Order 2000-1-2



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

Served: January 6, 2000

Issued by the Department of Transportation  
on the 3rd day of January, 2000

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Agreement adopted by the Tariff :
Coordinating Conferences of the : Docket OST-99-6234-2
International Air Transport Association : R-1 through R-52
relating to TC1 passenger fares :
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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 July 26-August 3, 1999, and is proposed for effectiveness on January 1, 2000.1/

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.

The **Longhaul** resolutions propose a new fare structure for travel in most TC1 Longhaul markets through December 31, 2000.2/ Significant changes involving travel to/from U.S. points are outlined below:

Normal fares: On January 1, 2000, the agreement increases normal (first, intermediate [business] and economy) class fares from the U.S. to most destinations in South America between one and five percent, depending upon market and class of service, with minor exceptions needed to correct fare anomalies. On June 1, 2000, normal fares to Colombia increase two percent, while intermediate class fares to Argentina, Paraguay and Uruguay increase three percent. Most normal fares from South America increase between two and six percent, with certain market-specific exceptions of up to twelve percent, while normal economy **fares** from Argentina and Uruguay remain **at** existing levels. In addition, the agreement adjusts fares in certain markets to correct geographical anomalies. In all instances, the percentage increases apply only

1/ IATA memoranda PTC1 0118 and 0120, filed with the Department on September 17, 1999.

2/ However, the agreement excludes fares for travel in Canada/U.S.-Central American markets and between Canada and U.S. points in the Caribbean.

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.

Promotional (special) fares: Except as noted below, special fares for travel between the U.S. and South America are unchanged. U.S.-Peru/Venezuela special fares, however, increase by \$50 in the basic season and \$100 in the peak season, while U.S.-Chile special fares increase by \$50. In addition, U.S.- Colombia excursion and APEX fares generally increase three percent, although there are exceptions where these fares remain unchanged or take higher increases. Finally, the agreement realigns Colombia-New York special fares to correct certain irregularities, and introduces new midweek/weekend special fares for travel from Peru with the weekend fares set at levels \$50 above the midweek levels.

Structural changes include standardization of the weekend period for special fares at Friday, Saturday and Sunday in both directions, with the weekend period for first and intermediate class fares changed to Friday, Saturday and Sunday, southbound, and Thursday, Friday, Saturday and Sunday, northbound; revision of seasonal periods to meet carrier marketing requirements and to align with 2000 holiday periods; increase of the maximum stay requirement on excursion fares from Chile to three months; and other minor editorial changes needed to standardize the resolutions.

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.<sup>3/</sup> 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.&/ The carriers have not furnished any economic justification in support of the proposed

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<sup>3/</sup> 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.

<sup>4/</sup> For example, the agreement establishes the restricted New York-Bogota normal economy fare at \$673 one way, whereas the current regulatory ceiling is \$414.

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.

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-99-6234 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 or otherwise implemented 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 any required 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>
OST-99-6234	No		
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) (As per Resolution 002 below)	1
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	012	TC1 Glossary of Terms, Longhaul	1
R-9	015v	TC1 Add-on Amounts (except in USA), Longhaul	1

<u>Docket</u>	<u>IATA</u>	<u>Title</u>	<u>Application</u>
OST-99-6234	No		
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 (As per Resolution 002 above)	1
R-16	071yy	TC1 Excursion Fares from Central America, Dominican Republic, Puerto Rico to Argentina, Brazil, Chile, Paraguay, Uruguay via Miami	1
R-17	072ba	TC1 Excursion Fares between Central America and Ecuador (As per Resolution 002 above)	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
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 (As per Resolution 002 above)	1
R-23	072qq	TC1 Excursion Fares between Caribbean, Central America, Puerto Rico and Argentina, Brazil, Chile, Paraguay, Uruguay	1

<u>Docket</u>	<u>IATA</u>	<u>Title</u>	<u>Application</u>
<u>OST-99-6234</u>	<u>No</u>		
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 (As per Resolution 002 above)	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
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 (As per Resolution 002 above)	1
R-38	076ge	TC1 PEX Fares from Bahamas, Canada, Mexico, USA to Argentina, Brazil, Chile, Paraguay, Uruguay	1

Docket	IATA		Title	Application
OST-99-6234	No			
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, Puerto Rico 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 (As per Resolution 002 above)	1
R-48	085ss	TC1 GIT	Fares between Caribbean and Ecuador, Peru (As per Resolution 002 above)	1
R-49	087h	TC1	Group Excursion Fares between Costa Rica and Colombia (As per Resolution 002 above)	1
R-50	087LL	TC1	Group Excursion Fares between Cuba and Central America, South America (As per Resolution 002 above)	1
R-51	087r	TC1	Group Excursion Fares between Mexico and Ecuador (As per Resolution 002 above)	1
R-52	153a	TC1	Air/Sea Transportation between Canada, USA and South America (As per Resolution 002 above)	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-99-6234 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-99-6234, as set forth in finding paragraph one above, subject, where applicable, to conditions previously imposed or imposed therein.

By:

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

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