



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

Order 96-8-32
 Served 8/29/96

Issued by the Department of Transportation
 on the 23rd day of August, 1996

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 Agreement Adopted by the Tariff :
 Coordinating Conferences of the :
 International Air Transport Association : Docket OST-96-1529
 relating to TC31 Fares : Docket OST-96-1589
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ORDER

Various members of the International Air Transport Association (IATA) have filed agreements with the Department under section 41309 of Title 49 of the United States Code (Code) and Part 303 of the Department's regulations. The agreements were adopted by mail vote for effectiveness September 1, 1996. 1/

The agreement in Docket OST-96-1529 increases first and intermediate class fares from the United States (except Hawaii), Canada, the Caribbean, and Mexico to Japan by five percent. The agreement in Docket OST-96-1589 increases first and intermediate class fares from San Francisco, Mexico, and the Caribbean to Korea, Taiwan, and Singapore by five percent, and to Hong Kong by nine percent.

We will approve the agreement. Based on our review of the information submitted and other relevant material, we conclude that the agreement will not result in fares that are unlawful or injurious to competition in the markets at issue. Our approval of the proposed premium fares is consistent with Department policy as stated in Order 85-3-8, March 4, 1985. We allow carriers wide latitude in pricing these types of fares, which are generally sensitive to market demand and other competitive pressures that obviate the need for regulatory intervention in most circumstances. 2/

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

1. We do not find that the resolution in Docket OST-96-1529, or

1/ IATA memorandum PTC31 (Mail)003B (Docket OST-96-1529), filed with the Department July 10, 1996, and PTC31 (Mail)003D (Docket OST-96-1589), filed with the Department July 29, 1996.

2/ We exercise regulatory control over direct-service, point-to-point economy fares. There is no direct service in many of the markets in which increases to premium fares are presented to us for approval, and no changes are proposed to economy fares in any market.

the resolution in Docket OST-96-1589, both of which have direct application in foreign air transportation as defined by the Code, are adverse to the public interest, in violation of the Code, or likely to lessen competition substantially;

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. Antitrust immunity was automatically conferred upon these conferences because, where an anticompetitive agreement is approved in order to attain other objectives, such conferral 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-96-1529 and OST-96-1589, as set forth in finding paragraph 1 above, subject to previous conditions imposed.

ACCORDINGLY,

We approve and grant antitrust immunity to the agreements contained in Dockets OST-96-1529 and OST-96-1589, as set forth in finding paragraph one above, subject, where applicable, to conditions previously imposed.

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation
and International Affairs

(SEAL)

