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Order 2003-5-19



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

**Issued by the Department of Transportation
on the 14th day of May, 2003**

Served: May 19, 2003

Agreement adopted by the Tariff
Conferences of the International
Air Transport Association relating
to passenger fare matters

**Docket OST-2002-13314
R-16 through R-18**

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 Composite Passenger Tariff Coordinating Conference held in Montreal, July 15-19, 2002, for effectiveness on April 1, 2003.¹

The agreement consists of numerous resolutions affecting passenger fares, fare construction, and baggage rules applicable on a worldwide basis.

Resolution 300 (Baggage Allowance Weight System) which does not apply to/from the United States, and Resolution 301 (Baggage Allowance Piece System) which does apply to/from the United States, establish free baggage allowances for checked and carry-on items. The agreement would revalidate them to March 31, 2005, with some amendments. Resolution 300 would be amended to apply existing IATA provisions for construction of unpublished fares when necessary to determine baggage charges between foreign points, and would exclude surfboarding and windsurfing equipment from the free baggage allowance.² Resolution 301 would be amended to remove the current exclusion of Western Africa from the piece baggage system which IATA has adopted for general application to/from the United States.

¹ IATA PTC COMP 0949 and PTC COMP 0953, filed with the Department on September 6, 2002.

² Our approval of Resolution 300 is subject to existing Department conditions. We have approved weight-related baggage systems between foreign points on the condition that they do not apply to any passengers whose ultimate ticketed origin or destination is a point in the United States. Only approved piece-related baggage systems shall apply to those passengers' travel, including any travel beyond the U.S.-foreign gateway legs of their journeys. See Order 95-2-7, February 5, 1995.

Resolution 040c (Surface Sectors) establishes a method for assessing through fares when surface travel is included in an itinerary, and the agreement would revalidate it without change to March 31, 2005.³

The current versions of Resolutions 300, 301 and 040c have been approved and immunized by the Department, and we see no reason not to approve their revalidation. In addition, the changes proposed to Resolutions 300 and 301 either have no effect on transportation to/from the United States, or are beneficial to the passenger. We will act on the balance of the agreement in Docket OST 2002-13314 by separate order.

Based on our review of the information submitted and other relevant material, we conclude that the approved resolutions, as conditioned, will not result in fares or charges that are unlawful or injurious to competition in the markets at issue.

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

1. We do not find that the following resolutions, which are incorporated in the agreement in Docket OST 2002-13314 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:

Docket 2002-13314	IATA No.	Title	Application
R-16	300	Baggage Allowance Weight System	1;2;3;1/2;2/3 3/1;1/2/3
R-17	301	Baggage Allowance Piece System	1;3;1/2;3/1; 1/2/3
R-18	040c	Surface Sectors	1;2;3;1/2;2/3 3/1;1/2/3

2. This agreement is a product of the IATA tariff conference machinery, which the Department found to be anticompetitive but nevertheless accepted 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

³ Our approval of Resolution 040c is subject to the Department's condition on Resolution 001 (Permanent Effectiveness Resolution) which provides that any carrier or travel agent may depart from the provisions of any IATA fare construction rule where a different methodology would produce a lower constructed fare. See Order 99-7-8, July 14, 1999.

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 those portions of the agreement in Docket OST 2002-13314 as set forth in finding paragraph 1 above, subject, wherever applicable, to conditions previously imposed.

ACCORDINGLY,

We approve and grant antitrust immunity to R-16, R-17 and R-18 of the agreement contained in Docket OST-2002-13314, as set forth in finding paragraph one above, subject, where applicable, to conditions previously imposed.

By:

Paul L. Gretch
Director, Office of International Aviation

(SEAL)