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Order 99-4-12



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

Served: April 15, 1999

Action on IATA Agreement
Issued by the Department of Transportation
on the 13th day of April, 1999

Agreements adopted by the Tariff :
Coordinating Conferences of the Inter- : Docket OST-98-4585
national Air Transport Association : R-1 through R-37
relating to North Atlantic-Middle East :
passenger fares and conditions :

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 PTC12 Passenger Tariff Coordinating Conference held in Montreal, Canada, September 16-18, 1998, for effectiveness April 1, 1999. 1/

The agreement is comprised of resolutions affecting travel between North America and the Middle East, except to/from Iraq, which is excluded from the agreements. Significant changes to fare structure, conditions of travel, and fare level are discussed separately below. **Fare Structure:** Selected shoulder season excursion fares were introduced from the Middle East at the average of the high and basic season fares; one-way youth fares were introduced from Cairo to selected points in the U.S. and Canada; and fares between Amman and New York were established at levels to/from Cairo, with fares between Amman and Chicago established at New York levels plus applicable add-ons (with the exception of New York and Chicago restricted economy class fares, established at levels via Beirut). Fares were introduced between Washington and Dhahran, Jeddah, Madinah, and Riyadh at levels to/from New York plus applicable add-ons. Fares were deleted between Toronto and Tel Aviv, and re-established between Montreal and Tel Aviv. Children's fares were generally set at 75% of the applicable adult fare, while fares for unaccompanied children were estab-

1/ IATA memoranda PTC12 NMS-ME 0065 and PTC12 NMS-ME 0066, filed with the Department October 14, 1998, with a technical correction filed January 6, 1999.

lished at 100% of the adult fare, except from Egypt and Saudi Arabia, set at 67% of the adult fare.

Conditions of Travel: Seasonal periods were adjusted for virtually all excursion fares, and various minor editorial changes were made to several resolutions.

Fare Levels: Normal fares between the Middle East and North America were generally increased between two and five percent, depending on market and direction. Fares from North America to Israel were increased an additional three or four percent, effect October 17, 1999. Excursion fares from the Middle East were generally increased five percent, except no change from Saudi Arabia. Excursion fares to the Middle East were increased between three and five percent, with a two percent increase to Saudi Arabia. Add-ons for points in Canada were increased five percent. Refund, rebooking, and rerouting charges from the Middle East were generally increased to reflect currency depreciation. PTA charges issued in Canada or the U.S. for transportation from Israel were increased to CAD100/USD50 (from CAD46/USD35) to reflect increased costs and reduce the differential between domestic and international PTA charges.

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. 2/

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). 3/

2/ Approval does not affect the restrictions regarding the sale in the U.S. of transportation by air with a stop in Libya (Order 86-2-23), or of any transportation by air on Syrian Arab Airlines (Order 86-11-30).

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

We do, however, continue our regulatory supervision over direct-service normal economy fares. 4/ The agreements propose to increase economy fares that are above the Department's regulatory ceilings as established by the SFFL plus upward fare flexibility. 5/ The carriers have not furnished any economic justification in support of these fare levels. Under these circumstances, we will condition our approval of the agreements 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 agreements, shall 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-98-4585, as set forth in the Attachment 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.- TC2 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-98-4585, 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. These agreements are 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 anti-competitive agreement is approved in order to attain other objectives, such conferral is mandatory under 49 U.S.C. 41308.

4/ 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.

5/ For example, the agreement in Docket OST-98-4585 would increase the Washington-Dhahran economy fare to \$1,737, whereas the current regulatory ceiling is \$1,143.

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-98-4585, as set forth in finding paragraphs 1 and 2 above, subject to the conditions imposed therein.

ACCORDINGLY,

1. We approve and grant antitrust immunity to the agreement contained in Docket OST-98-4585, as set forth in finding paragraphs 1 and 2, above, subject to the conditions imposed therein and to previous conditions imposed.

