

SERVED JAN 5 - 1996



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

Action on IATA Agreements
Issued by the Department of Transportation
on the 29th day of December, 1995

Agreements adopted by the Tariff :
Coordinating Conferences of the : Docket OST-95-750
International Air Transport Association : R-1 and R-2
relating to passenger fares :

ORDER

Various members of the International Air Transport Association (IATA) have filed an agreement with the Department under section 41309 of Title 49 of the United States Code (Code) and Part 303 of the Department's regulations. The agreement was adopted at the TC3 Passenger Coordinating Conference held in Singapore September 25-October 5, 1995, for expedited effectiveness November 30, 1995. 1/

The agreement establishes business class fares from Indonesia to U.S. territories at 115% of economy fares, and amends normal fares (first, business, and economy class fares) from Malaysia to reflect government approved levels. These fare changes were originally approved in Order 95-3-45, March 23, 1995, but were not implemented. No direct services exist between Malaysia or Indonesia and U.S. territories.

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 and promotional 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.

Our approval of the proposed normal fares and conditions is similarly consistent with Department policy as stated in Order 88-4-5, April 1, 1988, indicating that we would not impose our standard conditions holding proposed normal economy fares to

1/ IATA memoranda TC3 Reso/P 0646 (Docket OST-95-750), filed with the Department October 19, 1995.

regulatory ceilings based on the Standard Foreign Fare Level (SFFL) in markets where no direct service is provided.

Pursuant to authority assigned by the Department's Regulations, 14 CFR 385.13:

1. We do not find that the following resolutions, which have direct application in foreign air transportation as defined by the Code, are adverse to the public interest or in violation of the Code, provided that approval is subject to conditions previously imposed:

<u>IATA Reso.</u>	<u>Title</u>
002bb	Special Amending Resolution Within South East Asia
002cc	Special Amending Resolution Between South East Asia And South West Pacific

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 the Code.

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 49 U.S.C. 41308. Consequently, we will grant antitrust immunity to the agreement in Docket OST-95-750, as set forth in finding paragraph 1 above, subject, where applicable, to conditions previously imposed.

ACCORDINGLY,

We approve and grant antitrust immunity to the agreement contained in **Docket 95-750**, as set forth in finding paragraph 1 above, subject, where applicable, to conditions previously imposed.

Persons entitled to petition the Department for review of this order, under 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Department of Transportation upon the expiration of the above period, unless within such period a petition for review is filed or the Assistant Secretary for Aviation and International Affairs gives notice that he will review this order on his own motion.

By:

Paul L. Gretch
Director, Office of International Aviation

(SEAL)