

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

Order 97-1-3
Served 1/14/97

Action on IATA Agreements
Issued by the Department of Transportation
on the 8th day of January, 1997

Agreements adopted by the Tariff :
Coordinating Conferences of the : Docket OST-96-1729
International Air Transport Association : R-1 through R-63
relating to TC1 passenger fares : Docket OST-96-1907

R-1 through R-9

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 at either a TC1 Passenger Tariff Coordination Conference held in Montreal during August 7-17, or by mail vote. The agreements are proposed for effectiveness on January 1, 1997.^{1/}

The agreements are 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. They also amend rules governing the construction of passenger fares by eliminating application of the one-way backhaul rule on journeys within the Western Hemisphere.

Insofar as travel to/from U.S. points is concerned, the **Longhaul** resolutions generally increase normal first and intermediate (business) class fares by four percent with some exceptions, most notably in Venezuela markets where southbound and northbound levels for these types of fares increase 22 and 14 percent, respectively. Restricted and unrestricted normal economy fares, however, remain at existing levels, except for those from Venezuela which increase three percent. In addition, the normal economy fare from La Paz to Los Angeles decreases by \$80 with first class fares from La Paz to other U.S. points taking similar

^{1/} IATA memorandum PTC1 0003, Docket OST-96-1729; and IATA TC1 Telex Mail Vote 832, Docket OST-96-1907.

reductions so as to bring them into line with levels being applied in the market. Finally, normal-fare structural changes include introduction of midweek and weekend levels for first and business class travel in selected markets. The new first class midweek levels are set a five percent above current levels while midweek business class are set at current levels. Levels for weekend travel are set at five percent above the new midweek levels for both normal fare types.

The agreements also completely restructure promotional fares for travel between the U.S and Argentina, Brazil, Chile, Paraguay and Uruguay in order to reflect current market needs. Producing reductions from existing levels that vary depending upon fare type and specific market affected, the new structure for southbound travel consists of a low APEX-type fare with a less restrictive APEX fare available for \$100 more and an even less restrictive excursion fare available for another \$150-200. The new structure for northbound travel consists of a PEX-type fare (APEX from Chile) with a less restrictive excursion fare available for an additional \$200. ^{2/} Promotional fares between the U.S. and various other Longhaul destinations are aligned with the new structure as necessary. Finally, the agreements revise a number of conditions governing the use of promotional fares, most notably minimum/maximum stay requirements and seasonal definitions, to reflect market conditions and carrier needs.

We have decided to approve the agreements, subject to conditions. Based on our review of the information submitted and other relevant material, we conclude that the agreements, 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

^{2/} The agreements adopt different levels for midweek and weekend promotional fare travel between the U.S. and Argentina, Brazil, Paraguay and Uruguay and from the U.S to Chile.

^{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.

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.

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 agreements in Dockets OST-96-1729 and OST-96-1907 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>OST-96-1729</u>	<u>No</u>		
<u>Application</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) (As per Resolution 002 below)	1

^{4/} For example, the agreement re-establishes the New York-Montevideo normal economy fare at \$913 one way, whereas the current regulatory ceiling is \$782.

R-4	002	TC1 Revalidating Resolution, Areawide	1
R-5	014a	TC1 Construction Rules for Passenger Fares, Areawide	1
R-6	017c	TC1 Construction Rules for Fare Components, Areawide	1
R-7	001aa	TC1 Special Applicability Resolution, Longhaul	1
R-8	001pp	TC1 Escape Resolution, Canada/USA-Venezuela (As per Resolution 002 below)	1
R-9	002	TC1 Revalidating/Amending Resolution, Longhaul	1
R-10	015u	TC1 USA Add-on Amounts, Longhaul	1
R-11	015v	TC1 Add-on Amounts (except in USA), Longhaul	1

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OST-96-1729
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	IATA No	Title	
R-12	041c	TC1 Intermediate Class Fares, Longhaul	1
R-13	051c	TC1 First Class Fares, Longhaul	1
R-14	061c	TC1 Economy Class Fares, Longhaul	1
R-15	070k	TC1 Circle Trip Excursion Fares from Colombia to USA via Mexico	1
R-16	071d	TC1 Excursion Fares from Canada, USA to Argentina, Brazil, Chile, Paraguay, Uruguay	1
R-17	071dd	TC1 Excursion Fares between Mexico and Peru	1
R-18	071rr	TC1 Excursion Fares between Colombia and Dominican Republic	1

R-19	071yy	TC1 Excursion Fares from Caribbean, Central America to Argentina, Brazil, Chile, Paraguay, Uruguay via Miami	1
R-20	072h	TC1 Excursion Fares from Brazil to Canada, USA	1
R-21	072i	TC1 Excursion Fares from Argentina, Uruguay to Canada, Mexico, USA	1
R-22	072L	TC1 Excursion Fares from Canada, USA to Venezuela	1
R-23	071oo	TC1 Excursion Fares between Canada, Mexico, USA and Venezuela	1
R-24	072pp	TC1 Excursion Fares within Central America, between Caribbean and Central America, South America, between Central America and South America	1
R-25	072qq	TC1 Excursion Fares between Caribbean, Central America, Mexico, Puerto Rico, and Argentina, Brazil, Chile, Paraguay, Uruguay	1
R-26	072rr	TC1 Excursion Fares from Canada, Mexico, USA to Bolivia, Colombia, Ecuador, Panama, Peru	1

