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DEPT. OF TRANSPORTATION  
DOCKET SECTION

BEFORE THE  
DEPARTMENT OF TRANSPORTATION  
WASHINGTON, D.C.

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INTERNATIONAL AIR TRANSPORT  
ASSOCIATION:  
AGREEMENT RELATING TO LIABILITY  
LIMITATIONS OF THE WARSAW CONVENTION

Docket OST-95-232 -27

APPLICATION OF THE INTERNATIONAL  
AIR TRANSPORT ASSOCIATION FOR APPROVAL  
OF AGREEMENT, ANTITRUST IMMUNITY AND  
RELATED EXEMPTION RELIEF

Communications with respect to  
this document should be sent to:

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United States  
Attorney-in-Fact  
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Dated: July 31, 1996

IATA-7/31/96

24pgs



Liability ("IIA") has been signed by 56 air carriers and foreign air carriers representing over 50 percent of the revenue ton kilometers performed in international air transportation in calendar year 1995. The IIA also received the unanimous endorsement of the 51st IATA Annual General Meeting on October 30-31, 1995 in Kuala Lumpur, Malaysia, and shortly should be signed by an additional substantial number of airlines.<sup>1</sup> The companion agreement, the Agreement on Measures to Implement the IATA Intercarrier Agreement ("MIA"), also commands broad airline support and is currently being circulated worldwide for signature. It is designed to ensure that, to the maximum extent practicable, a single liability regime, conforming to the principles of the IIA, will be applicable to and from the United States. See Order 91-1-25 at p. 3. IATA anticipates that expeditious approval and immunization of these agreements will assist IATA Members in encouraging other airlines involved in the international carriage of passengers to adhere to them. See IIA para. 4. Given positive Department action, IATA believes that the vast majority of passenger movements to and from the United States will benefit from tariffs voluntarily incorporating the agreed liability enhancements by their proposed November 1, 1996 implementation date. See IIA, para. 5; MIA, para. V.3.

The IIA and MIA, taken together, will revolutionize the liability regime in international passenger air transportation.

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<sup>1</sup> IATA will supplement this filing periodically with the names of additional signatories.

For the more than 60 years that the United States has been a Party to the Warsaw Convention of 1929<sup>2</sup>, the international air passenger liability regime has incorporated a trade-off between a liberal standard of recovery based on presumptive fault under Article 17 and a restrictive limitation of liability under Article 22.1. The Convention's approximately \$10,000 limitation of liability, fixed by the monetary value of gold, Trans World Airlines, Inc. v. Franklin Mint, 466 U.S. 243 (1984), has clearly not kept pace with the economic losses suffered by passengers and those claiming on their behalf and, when applicable, substantially restricts compensatory damages otherwise recoverable under applicable national law.<sup>3</sup> While the international carriers increased the limitation by intercarrier agreement to \$75,000 in the 1966 Montreal Agreement, and the Department currently accepts that limit in its regulations, there is often a substantial difference between the \$75,000 limitation and damages which might be recoverable absent any specified limit. Extended and extensive governmental efforts over a lengthy period to deal with that problem by international agreement and/or by the unilateral implementation of a passenger-

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<sup>2</sup> Convention for the Unification of Certain Rules Relating to International Transportation by Air, October 12, 1929, 49 Stat. 3000, T.S. No. 87C (1934).

<sup>3</sup> The Hague Protocol of 1955, 478 U.N.T.S. 371, doubled the liability limit of Article 22.1 but was not ratified by the United States. The Guatemala City Protocol of 1971, amended by the Montreal Additional Protocol of 1975 ("MAP3"), would have increased the liability limit to 100,000 Special Drawing Rights but also has not been ratified by the United States.

financed, administratively-complex supplemental compensation plan have not succeeded.

The current restrictive limitation of liability has led to extensive "wilful misconduct" litigation under Article 25 of the Warsaw Convention as claimants have sought to foreclose carriers from benefitting from the limitation. While these claimant efforts have at times succeeded<sup>4</sup>, success has come only after lengthy and often expensive litigation with a consequent delay in meaningful settlement negotiations and, frequently, particular hardship for those most in need of prompt compensatory awards.

