

BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

Agreements Adopted by the Traffic
Conferences of the International Air
Transport Association

Docket OST-2004-

APPLICATION FOR APPROVAL OF AGREEMENTS
BY THE
INTERNATIONAL AIR TRANSPORT ASSOCIATION

16 July 2004

Communications with respect to
this document should be sent to

David M. O'Connor
Senior Director, United States
International Air Transport Association
1776 K St. N.W. Suite 400
Washington, D.C. 20006

(202) 293-9292

Date: 16 July 2004
Filing fee / IATA Acct: USD61 / 2004-62
US/UST involved: No
End of Government Filing Period: 3 August 2004
Intended effective date: **15 August 2004**

Agreement: **PTC123 0288** dated 16 July 2004
Mail Vote 397 - Resolution 010o
TC123 Special Passenger Amending Resolution
From Brazil to TC3

r1

r1 010o

APPLICATION FOR APPROVAL OF AGREEMENT

Pursuant to statements submitted by Member airlines of the International Air Transport Association (IATA), the undersigned has been constituted to be their attorney-in-fact for filing with the Department of Transportation copies of agreements adopted by the IATA Traffic Conferences.

On their behalf, and pursuant to Sections 41308 and 41309 of Title 49 of the United States Code and Parts 303.03, 303.05 and 303.30(c) of Title 14 of the Code of Federal Regulations, I am filing with the Department this application for approval of an IATA agreement.

This agreement and related factual and explanatory material and documentation required by 14 C.F.R. 303.31 and Department and Civil Aeronautics Board (CAB) precedent are contained in the IATA Traffic Conference documentation summarized above.

This agreement arises from the continuing process of Tariff Coordinating Conferences and was developed in the context of prior Department and CAB rulings addressing related resolutions which reflected regulatory and market conditions then in effect. Thus, the present agreement should be viewed as part of a dynamic process of IATA Member airline adjustment to governmental and economic factors.

On previous occasions, the Department has found such agreements to be consistent with the public interest when they do not result in fares or rates that are unlawful or injurious to competition in the markets at issue. Approval of the present agreement would not yield fares or rates that are unlawful or injurious to competition. Moreover, approval of this agreement, which reflects compromises among the differing economic and social philosophies of the many nations whose airlines are parties, will advance the public interest in maintaining good aviation relations with other countries.

We request early approval by the Department of the foregoing agreement, pursuant to 49 U.S.C. 41309, and the grant of full antitrust immunity, pursuant to 49 U.S.C. 41308.

The conferral of full antitrust immunity would be in the public interest and necessary for the transaction to proceed. This agreement is a product of the IATA Tariff Coordinating Conferences which the Department found to be anticompetitive but nevertheless approved and immunized in Order 85-5-32 (May 6, 1985) on foreign policy and comity grounds because such action is necessary to achieve the serious transportation need of maintaining good aviation relations with other countries and these benefits are not obtainable by reasonably available means having materially less anticompetitive effects.

This agreement concerns fares or rates between non-U.S. points and thus has at most indirect application in foreign air transportation. The U.S. authorities have recognized (e.g, Order 79-8-194, 30 August 1979) that the interests of sovereign nations in the conditions governing air transportation between them greatly exceed any that the U.S. might have by reason of U.S. airline, citizen or shipper participation. This agreement is not adverse to the public interest or in violation of the Act and, therefore, should be granted full immunity.

Respectfully submitted

David M. O'Connor
Senior Director, United States
International Air Transport Association
Attorney-in-fact

CERTIFICATE OF SERVICE

A copy of this application or a summary notice thereof has been served by first class or priority mail on the following person

Chief, Transportation, Energy & Agriculture Section
Antitrust Division
Department of Justice
Washington D.C. 20530

David M. O'Connor

16 July 2004
Date Served



International Air Transport Association

IATA Centre, Route de l'Aéroport 33
P.O. Box 416
CH-1215 Geneva 15 Airport
Switzerland

16 July 2004

M E M O R A N D U M

PTC123 0288

TO: Members Participating in Tariff Coordinating Conferences (SP-3414)
FROM: Director, Interline Tariffs
SUBJECT: Mail Vote 397 - Resolution 010o
TC123 Special Passenger Amending Resolution
From Brazil to TC3
Intended Effective Date: 15 August 2004

VOTING RESULT - ADOPTED

As no negative votes were cast during the voting period which expired 1400 hours Geneva time 16 July 2004, Mail Vote 397, as circulated by MV397-1 dated 9 July 2004 is declared adopted on 16 July 2004.

By Mail Vote 328, Members adopted TC123 South Atlantic Resolution 002 for intended effect 1 March 2004 which included a 2% increase on special fares from South Atlantic to TC3 except Korea (Rep. of). As advised by QT2032/Memorandum PTC123 0270 dated 2 December 2004, this action has been disapproved from Brazil. In accordance with the action recommended by the Data Base Working Group and endorsed by the Composite meeting of July 2000, it is proposed to remove increases where IATA has been notified that these have not received government approval.

The filing period for this Mail Vote ends **3 August 2004**. Members are reminded of their obligations under Resolutions 001 and 006 to advise this office by the end of the filing period whether approval by their Government authorities is required and, if so, to accomplish the necessary filing formalities. The effective date will be declared in accordance with Resolutions 001 and 006, when all the known necessary Government approvals have been received.

Susan Burbage
Manager, Conference Services
Interline Tariffs

mk

**TC123
SPECIAL PASSENGER AMENDING RESOLUTION
FROM BRAZIL TO TC3**

| | | | | |
|------------------------------|--------|---------------|------------------------|----------------|
| PTC123(Mail 397) 010o | | | | New |
| Filing Period | Begins | 16 July 2004 | Intended Effectiveness | 15 August 2004 |
| | Ends | 3 August 2004 | Expiry | Indefinite |
| | | | | Type B |

RESOLVED that, TC123 fares from Brazil are amended as follows:

special fares from Brazil to TC3 except Korea (Rep. of) are reduced by 2% (divide by 1.02 and round down)