



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

Issued by the Department of Transportation  
on the 28<sup>th</sup> day of September, 1999

-----: Served: October 1, 1999  
Agreement Adopted by the Tariff :  
Coordinating Conferences of the : Docket OST-99-6148  
International Air Transport Association : R-1 through R-9  
relating to TC1 Longhaul Fares :  
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**ORDER**

Various members of the International Air Transport Association (IATA) have filed agreements 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 TC1 Passenger Tariff Coordinating Conference held in Montreal, July 26-August 3, 1999, for effectiveness October 1, 1999. 1/

The agreement is comprised of resolutions within Area 1, generally between North America/Caribbean markets and South America. The agreement increases most normal fares (first, business, and economy class fares) between three and ten percent, with weekend business and first class fares established at a ten percent premium over weekday levels. Specified normal fares from Atlanta to Brazil are generally common-rated with fares from New York; fares from Brazil to Toronto and Montreal are established at New York levels, with fares to Vancouver five percent higher for first class fares and four percent higher for business class fares.

Other changes include the amendment of selected excursion fares from Brazil to the Caribbean and Central America to reflect government disapproval of Mail Vote 974; the amendment of add-on amounts in Cuba; and changes to seasonal periods in selected excursion fares to reflect a changed Carnival season in the year 2000. 2/

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 will not result in fares that are unlawful or injurious to competition in the markets at issue.

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1/ IATA memorandum PTC1 0116, filed with the Department August 18, 1999.

2/ The controlling resolution for add-ons (015v) excludes application to or from the U.S. Travel between the U.S. and Cuba is subject to Presidential Proclamation 3447, February 3, 1962, which declared an embargo on all trade with Cuba.

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 the affected U.S. markets. For these markets we will not impose our standard condition holding the proposed normal economy fares to regulatory ceilings based on the Standard Foreign Fare Level (SFFL). 3/

We do, however, continue our regulatory supervision over direct-service normal economy fares. 4/ The agreement proposes 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 proposed 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 set forth in the Attachment to this order, and which have direct application in foreign air

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

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 would increase the Houston-Caracas economy fare to \$635 one-way, whereas the current regulatory ceiling is \$361.

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.-TCl direct-service markets filed by each IATA carrier in tariffs filed 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 following resolution, which has indirect application in foreign air transportation as defined by the Code, is adverse to the public interest or in violation of the Code:

<u>IATA Reso.</u>	<u>Title</u>
015v (R-2)	Add-On Amounts (Except in USA) Longhaul

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 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-99-6148, as set forth in finding paragraph 1 above, subject to the conditions imposed therein.

ACCORDINGLY,

We approve and grant antitrust immunity to the agreement contained in **Docket OST-99-6148**, as 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-99-6148  
TCl Longhaul

<u>Reso.</u>	<u>Description</u>	<u>No.</u>
002I	Special Amending Resolution (New)	R-1
071d	Excursion Fares From Bahamas, Canada, Mexico, USA To Argentina, Brazil, Chile, Paraguay, Uruguay (Amending)	R-3
074fd	PEX Fares From Bahamas, Canada, Mexico, USA To Argentina, Brazil, Chile, Paraguay, Uruguay (Amending)	R-4
076ge	PEX Fares From Bahamas, Canada, Mexico, USA To Argentina, Brazil, Chile, Paraguay, Uruguay (Amending)	R-5
072qq	Excursion Fares Between Caribbean, Central America, Puerto Rico, And Argentina, Brazil, Chile, Paraguay, Uruguay (Amending)	R-6
041c	Intermediate Class Fares Longhaul (Amending)	R-7
051c	First Class Fares Longhaul (Amending)	R-8
061c	Economy Class Fares Longhaul (Amending)	R-9