The proposed IIA/MIA regime will eliminate the limitation of liability as a barrier to the award of all otherwise recoverable compensatory damages in cases under Article 17 of the Convention. The absence of a liability limitation also will put an end to Article 25 "wilful misconduct" litigation in the U.S. and thus greatly expedite resolution of damage claims by settlement or court action. In addition, the proposed regime, as implemented to/from the United States, will apply a strict liability standard to the amount of any claim not exceeding \$100,000 Special Drawing Rights ("SDRs") and maintain the presumptive liability standard of Article 17 for amounts claimed in excess of 100,000 SDRs. Thus, except in the rare case of a major claim where a carrier

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<sup>4</sup> "Wilful misconduct" under Article 25 was established, for example, in the Pan Am 103 (Lockerbie) and KAL 007 disasters. In re Air Disaster at Lockerbie Scotland on December 21, 1988, 37 F.3d 804 (2d Cir. 1994), cert. denied, 115 S.Ct. 934 (1995); In re Korean Air Lines Disaster of September 1, 1993, 932 F.2d 1475 (D.C. Cir.), cert. denied, 502 U.S. 994 (1991).

invokes its right to prove that it had "taken all necessary measures to avoid the damage or that it was impossible for them to take such measures", Warsaw Convention Article 20.1, or seeks to establish contributory negligence by an injured passenger, Warsaw Convention Article 21, the proposed regime would leave only the issue of recoverable compensatory damages to be resolved in passenger claims. All relevant experience shows that such damages issues are readily settleable with limited litigation expense.<sup>5</sup>

In short, the international airlines, pursuant to the discussion authority and immunity conferred by DOT Orders 95-2-44, 95-7-15, 96-1-25 and 96-3-46, have developed voluntary agreements which effectively obviate the liability limitation problem under Warsaw which has been the focus of U.S. diplomatic efforts for more than 30 years. By undertaking that resolution through voluntary agreement consistent with Article 22.1 of the Convention, the carriers have reinforced the value of the Convention's worldwide harmonization of international air transportation liability rules and documentation<sup>6</sup>. Moreover, by forging agreements of worldwide applicability, the carriers are

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<sup>5</sup> To further facilitate resolution of damages issues, IATA has been working diligently with the International Chamber of Commerce to develop an arbitration mechanism for the expeditious determination of damages at a location to be selected in a manner acceptable to the claimant.

<sup>6</sup> The Convention has more adherents than any other private international law convention, Lowenfeld, Aviation Law, § 4.15 (2nd Ed. 1981). Its value to the United States is acknowledged in Order 95-2-44.

proposing to enhance the welfare of passengers throughout the international air transportation system regardless of their nationality or the venue in which claims are adjudicated. Finally, by accepting responsibility for Article 17 claims without the benefit of Article 22.1 limitation, the carriers have undertaken to make and fund the necessary insurance arrangements, thus avoiding surcharge impositions on passengers and/or the need for separate, complex and administratively costly supplemental compensation plans.

## II. Background.

The intercarrier discussions on reform of the Warsaw liability regime were initiated by IATA's petition for discussion authority and antitrust immunity filed September 24, 1993. That petition was granted by Order 95-2-44 on February 22, 1995 with the Department noting that it had attempted, but failed, to develop governmentally "a uniform international system that allows U.S. victims to receive fair recoveries within a reasonable period of time." Providing guidance to the carriers on the goals the Department sought to achieve, Order 95-2-44 challenged the airline community to develop in a relatively short period a solution which had eluded governments for more than 30 years.

Between June 19 and June 23, 1995, IATA convened an Airline Liability Conference in Washington, D.C. That Conference focused on the essential problems of the existing liability regime and established working groups whose activities, pursuant to Order

95-7-15, led to development of the IIA. The IIA was endorsed unanimously at the IATA AGM on October 31, 1995.

