

12805
QA

BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

DEPT. OF TRANSPORTATION
DOCKET SECTION
96 OCT 24 PM 4:56

International Air Transport Association:
Agreement Relating to Liability
Limitations of the Warsaw Convention

Docket OST-95-232 -40

Air Transport Association of America:
Agreement Relating to Liability
Limitations of the Warsaw Convention

Docket OST-96-1607 -10

COMMENTS OF
ASOCIACION INTERNACIONAL DE TRANSPORTE AEREO
LATINOAMERICANO

Communications with respect to this
document should be addressed to:

Robert D. Papkin
Edward W. Sauer
Charles F. Donley II
SQUIRE, SANDERS & DEMPSEY, L.L.P.
1201 Pennsylvania Avenue, N.W.
P.O. Box 407
Washington, D.C. 20044
Tel: (202) 626-6601
Fax: (202) 626-6780

Counsel for Asociacion Internacional de
Transporte Aereo Latinoamericano
("AITAL")

DATED: October 24, 1996

8 pgs.

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.**

International Air Transport Association: Agreement Relating to Liability Limitations of the Warsaw Convention)))))	Docket OST-95-232
---	-----------------------	-------------------

Air Transport Association of America: Agreement Relating to Liability Limitations of the Warsaw Convention)))))	Docket OST-96-1607
--	-----------------------	--------------------

**COMMENTS OF
ASOCIACION INTERNACIONAL DE TRANSPORTE AEREO
LATINOAMERICANO**

The Asociacion Internacional de Transporte Aereo Latinoamericano ("AITAL")¹ hereby submits its comments in opposition to the Department of Transportation's proposed conditional approval of the IATA Inter-carrier Agreement ("IIA") and Agreement on Measures to Implement the IATA Inter-carrier Agreement

¹AITAL is a trade association of airlines domiciled in Latin America. AITAL's membership includes ACES, Aero Costa Rica Acori, Aerolineas Argentinas, Aeromexico, Aeroperu, AVENSA, AVIANCA, AVIATECA, COPA, Cubana, Compania de Aviacion Faucett, LACSA, LADECO, Lan Chile, Lloyd Aereo Boliviano, LAPSA, Mexicana, NICA, PLUNA, SAETA, TACA, Transbrasil, VARIG, VASP and VIASA.

Answer of Asociacion Internacional de
Transporte Aereo Latinoamericano
Dockets OST-95-232, OST-96-1607
October 24, 1996

("MIA") described in Order 96-10-7. AITAL urges the Department to promptly approve the IIA and MIA without condition or reservation.²

AITAL is extremely disappointed in the position adopted by the Department in its show cause order and objects strongly to the Department's suggestion that certain conditions on its approval of the IIA and MIA are required to protect the public interest. AITAL and each of its members have reviewed carefully the Department's show cause order and have considered fully each of the conditions proposed in the order. Stated simply, the conditions are totally unacceptable to AITAL and its member carriers.

With the Department's explicit approval, the IIA and MIA were negotiated in good faith and through tremendous effort over a lengthy period of time that involved a precarious balancing of the interests of passengers and carriers alike. Both the IIA and MIA represent the very best solution to a difficult and vexing problem that has resulted in years of suffering for passengers and their families as well as expensive and time-consuming litigation. Indeed, the Department itself acknowledged that the IIA and MIA represent a "gigantic step" forward toward a more rational and fairer system of compensation for injuries and

²In addition to the objections set forth herein, AITAL supports fully and adopts by reference each of the objections cited by IATA in its answer to the Department's show cause order.

Answer of Asociacion Internacional de
Transporte Aereo Latinoamericano
Dockets OST-95-232, OST-96-1607
October 24, 1996

that the agreements are consistent with the public interest. While AITAL agrees with these findings, AITAL certainly does not concur with the Department and vehemently objects to the Department's conclusion that the conditions described in the Department's show cause order are appropriate or even desirable. Accordingly, AITAL member carriers will not adhere to the conditions proposed by the Department.