Docket	IATA	Title
<u>OST-96-1729</u>	<u>No</u>	<u>_____</u>
<u>Application</u>		
1	R-27	072tt TC1 Excursion Fares from Bolivia, Colombia, Ecuador, Panama, Peru to Canada, Mexico, USA
1	R-28	072uu TC1 Excursion Fares from Paraguay

to Canada, USA

1 R-29 072ww TC1 Excursion Fares from Chile
to Canada, USA

1 R-30 073ee TC1 APEX Fares from Canada to Bolivia,
Peru

1 R-31 073h TC1 APEX Fares from Mexico to
Argentina, Brazil, Paraguay, Uruguay

1 R-32 073kk TC1 APEX Fares from Canada, USA
to Peru

1 R-33 073t TC1 APEX Fares from Bolivia, Peru to
Canada, USA

1 R-34 074n TC1 PEX Fares from Argentina, Uruguay
to Canada, Mexico, USA

1 R-35 074o TC1 PEX Fares between Mexico and
Venezuela

1 R-36 075cc TC1 APEX Fares from Canada to Venezuela

1 R-37 075ff TC1 APEX Fares from USA to Venezuela

1 R-38 075kk TC1 APEX Fares between Canada, USA
and Bolivia, Colombia, Ecuador, Panama,
Peru

1 R-39 075L TC1 APEX Fares from USA to Bolivia,
Ecuador, Peru

1 R-40 075t TC1 APEX Fares from Canada, USA to
Argentina, Brazil, Chile, Paraguay,
Uruguay

1 R-41 075vv TC1 APEX Fares from Chile to Canada,
USA

1 R-42 076ff TC1 PEX Fares between Argentina,

Uruguay and Aruba, Netherlands
Antilles

<u>Docket</u> <u>OST-96-1729</u> <u>Application</u>	<u>IATA</u> <u>No</u>	<u>Title</u>
1 R-43	076hh	TC1 PEX Fares between Venezuela and Caribbean
1 R-44	076mm	TC1 PEX Fares from Venezuela to Canada, USA (As per Resolution 002 above)
1 R-45	076s	TC1 PEX Fares between Caribbean and South America
1 R-46	076vv	TC1 PEX Fares from Paraguay to Canada, Mexico, USA
1 R-47	076yy	TC1 PEX Fares from Brazil to Canada, USA
1 R-48	077rr	TC1 APEX Fares from Canada, USA to Argentina, Brazil, Chile, Paraguay, Uruguay
1 R-49	076ff	TC1 PEX Fares between Colombia and Mexico
1 R-50	078vv	TC1 APEX Fares from Chile to Canada, USA
1 R-51	080gg	TC1 IIT Fares from Mexico to Argentina, Chile, Brazil, Uruguay
1 R-52	080h	TC1 IIT Fares from USA to Bolivia, Ecuador, Peru
1 R-53	080hh	TC1 IIT Fares from Canada to Venezuela

1 R-54 084dd TC1 GIT Fares between Caribbean and
Peru

1 R-55 085ss TC1 GIT Fares between Caribbean and
Ecuador, Peru

1 R-56 087h TC1 Group Excursion Fares between
Central America and Colombia

1 R-57 087hh TC1 Group Excursion Fares from
Ecuador to USA

1 R-58 087i TC1 Group Excursion Fares from Brazil
to Canada, USA

1 R-59 087LL TC1 Group Excursion Fares between Cuba
and Central America, South America

Docket IATA
OST-96-1729 No Title
Application

1 R-60 087r TC1 Group Excursion Fares between
Ecuador and Mexico

1 R-61 087ss TC1 Group Excursion Fares between
Ecuador and Costa Rica, from Ecuador
to Dominican Republic

1 R-62 096aa TC1 Contract Bulk GIT Fares from
Canada to Venezuela

1 R-63 153a TC1 Air/Sea Transportation between
Canada, USA and South America

Docket
OST-96-1907 Title

R-1 PTC1 (Mail 832) 076vv

R-2 PTC1 (Mail 832) 072uu

R-3	PTC1 (Mail 832) 076yy
R-4	PTC1 (Mail 832) 072h
R-5	PTC1 (Mail 832) 087i
R-6	PTC1 (Mail 832) 077rr
R-7	PTC1 (Mail 832) 075t
R-8	PTC1 (Mail 832) 071d
R-9	PTC1 (Mail 832) 072qq

2. These agreements are products 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 agreements in Dockets OST-96-1729 and OST-96-1907 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 agreements contained in Dockets OST-96-1729 and OST-96-1907, 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)