Subsequent to AGM endorsement of the IIA, it became apparent that the Department wished to see the IIA's umbrella provisions spelled out in a specific implementing agreement. IATA then secured additional authorization pursuant to Orders 96-1-25 and 96-3-46 to continue its work and developed the MIA. Thereafter, IATA and its members have been encouraging adherence to the IIA and MIA and, for their part, U.S. air carriers have developed a subordinate agreement, the Implementing Provisions Agreement ("IPA") which specifies the form of "special contract" which its signatories will use to comply with the IIA and MIA. IATA understands that the IPA also will be filed for approval and immunization.

As required by the Department's grants of discussion authority, IATA has filed reports (including complete documentation) of all meetings leading to the development of the IIA and MIA. IATA incorporates these reports by reference in this filing and believes that they provide a complete history of the IIA and MIA.

### III. Specific Provisions.

A. The IIA. The IIA, per its explanatory note, is an "umbrella accord." It establishes general principles for dealing with the "grossly inadequate" Article 22.1 limitation of liability. It leaves to individual carrier conditions of

carriage and tariff filings the precise means of effecting changes in the legal regime.

Paragraph 1 of the IIA obligates each participating carrier "to take action to waive" the Article 22.1 limitation "so that recoverable compensatory damages may be determined and awarded by reference to the law of the domicile of the passenger." The obligation of Paragraph 1 is to remove any Article 22.1 limitation barrier to the recovery of those compensatory damages to which the claimant otherwise would be entitled under the law of the relevant passenger's domicile. The objective of Paragraph 1 is to ensure that the compensation policies of the passenger's domiciliary state are not thwarted by the Article 22.1 limit. Thus, carriers can comply with Paragraph 1 either by waiving Article 22.1 limits entirely or by a narrower waiver removing any barrier to recovery in accordance with domiciliary law.

Paragraph 2 of the IIA is a permissive reference to defenses under Articles 20.1 and 21 of the Convention. It enables a participating carrier to waive any defense, either in its entirety or "up to a specified monetary amount of recoverable compensatory damages."

Paragraph 3 of the IIA reserves rights of recourse, including rights of contribution or indemnity, against any other person with respect to any sums paid by the carrier. This paragraph is designed to preserve the pre-existing legal regime for allocation of responsibility between carriers responding to Article 17 claims and other potentially responsible parties. It

makes clear that waivers of limitation and defenses pursuant to Paragraphs 1 and 2 are carrier efforts to respond to government and passenger concerns and are not to be considered as permitting ex gratia payments.

Paragraph 4 of the IIA obligates each participating carrier to encourage "other airlines involved in the international carriage of passengers to apply the terms of [the IIA] to such carriage." This paragraph expresses the desire of participating carriers to universalize the IIA by individual and/or collective carrier activity and thus to achieve a harmonized, worldwide modification of Warsaw without the need for further government action.

Paragraph 5 of the IIA sets a November 1, 1996 implementation date provided that requisite government approvals, including grant of this application, are secured by that date.

Paragraphs 6, 7 and 8 of the IIA are essentially housekeeping provisions.

B. The MIA. The MIA directly addresses language for conditions of carriage and, where necessary, tariffs on file with governments. It incorporates mandatory and optional provisions, all in furtherance of and consistent with the IIA. Where options are provided, the MIA contemplates choices being made by carriers unilaterally or collectively.

1. Mandatory Provisions. Paragraph I.1 of the MIA obligates each participating carrier to relinquish the benefit of -- i.e., waive -- the Article 22.1 limitation "as to any claim

for recoverable compensatory damages arising under Article 17 of the Convention." Paragraph I.1, eliminating any limitation on compensatory awards, thus avoids any situation where national compensation policies otherwise applicable to Warsaw Article 17 claims are frustrated by an Article 22.1 limitation of liability. The waiver under Paragraph I.1 applies regardless of the applicable law selected by the Court or agreed by the parties.

Paragraph I.2 of the MIA requires each participating carrier also to relinquish "any defense under Article 20(1) of the Convention with respect to that portion of such [Article 17] claim which does not exceed 100,000 SDRs." Paragraph II.2 of the MIA, which is an alternative, permits a participating carrier to vary the level of Article 20.1 defense waiver on a route-by-route basis but only "as may be authorized by governments concerned with the transportation involved." It is not contemplated that any carrier using the format of Paragraph II.2 would seek to limit its Article 20.1 waiver to less than 100,000 SDRs on routes to/from the United States and this request for approval/immunization/exemption is advanced upon that representation.

