



**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 16th day of March, 2004**

Served: March 19, 2004

Agreements adopted by the Tariff
Coordinating Conferences of the
International Air Transport Association
relating to Cargo composite resolutions

Docket OST-2003-14486
R-1 through R-5

Docket OST-2003-14490
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 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 Cargo Tariff Coordinating Conference in The Hague, May 27-31, 2002.¹

The agreement in Docket OST-2003-14490 adopts resolutions with worldwide application for "Alliance Countries," while the agreement in Docket OST-2003-14486 adopts worldwide

¹ IATA memoranda CTC COMP 0413 and CTC COMP 0412, with technical corrections filed with the Department, August 10, 2002.

² "Alliance Countries" (Austria, Chile, Czech Republic, Faroe Island, France, French Guiana, Germany, Greenland, Guadeloupe, Iceland, Italy, Malaysia, Martinique, Monaco, Netherlands, New Zealand, Panama, Reunion, Denmark, Norway and Sweden) are countries and dependencies whose designated airlines are parties to an alliance agreement with a U.S. carrier to which the Department has granted approval and antitrust immunization. One of the Department's conditions in approving each such agreement bars the parties from participating in IATA tariff coordination activities that discuss any through fares, rates or charges between the United States and any countries whose designated airlines participate in any such immunized alliance agreement. Accordingly, IATA tariff conferences discuss and agree on rates for alliance and non-alliance countries separately.

resolutions for Non-alliance countries.² The agreements adopt no general rate increases, although certain rates are deleted from the IATA rate structure due to infrequent usage. The agreements also raise the maximum value for small package shipments from certain countries, and the agreement in Docket 14486 adopts an unloading/recontouring charge for container Type 4. Other amendments in the agreements serve an editorial, technical or clarifying purpose and appear to be in conformity with our substantive policies and concerns. As such, they raise no public interest issues and will be approved.

We will approve the agreements, subject to our usual conditions that all agreed rates and charges represent maximums, with carriers free to implement rates and charges below them. We find that, as previously conditioned, the resolutions incorporated in the agreements are not adverse to the public interest, in violation of the Code, or likely to lessen competition substantially, and that they should be approved.

Furthermore, we conclude that the agreements should be granted immunity from the operation of the antitrust laws to the extent necessary to permit their implementation. In general, they amend existing rates already approved and immunized by the Department. As a result, none raise immunity issues not previously considered, and the conferral of immunity upon them is consistent with our policy of conferring immunity on amendments coextensively with the underlying agreement.

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

1. We do not find that the resolutions set forth in the Attachment to this order, and which have direct or indirect application in foreign air transportation as defined by the Code, are adverse to the public interest or in violation of the Code, or likely to lessen competition substantially; provided that (a) notwithstanding any provisions of these resolutions or any other resolutions, all rates and charges to or from 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;
2. These agreements are products 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 Docket OST-2003-14486 and Docket OST-2003-14490, as set forth in finding paragraph 1 above, subject to conditions imposed.

ACCORDINGLY,

We approve and grant antitrust immunity to the agreements contained in Docket OST-2003-14486 and Docket OST-2003-14490, as set forth in finding paragraph 1 above, subject to conditions imposed.

Persons entitled to petition the Department for review of this order, under 14 CFR 385.30, may file such petitions within seven days after the date of service of this order.

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

By:

Paul L. Gretch
Director, Office of International Aviation

(SEAL)

Docket OST-2003-14490

CTC COMP 0413, Composite Cargo Resolutions

<u>No.</u>	<u>Designation</u>	<u>Title</u>	<u>Expiry</u>
R-1	CTC1(46) 001aa CTC3(46) 001aa CTC12(67) 001aa CTC31(50) 001aa	Special Applicability Resolution Alliance Countries	September 30, 2004
R-2	CTC1(46) 530 CTC3(46) 530 CTC12(67) 530 CTC31(50) 530	Rates And/Or Charges For Unitised Consignments Adopting/Amending (Resolution 002) Alliance Countries	September 30, 2004
R-3	CTC1(46) 550 CTC3(46) 550 CTC12(67) 550 CTC31(50) 550	General Cargo Rates Adopting/Amending (Resolution 002) Alliance Countries	September 30, 2004
R-4	CTC1(46) 554f CTC3(46) 554f CTC12(67) 554f CTC31(50) 554f	General Cargo Rates USA-Austria, Belgium, Chile, Germany, Italy, Netherlands, Scandinavia, Switzerland Adopting/Amending (Resolution 002) Alliance Countries	September 30, 2004
R-5	CTC1(46) 584ff CTC3(46) 584ff CTC12(67) 584ff CTC31(50) 584ff	Rates And/or Charges for Unitised Consignments USA-Austria, Belgium, Chile, Germany Italy, Netherlands, Scandinavia, Switzerland Adopting/Amending (Resolution 002) Alliance Countries	September 30, 2004
R-6	CTC1(46) 590 CTC3(46) 590 CTC12(67) 590 CTC31(50) 590	Specific Commodity Rates Adopting/Amending (Resolution 002) Alliance Countries	September 30, 2004

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CTC COMP 0413, Composite Cargo Resolutions

<u>No.</u>	<u>Designation</u>	<u>Title</u>	<u>Expiry</u>
R-7	CTC1(46) 590ff CTC3(46) 590ff CTC12(67) 590ff CTC31(50) 590ff	Rates And/or Charges for Unitised Consignments USA USA-Austria, Belgium, Chile, Germany, Italy, Netherlands, Scandinavia, Switzerland Adopting/Amending (Resolution 002) Alliance Countries	September 30, 2004
R-8	CTC1(46)501aa CTC12(67)501aa CTC31(50)501aa	Small Package Service Except Between Countries in the ECAA	Indefinite

Docket OST-2003-14486

CTC COMP 0412, Composite Cargo Resolutions

<u>No.</u>	<u>Designation</u>	<u>Title</u>	<u>Expiry</u>
R-1	CTC1(46) 550 CTC2(56) 550 CTC3(46) 550 CTC12(67) 550 CTC23(56) 550 CTC31(50) 550 CTC123(60) 550	General Cargo Rates Amending (Resolution 002) To/From USA/US Territories Except Alliance Countries	September 30, 2004
R-2	CTC1(46) 590 CTC2(56) 590 CTC3(46) 590 CTC12(67) 590 CTC23(56) 590 CTC31(50) 590 CTC123(60) 590	Specified Cargo Rates Amending (Resolution 002) To/From USA/US Territories Except Alliance Countries	September 30, 2004
R-3	CTC31(50) 501a Japan-USA	TC31 Small Package Service Amending	September 30, 2004
R-4	CTC1(46) 501aa CTC12(67) 501aa CTC31(50) 501aa	Small Package Service Amending (Except Between Countries in the ECAA) To/From USA/US Territories	Indefinite
R-5	CTC1(46) 530 CTC2(56) 530 CTC3(46) 530 CTC12(67) 530 CTC23(56) 530 CTC31(50) 530 CTC123(60) 530	Rates and/or Charges for Unitised Consignments Amending	September 30, 2004