

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

Order 96-7-14
Served 7/17/96

Action on IATA Agreement
Issued by the Department of Transportation
on the 11th day of July, 1996

Agreements adopted by the Tariff :
Coordinating Conferences of the : **Dockets** OST-96-1456
and
International Air Transport Association : OST-96-1461
relating to cargo rate matters :

ORDER

Various members of the International Air Transport Association (IATA) have filed two agreements 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 agreements were adopted at the Composite Meeting of the Cargo Tariff Coordinating Conferences held in Geneva during May 13-18, 1996 for various effectiveness dates, beginning with July 1, 1996. ^{1/}

The agreement in Docket OST-96-1456 increases all cargo rates and charges from Algeria to U.S. points by 25 percent, effective July 1, 1996, with an additional 20 percent increase in these rates and charges to become effective on October 1, 1996. Similarly, the agreement in Docket OST-96-1461 increases rates and charges from Tunisia to U.S. points by the following amounts: general cargo rates (GCRs), five percent; and most specific commodity rates (SCRs), 15 percent. ^{2/}

We will approve the agreements, subject to our usual conditions that all agreed rates and charges represent maximums with carriers free to implement charges below them. IATA states that these increases are needed to help offset the effects of depreciation of the national currencies involved. In addition, these changes will

^{1/} IATA memoranda COMP Reso/C 0663, Docket OST-96-1456; and COMP Reso/C 0664, Docket OST-96-1461.

^{2/} However, SCRs for Items 2194, 2197, 2199, 2203, 2408 and 2811 take a smaller ten percent increase, while SCRs for Items 0300 and 0380 take a greater 20 percent increase.

have little impact on U.S. carrier revenues since U.S. carriers offer no direct services in the markets affected. Therefore, based on the information submitted and other relevant material, we conclude that the agreements, as conditioned below, will not result in rates that are unlawful or injurious to competition in the markets at issue.

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

1. We do not find the following resolutions, which are incorporated in the agreements in Dockets OST-96-1456 and OST-96-1461 and which have direct application in foreign air transportation as defined by the Code, to be adverse to the public interest or in violation of the Code, provided further that (a) notwithstanding any provisions of these resolutions or any other resolutions, all rates and charges to U.S. points established pursuant to these resolutions shall be maximums; and (b) each and every carrier operating pursuant to such resolutions may implement rates and charges below those established by these resolutions:

IATA			
<u>Docket</u>	<u>No</u>	<u>Title</u>	
<u>Application</u>			
OST-96-1456 1/2;2/3;1/2/3	003aa	General Increase Resolution,	Rate s
		from Algeria (USA, US Territories)	

IATA			
<u>Docket</u>	<u>No</u>	<u>Title</u>	
<u>Application</u>			
OST-96-1461 1/2;2/3;1/2/3	003bb	General Increase Resolution,	Rate s
		from Tunisia (USA, US Territories)	

2. These agreements are a product of the IATA tariff conference machinery, which the Department found to be anticompetitive but nevertheless approved 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, the conferral of antitrust immunity 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 agreements in Dockets OST-96-1456 and OST-96-1461, as set forth in finding paragraph one above, subject, where applicable, to the conditions imposed.

ACCORDINGLY,

We approve and grant antitrust immunity to the agreements contained in Dockets OST-96-1456 and OST-96-1461, as set forth in finding paragraph one above, subject, where applicable, to the conditions imposed.

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Policy and
International Affairs

(SEAL)

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