Paragraph I.3 of the MIA reserves all other Convention defenses and preserves "all rights of recourse against any other person, including without limitation, rights of contribution and indemnity." Paragraph I.3 is a straightforward implementation of Paragraph 3 of the IIA.

2. Optional Provisions. Paragraph II.1 of the MIA, if selected, forecloses carrier opposition to a claimant's effort to persuade a Court adjudicating an Article 17 claim to choose "the law of the domicile or permanent residence of the passenger" to govern the determination of recoverable compensatory damages. The option is left with the passenger because domiciliary law, even in the United States, is not always favorable to a claimant. Paragraph II.1 also recognizes that "applicable law" in some jurisdictions may mandate application of the law of the forum, lex fori, or the law of the place where the damage occurred, lex loci. Where the Court has more flexibility under prevailing choice-of-law standards, however, Paragraph II.1 would enhance the claimant's ability to invoke domiciliary law. Paragraph II.1 is made optional because a number of carriers believe that it is inappropriate to contract with respect to matters governed by national law, rather than the Convention.

Paragraph II.2 of the MIA, as explained above, permits some variation of the Article 20.1 waiver limitation on selected routes other than routes to/from the United States.

Paragraph II.3 of the MIA permits carriers to reinforce the intent of Paragraph I.3 of the MIA and Paragraph 3 of the IIA in the special case where "public social insurance or similar bodies" provide payments to "the passenger or his dependents." Paragraph II.3 preserves the existing allocation of responsibility between such public social insurance agencies and the carriers. Since there is no "public social insurance" or

similar body in the United States, Paragraph II.3 would not affect rights of recourse in the United States.

3. Additional Provisions. Paragraph IV of the MIA is a standard severability clause.

Paragraph V of the MIA essentially incorporates housekeeping provisions including the November 1, 1996 proposed effective date of IIA Paragraph 5.

#### IV. Argument

##### A. The IIA and MIA Should Be Approved Under 49 U.S.C. § 41309

Under 49 U.S.C. § 41309, approval of an agreement requires an examination both of its impact on competition and the effect of its implementation on the public interest. The IIA and MIA clearly meet the requirements for approval under both § 41309 standards.

With respect to competitive issues, the Department already has determined in Order 95-2-44 and its progeny that standardization of the liability regime on routes to/from the United States meets a substantial transportation need. IATA agrees that passengers are best served by a predictable and uniform set of voluntarily-agreed liability conditions and that the benefits of uniformity outweigh any argument that liability conditions should be an element of carrier competition. Moreover, IATA believes that important United States foreign policy and international comity interests will be advanced by approving the IIA and MIA and facilitating the global enhancement

of passenger rights while preserving the benefits otherwise available under the Warsaw Convention.<sup>7</sup>

With respect to the public interest, the self-evident benefits of the tariffs required by the IIA/MIA regime are vital to passengers and clearly not readily attainable by any alternative approach. The Department has acknowledged, in responding to tariff filings and exemption requests from the carriers of Japan, that essentially identical liability modifications are consistent with the public interest and a substantial improvement of the liability regime now prevailing under the Montreal Agreement. Orders 92-12-43; 93-2-30; and 94-7-5. IATA recognizes that Order 95-2-44 sets somewhat broader U.S. policy objectives, including an expansion of Article 28 jurisdiction, which are of peculiar interest to governments rather than carriers. These matters previously have been addressed at the governmental level in Montreal Additional Protocol No. 3. IATA sees no inconsistency between the advancement of the public interest through approval of the IIA and MIA and the continuing pursuit of broader Warsaw Convention reform by the United States at a governmental level.

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<sup>7</sup> Indeed, resolution of the passenger liability limitation issue through the IIA and MIA will open the way for enhancement of the worldwide cargo documentation regime under Montreal Protocol 4.