By:

A. BRADLEY MIMS

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**Resolutions With Direct
Application In
Foreign Air
Transportation, Docket OST-98-4585**

**PTC12 NMS/ME 0065-- North
Atlantic-Middle East**

<u>Reso.</u>	<u>Description</u>
	<u>No.</u> 001a
Special Applicability Resolution (New)	R-1
001e	Special Provisions For Fare Agreements USA-Middle R- 2 East (Revalidating)
002	Standard Revalidating/Amending Resolution, North R-4 Atlantic-Middle East (New)
044b	Intermediate Class Fares (Revalidating and Amending) R-6
054b	First Class Fares (Revalidating and Amending) R-7
064b	Economy Class Fares (Revalidating and Amending) R-8
070g	Excursion Fares Between USA And Saudi Arabia (Revali- R-9 dating and Amending)
070mm	Excursion Fares Between Canada, Mexico, USA And R- 10 Middle East (Revalidating and Amending)

073m APEX Fares From Canada,
USA To Middle East, From R-
12
Middle East To USA
(Revalidating and Amending)

084mm GIT Fares Between Mexico,
USA And Middle East R-14
(Revalidating and
Amending)

090p HAJJ Fares From Canada,
Mexico, USA To Saudi Arabia R-
15
(Revalidating and
Amending)

091hh Family Fares From Kuwait,
Saudi Arabia To USA R-16
(Revalidating and
Amending)

092mm Youth Fares Between
Canada, Mexico, USA And Middle
R-17
East (Revalidating and
Amending)

Attachment A

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**Resolutions With Direct
Application In
Foreign Air
Transportation, Docket OST-98-4585**

**PTC12 NMS/ME 0066-- North
Atlantic-Israel**

Reso.

	<u>Description</u>
	<u>No.</u> 001z
	Special Provisions For Fare Agreements Between R-19 Canada, USA And Israel (Revalidating)
002	North Atlantic-Israel Revalidating/Amending Reso- R-20 lution (New)
044L	Intermediate Class Fares Between Canada, Mexico, R-22 USA And Israel (Revalidating and Amending)
054L	First Class Fares Between Canada, Mexico, USA And R-23 Israel (Revalidating and Amending)
064L	Economy Class Fares Between Canada, Mexico, USA And R-24 Israel (Revalidating and Amending)
064y	Special Economy Class Fares Between USA And Israel R-25 (Revalidating and Amending)
071n	Excursion Fares Between Canada, USA And Israel R- 27 (Revalidating and

Amending)

073s APEX Fares Between USA And
Israel (Revalidating and R-29
Amending)

075p Special APEX Fares From
USA To Israel (Revalidating R-
31
and Amending)

087ff Non-Affinity Group Fares
From Israel To Canada, USA R-33
(Revalidating and
Amending)

092o Youth Fares Between
Canada, USA And Israel; Student
R-35
Fares From Israel To USA
(Revalidating and Amending)

210a Charge For PTA Services
Between Canada, USA And R-
36
Israel (Revalidating and
Amending)

Attachment B

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**Resolutions With Indirect
Application In
Foreign Air Transportation,
Docket OST-98-4585**

**PTC12 NMS/ME 0065, North Atlantic-
Middle East**

<u>Reso.</u>	<u>Description</u>
	<u>No.</u>
001hh Resolution, Canada, Mexico- R-3	Special Applicability Middle East (Revalidating)
015v Add-On Amounts (Except in USA)(Amending)	R-5
070rr Canada And Cyprus, Egypt, 11	R-11 Jordan, Lebanon, Syria (Revalidating and Amending)
076u Cyprus, Egypt, Jordan, 13	R-13 Lebanon, Syria (Revalidating and Amending)
311j Between Canada And Middle East R-18	Excess Baggage Charges (Revalidating and Amending)

**PTC12 NMS/ME 0066, North Atlantic-
Israel**

<u>Reso.</u>	<u>Description</u>
	<u>No.</u>