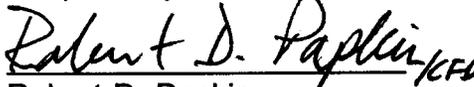
Further, the Department's proposal to amend summarily all foreign air carrier permits and exemption authority held by foreign carriers to force such carriers to apply the IIA and MIA as conditioned by the Department represents an intolerable and unlawful extension of U.S. authority. Such action would clearly be inconsistent with the United States' various bilateral obligations to the countries of Central and South America. Nor do considerations of comity and reciprocity support the Department's proposal. The Department must recognize and accept the fact that none of the homeland governments of any AITAL member is prepared to permit the United States to summarily amend the IIA and MIA as proposed in the show cause order. Indeed, AITAL believes that the Department's order can be interpreted as an effort to rewrite unilaterally the terms of the Warsaw Convention itself, which was the product of extensive deliberation and compromise on the part of many governments with varied points of view. The

Answer of Asociacion Internacional de
Transporte Aereo Latinoamericano
Dockets OST-95-232, OST-96-1607
October 24, 1996

Department's failure to acknowledge widespread dissatisfaction with its proposed conditions and approve the IIA and MIA as submitted by IATA may well result in the collapse of a difficult process initiated by the world's carriers more than one year ago as well as the loss of a unique opportunity to provide passengers and their families with a simplified and speedy avenue to recovery of their damages. The Department must not permit this opportunity to slip away.

WHEREFORE, the Asociacion Internacional de Transporte Aereo Latinoamericano ("AITAL") respectfully requests that the Department of Transportation approve promptly the IATA Inter-carrier Agreement and the Agreement on Measures to Implement the IATA Inter-carrier Agreement without condition.

Respectfully submitted,



Robert D. Papkin
Edward W. Sauer
Charles F. Donley II
SQUIRE, SANDERS & DEMPSEY, L.L.P.
1201 Pennsylvania Avenue, N.W.
P.O. Box 407
Washington, D.C. 20044
Tel: (202) 626-6601
Fax: (202) 626-6780

Counsel to Asociacion Internacional de
Transporte Aereo Latinoamericano ("AITAL")

DATED: October 24, 1996

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments has this day been served on all parties listed on the attached service list by telecopier or overnight delivery.


Charles F. Donley II

DATED: October 24, 1996

Bert W. Rein
Wiley, Rein & Fieldling
1776 K Street, N.W.
Washington, D.C. 20006
202-429-7207

David M. O'Connor
Regional Director
International Air Transport Association
1001 Pennsylvania Avenue, N.W.
Suite 285 North
Washington, D.C. 20004
202-347-2366

James Tarrant
Deputy Assistant Secretary for Transportation Affairs
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520
202-647-8628

Roger Fones
Chief, Transportation, Energy and Agriculture Section
Antitrust Division
U.S. Department of Justice
555 Fourth Street, N.W.
Washington, D.C. 20001
202-307-2784

Gary W. Allen
Director, Aviation and Admiralty Litigation
Civil Division
U.S. Department of Justice
P.O. Box 14271
Washington, D.C. 20044-4271
202-616-4002

Donald H. Horn
Assistant General Counsel for International Law
U.S. Department of Transportation
400 Seventh Street, S.W.
Washington, D.C. 20590
202-366-9188

Anne McNamara
Senior Vice President and General Counsel
American Airlines, Inc.
P.O. Box 619616, Mail Drop 5618
DFW Airport, Texas 75261
817-967-2501

Gerald Mayo
Delta Air Lines, Inc.
13 Stillhouse Road
Atlanta, Georgia 30339
404-850-5079

Hans Ephraimson-Abt
American Association for Families of KAL 007 Victims
P.O. Box 8189
New York, New York 10116
201-652-4436

Ronald Harris
General Secretary
International Union of Aviation Insurers
6 Lovat Lane
London EC3R 8DT England

Warren L. Dean, Jr.
Dyer Ellis & Joseph
600 New Hampshire Avenue, N.W.
Suite 1000
Washington, D.C. 20037
202-944-3068