B. Participation in the IIA and MIA Should  
Be Immunized Pursuant to 49 U.S.C. § 41308

Under 49 U.S.C. § 41308, the Department is authorized to grant immunity either when approval under § 41309 is premised on unique transportation benefits or foreign policy and international comity interests or when the public interest otherwise requires a grant of immunity to permit beneficial transactions under proposed agreements to go forward. Order 93-1-11. Negotiation of the IIA and MIA under Orders 95-2-44, 95-7-15, 96-1-25, and 96-3-46 has gone forward under grant of immunity to allay carrier concerns that standardization of part of the passenger-carrier contract could raise issues under the U.S. antitrust laws. Implementation of the IIA and MIA, whose liability consequences inevitably will be at issue in litigation and whose encouragement provisions might be argued to be coercive, also requires a grant of immunity. Taking account of relevant transportation, foreign relations and public interest benefits, such immunity is amply within the Department's authority.

C. Carriers Participating In and Filing Tariffs  
Pursuant to the IIA and MIA Should Be Exempted  
From Regulatory Requirements Tied to the  
Montreal Agreement

As a technical matter, carriers participating in and filing tariffs pursuant to the IIA and MIA will not be in conformity with those regulatory requirements listed in Attachment C. On the other hand, participating carriers will be offering their passengers benefits clearly superior to those required under

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of July, 1996, I caused copies of the foregoing "Application Of The International Air Transport Association For Approval Of Agreement, Antitrust Immunity And Related Exemption Relief" to be delivered by hand and mailed via first-class postage prepaid mail to the following:

Chief, Transportation Energy &  
Agricultural Section  
Antitrust Division  
Department of Justice  
325 7th Street, N.W.  
Suite 500  
Washington, D.C. 20530

  
David M. O'Connor

Attachment C regulations. Thus, exemption to avoid technical conflict is clearly in the public interest.

Conclusion

For the reasons set forth above, IATA's requests for approval, immunization and exemption should be granted.

Respectfully submitted,



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Director External Relations-  
United States  
Attorney-in-Fact  
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Association  
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1776 K Street, N.W.  
Washington, D.C. 20006  
(202) 429-7000

Dated: July 31, 1996



## INTERCARRIER AGREEMENT ON PASSENGER LIABILITY

**WHEREAS:** The Warsaw Convention system is of great benefit to international air transportation; and

**NOTING THAT:** The Convention's limits of liability, which have not been amended since 1955, are now grossly inadequate in most countries and that international airlines have previously acted together to increase them to the benefit of passengers;

**The undersigned carriers agree**

1. To take action to waive the limitation of liability on recoverable compensatory damages in Article 22 paragraph 1 of the Warsaw Convention\* as to claims for death, wounding or other bodily injury of a passenger within the meaning of Article 17 of the Convention, so that recoverable compensatory damages may be determined and awarded by reference to the law of the domicile of the passenger.
2. To reserve all available defences pursuant to the provisions of the Convention; nevertheless, any carrier may waive any defence, including the waiver of any defence up to a specified monetary amount of recoverable compensatory damages, as circumstances may warrant.
3. To reserve their rights of recourse against any other person, including rights of contribution or indemnity, with respect to any sums paid by the carrier.
4. To encourage other airlines involved in the international carriage of passengers to apply the terms of this Agreement to such carriage.
5. To implement the provisions of this Agreement no later than 1 November 1996 or upon receipt of requisite government approvals, whichever is later.
6. That nothing in this Agreement shall affect the rights of the passenger or the claimant otherwise available under the Convention.
7. That this Agreement may be signed in any number of counterparts, all of which shall constitute one Agreement. Any carrier may become a party to this Agreement by signing a counterpart hereof and depositing it with the Director General of the International Air Transport Association (IATA).
8. That any carrier party hereto may withdraw from this Agreement by giving twelve (12) months' written notice of withdrawal to the Director General of IATA and to the other carriers parties to the Agreement.

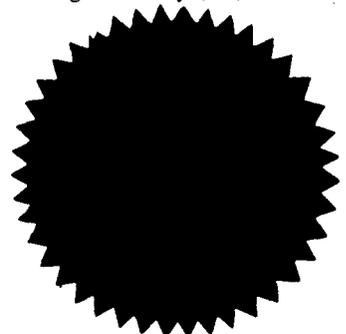
Signed this \_\_\_\_ day of \_\_\_\_\_ 199\_\_

\* "WARSAW CONVENTION" as used herein means the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw, 12th October 1929, or that Convention as amended at The Hague, 28th September 1955, whichever may be applicable.

