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

Order 98-2-33

SERVED MAR 5 1998

Issued by the Department of Transportation
on the 27th day of February, 1998

 Agreement adopted by the Tariff :
 Coordinating Conferences of the : Docket OST-98-3425
 International Air Transport Association :
 relating to passenger fare matters :

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 (the Code), and Part 303 of the Department's regulations. The agreement was adopted by mail vote for effectiveness on April 1, 1998.^{1/}

The agreement revalidates, without change, eight composite resolutions, due to expire March 31, 1998, for an additional one year period through March 31, 1999. Approved by the Department in either Order 96-3-24 (March 13, 1996) or Order 97-6-18 (June 13, 1997), the revalidated resolutions deal with such matters as special fare construction rules for helicopter service and for Narita/Hanada airports, as well as baggage rules for the weight-related and piece-related systems and for commercial couriers.

We will approve the agreement. Based on the information submitted and other relevant material, we conclude that the agreement, as conditioned below, will not result in fares or charges that are unlawful or injurious to competition in the markets at issue. Our approval of this agreement, however, remains subject to the conditions that we attached to our earlier approval of these resolutions.^{2/} These conditions remain in force, and apply equally and by reference to our continued approval here.

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

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

^{1/} IATA memorandum COMP Telex Mail Vote 911, filed with the Department on February 4, 1998.

^{2/} See Orders 96-3-24, March 13, 1996; and 97-6-18, June 13, 1997.



Docket

IATA Resolution

OST-98-3425

PTC1/2/3/12/23/31/123 (Mail 911) 002

2. This agreement is a product of the IATA tariff conference machinery, which the Department found to be anticompetitive but nevertheless approved on foreign policy 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 section 41308 of the Code.

Order 85-5-32 contemplates that the products of the 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 agreement in Docket OST-98-3425, 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 OST-98-3425, as set forth in finding paragraph one 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 expiration of the above period, unless within such period a petition for review is filed or the Assistant Secretary for Policy 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)

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