



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

**Action on IATA Agreement  
Issued by the Department of Transportation  
on the 3<sup>rd</sup> day of May, 2004**

Agreements Adopted by the Traffic  
Conferences of the International Air  
Transport Association relating to fare  
construction matters

Docket OST-2002-11632  
R-1 through R-12

Docket OST-2003-16016  
R-1 through R-8

**ORDER**

Various members of the International Air Transport Association (IATA) have filed agreements with the Department under section 41308 and 40399 of Title 49 of the United States Code (the Code), and Part 303 of the Department's regulations. The agreements amend a number of resolutions governing fare construction.

Docket OST-2002-11632<sup>1</sup>

The agreement would amend various resolutions dealing with fare construction by deleting references to International Sales Indicators (ISIs).

ISIs reflect the locations of sales and ticketing, and some fare constructions vary depending on which ISI applies to a specific transaction. For example, the price paid for two identical itineraries may differ if one is an "SITI" transaction (sale and ticket issuance both take place in the country of commencement of transportation) and the other is an "SOTO" transaction (sale and ticket issuance both take place outside the country of commencement of transportation).<sup>2</sup> Many of the construction rules associated with ISIs were designed to prevent "throwaway" transactions where a passenger seeks to evade the published fare for his true itinerary by establishing a fictitious origin and/or destination. Others are variations of the higher-intermediate-point (HIP) fare check, designed to protect carrier revenues where the fare between an intermediate point and the origin or destination is higher than the fare from origin to destination. However, due to expanding use of both the internet and electronic ticketing, it has become increasingly difficult to determine where the passenger is located and what is perceived as the place of sale.

<sup>1</sup> IATA Memorandum COMP 0900 (Mail Vote 200), filed with the Department February 20, 2002.

<sup>2</sup> ISIs are defined in IATA Resolution 012 (Glossary of Terms). See Appendix B.

Consequently, fare construction rules tied to the ISIs have become virtually impossible to apply. In addition to deleting the ISI references, the agreement would make it clear that the HIP check will apply only at intermediate points where the passenger takes a stopover, considerably diminishing its scope.

IATA asserts that the agreement will promote more uniform application of construction rules on a basis that will produce lower fares for passengers. In IATA's illustrative example of current rules, a round trip normal economy fare from Amsterdam to Johannesburg, with a transfer in Zurich, would cost \$4427.14 if the ticket were issued in Amsterdam, and \$4663.60 if the ticket were issued in Zurich. Under the new agreement, the price will be \$4427.14 regardless of where the ticket is issued.

### Docket OST-2003-16016<sup>3</sup>

The agreement would further limit the application of the HIP check, and would make two other changes that would benefit passengers by producing lower fare quotes: deletion of the country-of-origin minimum (COM) fare check that applies to certain one-way fare constructions, and narrower application of minimum fare checks applicable to journeys where the passenger travels in different classes of services. It would also make a number of clarifying, technical or editorial changes to provisions covering matters such as seasonal and day-of-week fare differentials.

### Disposition

We have decided to approve the agreements, subject, where applicable, to previously imposed conditions. Based on 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. The agreements remove or narrow the application of arcane fare construction rules that have been overtaken by technological developments, and will produce lower fares for passengers with complex itineraries.

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<sup>3</sup> IATA Memorandum COMP1080, filed with the Department August 25, 2003.

Although we are approving the amendments presented in these two agreements, our approval does not extend to other changes to the same resolutions proposed by IATA in pending applications in other dockets.<sup>4</sup> Finally, we remind IATA and its member carriers that the Department has conditioned IATA's Permanent Effectiveness Resolution 001 to provide 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.<sup>5</sup>

Acting under Title 49 of the United States Code, and particularly sections 40101, 40103, 41300, and 41309:

1. We do not find the resolutions incorporated in the agreements in Docket OST-2002-11632 and Docket OST-2003-16016, as set forth in attached Appendix A, to be adverse to the public interest, in violation of the Code, or likely to lessen competition substantially, provided that approval is subject, where applicable, to conditions previously imposed; and
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 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.

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 agreements in Docket OST-2002-11632 and Docket OST-2003-16016, as set forth in finding paragraph 1 above, subject to conditions imposed.

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<sup>4</sup> For example, although we are approving the deletion of the ISI references throughout Resolution 017c (Construction Rule for Fare Components) in Docket 11632, we note that approval of the underlying text of subparagraphs 5) a) ix) and 5) b) vii), dealing with application of the HIP check to non-flown surface sectors, is still pending in Docket OST-2001-10757. Similarly, although we are approving deletion of the COM fare check from the text of Resolution 017i (Carrier Selection for Fare Construction Checks) in Docket 16016, the resolution itself is pending in Docket OST-2000-7911.

<sup>5</sup> See Order 99-7-8, July 14, 1999, Docket OST-1996-1705.

ACCORDINGLY,

We approve and grant antitrust immunity to the agreements contained in Docket OST-2002-11632 and Docket OST-2003-16016, as set forth in finding paragraph 1 above, subject to conditions imposed.

By:

Karan K. Bhatia  
Assistant Secretary for Aviation  
and International Affairs

(SEAL)

**Docket OST-02-11632**

<u>Resolution</u>	<u>Title</u>
R-1 010c	Special Passenger Amending Resolution – Fare Construction Package (New)
R-2 012	Glossary of Terms (Amending)
R-3 012c	Fare Construction Rule Acronyms (Amending)
R-4 017a	Construction Rule for Journeys (Amending)
R-5 017c	Construction Rule for Fare Components (Amending)
R-6 017d	Minimum Check for Consecutive Normal Fare Pricing Units (Amending)
R-7 017f	Reroutings and Refunds (Amending)
R-8 024e	Rules for Payment of Local Currency Fares (Amending)
R-9 024k	Currency Related Rules (Amending)
R-10 049d	Changes in Fares – Canada (Amending)
R-11 002x	Special Tie-in Resolution (New)
R-12 017j	Directional Minimum Check (DMC) (New)

**Docket OST-02-16016**

<u>Resolution</u>	<u>Title</u>
R-1 012c	Fare Construction Rule Acronyms (Amending)
R-2 017	Construction Rules (Amending)
R-3 017b	Construction Rules for Pricing Units (Amending)
R-4 017c	Construction Rules for Fare Components (Amending)
R-5 017d	Minimum Check for Consecutive Normal Fare Pricing Units (not applicable for journeys originating and/or terminating in Canada) (Amending)
R-6 017e	Mixed Class (Amending)
R-7 017i	Carrier Selection for Fare Construction Checks (not applicable to/from USA/US Territories) (Amending)
R-8 017j	Directional Minimum Check (DMC) (Amending)

**IATA Resolution 012 (Glossary of Terms) defines ISIs as:**

**SITI** the sale and ticket issuance are both in the country of commencement of transportation.

**SITO** the sale is made in the country of commencement of transportation and the ticket issuance is outside the country of commencement of transportation.

**SOTI** the sale is made outside the country of commencement of transportation and the ticket issuance is in the country of commencement of transportation.

**SOTO** the sale and ticket issuance are both outside the country of commencement of transportation.

For ISI purposes, Denmark, Norway and Sweden are treated as one country, and the United States and Canada are treated as one country.