I certify this to be a true copy of the IATA Intercarrier Agreement on Passenger Liability (IIA) opened for signature on 31 October 1995.

  
\_\_\_\_\_  
Lorne S. Clark, General Counsel and Corporate Secretary

IATA-7/31/96



## **INTERCARRIER AGREEMENT ON PASSENGER LIABILITY**

### **EXPLANATORY NOTE**

The Intercarrier Agreement is an “umbrella accord”; the precise legal rights and responsibilities of the signatory carriers with respect to passengers will be spelled out in the applicable Conditions of Carriage and tariff filings.

The carriers signatory to the Agreement undertake to waive such limitations of liability as are set out in the Warsaw Convention (1929), The Hague Protocol (1955), the Montreal Agreement of 1966, and/or limits they may have previously agreed to implement or were required by Governments to implement.

Such waiver by a carrier may be made conditional on the law of the domicile of the passenger governing the calculation of the recoverable compensatory damages under the Intercarrier Agreement. But this is an option. Should a carrier wish to waive the limits of liability but not insist on the law of the domicile of the passenger governing the calculation of the recoverable compensatory damages, or not be so required by a governmental authority, it may rely on the law of the court to which the case is submitted.

The Warsaw Convention system defences will remain available, in whole or in part, to the carriers signatory to the Agreement, unless a carrier decides to waive them or is so required by a governmental authority.

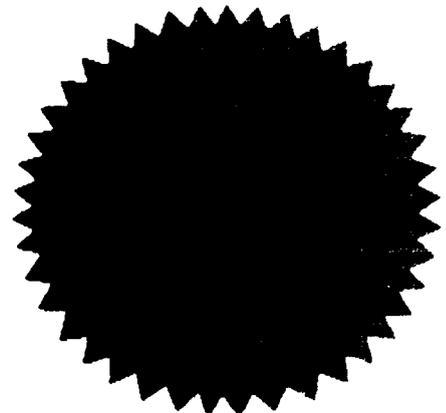


**List of Carriers Signatory to the  
IATA Intercarrier Agreement on Passenger Liability  
As at 31 July 1996**

- |                                     |   |
|-------------------------------------|---|
| 1. Aer Lingus plc                   | 29. Jet Airways (India) Pvt Ltd.          |
| 2. Aeromexpress                     | 30. Kenya Airways                         |
| 3. Air Afrique                      | 31. Kiwi International Air Lines          |
| 4. Air Baltic Corporation SIA       | 32. KLM Royal Dutch Airlines              |
| 5. Air Canada                       | 33. KLM Cityhopper B.V.                   |
| 6. Air Exel Commuter                | 34. LAPSA Líneas Aéreas Paraguayas        |
| 7. Air Mauritius                    | 35. Midwest Express Airlines, Inc         |
| 8. Air New Zealand                  | 36. Northwest Airlines, Inc.              |
| 9. Air UK Group Limited             | 37. Pakistan International Airlines (PIA) |
| 10. American Airlines               | 38. Qantas Airways Limited                |
| 11. American Trans Air              | 39. Regional Airlines                     |
| 12. Augsburg Airways GmbH           | 40. Reeve Aleutian Airways, Inc           |
| 13. Austrian Airlines               | 41. Royal Air Maroc                       |
| 14. British Airways p.l.c.          | 42. Saudi Arabian Airlines Corp.          |
| 15. Canadian Airlines International | 43. Scandinavian Airlines System (SAS)    |
| 16. Cathay Pacific Airways Ltd.     | 44. Singapore Airlines Ltd.               |
| 17. Cimber Air A/S                  | 45. South African Airways                 |
| 18. Continental Airlines Inc.       | 46. Swissair                              |
| 19. Croatia Airlines                | 47. TACA                                  |
| 20. Crossair                        | 48. TAP Air Portugal                      |
| 21. Delta Air Lines, Inc.           | 49. Trinidad & Tobago BWIA International  |
| 22. Egyptair                        | 50. Trans World Airlines Inc. (TWA)       |
| 23. Finnair Oy                      | 51. United Airlines                       |
| 24. Garuda Indonesia                | 52. UPS Airlines                          |
| 25. GB Airways                      | 53. USAir, Inc.                           |
| 26. Hawaiian Airlines               | 54. Varig S.A.                            |
| 27. Icelandair                      | 55. VIASA                                 |
| 28. Japan Airlines Co. Ltd.         | 56. Widerøe's Flyveselskap A/S            |

I certify that this is a true list of airlines adhering to the IATA Intercarrier Agreement on Passenger Liability opened for signature on 31 October 1995.

Lorne S. Clark  
General Counsel and Corporate Secretary





**AGREEMENT ON MEASURES TO IMPLEMENT THE  
IATA INTERCARRIER AGREEMENT**

- I. Pursuant to the IATA Intercarrier Agreement of 31 October 1995, the undersigned carriers agree to implement said Agreement by incorporating in their conditions of carriage and tariffs, where necessary, the following:
1. {CARRIER} shall not invoke the limitation of liability in Article 22(1) of the Convention as to any claim for recoverable compensatory damages arising under Article 17 of the Convention.
  2. {CARRIER} shall not avail itself of any defence under Article 20(1) of the Convention with respect to that portion of such claim which does not exceed 100,000 SDRs\* [unless option II(2) is used ].
  3. Except as otherwise provided in paragraphs 1 and 2 hereof, {CARRIER} reserves all defences available under the Convention to any such claim. With respect to third parties, the carrier also reserves all rights of recourse against any other person, including without limitation, rights of contribution and indemnity.
- II. At the option of the carrier, its conditions of carriage and tariffs also may include the following provisions:
1. {CARRIER} agrees that subject to applicable law, recoverable compensatory damages for such claims may be determined by reference to the law of the domicile or permanent residence of the passenger.
  2. {CARRIER} shall not avail itself of any defence under Article 20(1) of the Convention with respect to that portion of such claims which does not exceed 100,000 SDRs, except that such waiver is limited to the amounts shown below for the routes indicated, as may be authorised by governments concerned with the transportation involved.

**[Amounts and routes to be inserted]**

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\* Defined if necessary

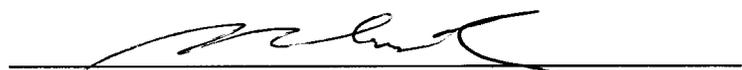
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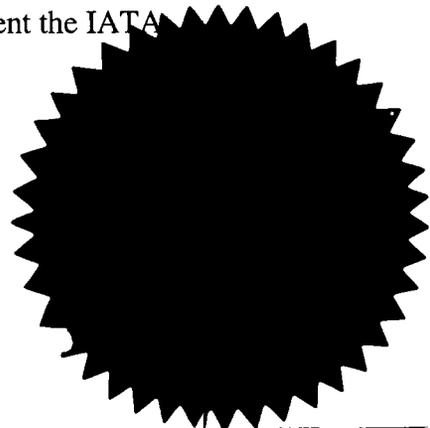
3. Neither the waiver of limits nor the waiver of defences shall be applicable in respect of claims made by public social insurance or similar bodies however asserted. Such claims shall be subject to the limit in Article 22(1) and to the defences under Article 20(1) of the Convention. The carrier will compensate the passenger or his dependents for recoverable compensatory damages in excess of payments received from any public social insurance or similar body.
- III. Furthermore, at the option of a carrier, additional provisions may be included in its conditions of carriage and tariffs, provided they are not inconsistent with this Agreement and are in accordance with applicable law.
- IV. Should any provision of this Agreement or a provision incorporated in a condition of carriage or tariff pursuant to this Agreement be determined to be invalid, illegal or unenforceable by a court of competent jurisdiction, all other provisions shall nevertheless remain valid, binding and effective.
- V.
  1. This Agreement may be signed in any number of counterparts, all of which shall constitute one Agreement. Any carrier may become Party to this Agreement by signing a counterpart hereof and depositing it with the Director General of the International Air Transport Association (IATA).
  2. Any carrier Party hereto may withdraw from this Agreement by giving twelve (12) months' written notice of withdrawal to the Director General of IATA and to the other carriers Parties to the Agreement.
  3. The Director General of IATA shall declare this Agreement effective on November 1st, 1996 or such later date as all requisite Government approvals have been obtained for this Agreement and the IATA Inter-carrier Agreement of 31 October 1995.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 1996

\_\_\_\_\_

I certify this to be a true copy of the IATA Agreement on Measures to Implement the IATA Inter-carrier Agreement opened for signature in May 1996.

  
Lorne S. Clark, General Counsel and Corporate Secretary



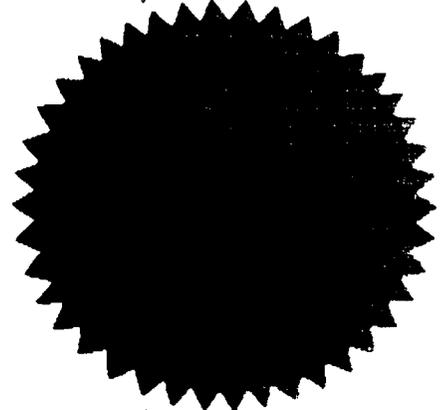


**List of Carriers Signatory to the Agreement on Measures to Implement the  
IATA Intercarrier Agreement  
As at 31 July 1996**

1. Air Canada
2. Air Baltic Corporation SIA
3. Air New Zealand
4. American Airlines
5. American Trans Air
6. Austrian Airlines
7. British Airways p.l.c.
8. Cathay Pacific Airways Ltd.
9. Continental Airlines Inc.
10. Delta Air Lines, Inc.
11. GB Airways
12. Hawaiian Airlines
13. Kiwi International Air Lines
14. KLM Royal Dutch Airlines
15. Midwest Express Airlines, Inc.
16. Northwest Airlines
17. Qantas Airways Limited
18. Reeve Aleutian Airways, Inc.
19. Scandinavian Airlines System (SAS)
20. Swissair
21. Trans World Airlines Inc. (TWA)
22. United Airlines
23. UPS Airlines
24. USAir, Inc.

I certify that this is a true list of airlines adhering to the Agreement on Measures to Implement the IATA Intercarrier Agreement (MIA) opened for signature in May 1996.

Lorne S. Clark  
General Counsel and Corporate Secretary



Federal Regulations  
Incorporating the Montreal Agreement

- 14 C.F.R. § 201.7(e) - General certificate conditions.
- 14 C.F.R. Part 203 - Waiver of Warsaw Convention liability limits and defenses.
- 14 C.F.R. § 204.3(u) - Applicants for new certificate or commuter air carrier authority.
- 14 C.F.R. § 205.6 - Prohibited exclusions of coverage.
- 14 C.F.R. § 208.11 - Filing requirements for adherence to Montreal Agreement.
- 14 C.F.R. § 211.20(t)\* - Initial foreign air carrier permit or transfer of a permit.
- 14 C.F.R. § 212.11\* - Filing requirements for adherence to Montreal Agreement.
- 14 C.F.R. § 213.7\* - Filing requirements for adherence to Montreal Agreement.
- 14 C.F.R. § 215.4(b) - Change of name or use of trade name.
- 14 C.F.R. § 221.4 - Definitions.
- 14 C.F.R. § 221.38(h) and (j) - Rules and regulations.
- 14 C.F.R. § 221.175 - Special notice of limited liability for death or injury under the Warsaw Convention.
- 14 C.F.R. § 221.176 - Notice of limited liability for baggage; alternative consolidated notice of liability limitations.
- 14 C.F.R. § 294.3\* - General requirements for Canadian charter air taxi operations.
- 14 C.F.R. § 294.22(a)(2)\* - Notification to the Department of change in operating or identifying information.
- 14 C.F.R. § 298.3(a)(5) - Classification.
- 14 C.F.R. § 298.11(b) - Exemption authority.
- 14 C.F.R. § 298.21(c)(4) - Filing for registration by air taxi operators and commuter air carriers.

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\* Applies only to foreign air carriers.