

BEFORE THE  
DEPARTMENT OF TRANSPORTATION  
WASHINGTON, D.C.

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Agreements Adopted by the Passenger Services  
Conference (PSC) of the  
International Air Transport Association

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Docket OST-2005-

**APPLICATION FOR APPROVAL OF AGREEMENTS  
BY THE  
INTERNATIONAL AIR TRANSPORT ASSOCIATION**

October 17, 2005

Communications with respect to  
this document should be sent to:

Douglas Lavin  
Regional Vice President – North America  
International Air Transport Association  
1750 K St. N.W. #12<sup>th</sup> Floor  
Washington, D.C. 20006  
(202) 293-9292

**Summary**DOCKET: **OST-2005-**

DOT ORDER:

Date: October 17, 2005  
Filing fee/IATA Acct: \$61 – A328  
US/UST involved?: YES  
Intended effective date: **1 November 2005**  
Memorandum: **MAIL VOTE NUMBER S 083**  
**RP 724c – Notice of Liability Limitations – Neutral Air**  
**Carrier Liability for Passengers and their Baggage – EC**  
**Regulation 889/2002**

Summary is included.

### **APPLICATION FOR APPROVAL OF AGREEMENTS**

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 materials 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 Services Conferences through which IATA Member airlines establish standardized facilitation arrangements intended to ease international air transportation and interline procedures. This agreement was developed in the context of prior Department and CAB rulings addressing related agreements which reflected regulatory and market conditions then in effect. The present agreement, which makes amendments to the framework agreements forming the charter for ongoing facilitation programs or creates new agreements pursuant to that framework, should be viewed as part of a dynamic process of IATA Member airline adjustment to governmental and economic factors.

On previous occasions, the Department and CAB have found these framework agreements to be consistent with the public interest. The present agreement does not impair the previous bases for approval and themselves are not adverse to the public interest. 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 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 Services 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.

The agreement embodies amendments to services resolutions/recommended practices that have been previously approved and immunized or creates new resolutions / recommended practices pursuant to the framework forming the charter for ongoing facilitation programs. Therefore, consistent with the Department's policy of immunizing amendments coextensively with the underlying agreement, the subject agreement should be granted immunity.

Respectfully submitted:

Douglas Lavin  
Regional Vice President – North America  
International Air Transport Association

**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 persons:

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

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Douglas Lavin

Date Served



## MEMORANDUM

PSC/MV/019

TO: All Members, PSC – Accredited Representatives

FROM: Director, Passenger

DATE: 20 September 2005

SUBJECT: **MAIL VOTE NUMBER S 083**  
**Resolution 724c – Notice of Liability Limitations - Neutral**  
**Air Carrier Liability for Passengers and their Baggage**  
**– EC Regulation 889/2002**

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On the request of the Director General the following mail vote is issued, timing of which is:

Voting Period:	21 September – 10 October 2005
Filing period with Governments	14 – 31 October 2005
Intended effectiveness date:	1 November 2005

Members' Accredited Representatives are requested to cast their votes by e-mail ([mullerm@iata.org](mailto:mullerm@iata.org)), by teletype (GVARZXB) or by fax (+41 22 770 2662). *Votes not received by the end of the voting period (10 October 2005) will be assumed affirmative.*

Filing formalities with the United States Department of Transportation, on behalf of all Members, and with the Canadian Transportation Agency, on behalf of Canadian Members, will be accomplished by IATA.

The amendments to Resolution 724c as shown in **Attachment A** will be declared effective upon receipt of all required Government approvals, in accordance with Resolutions 001 and 006.

Michael Feldman

International Air Transport Association

Route de l'Aéroport 33  
PO Box 416  
CH - 1215 Geneva 15 Airport  
Switzerland  
Tel: +41 22 770 2525  
Fax: +41 22 798 3553

**Resolution 724c – Notice of Liability Limitations - Neutral  
Air Carrier Liability For Passengers and their Baggage  
- EC Regulation 889/2002**

**Background**

Members are reminded that since EC Regulation 2027/97 came into effect in October 1998, air carriers from EC member states have been obliged to apply higher liability provisions - effectively the IATA Inter-Carrier Agreement regime. However, EC Regulation 889/2002 which entered into force on 28 June 2004, has amended this Regulation. Amongst other things, Articles 6.1 and 6.2 of Regulation 889/2002 impose new and more extensive notice and information requirements on all airlines operating to/from the EC, i.e. not just EC airlines.

Members will recall that the PSC adopted new ticket notices via Mail Vote S 080 as circulated on Memorandum MV/PSC/010 dated 25 June. However, due to serious concerns from one government, IATA has been unable to declare effective the new ticket notices to meet the requirements of Regulation 889/2002.

In light of these concerns, a group of airline lawyers has been working with IATA Legal over a number of months. IATA Legal has been in dialogue with the US authorities to develop a way forward. IATA consulted European and US counsel and created a fresh notice for neutral tickets to replace the current wording in Resolution 724c as shown in **Attachment A**. This notice was recently reviewed and endorsed by the Legal Committee for adoption by the PSC.

Moreover the Legal Committee agreed that fresh versions of notices for airline tickets (previously adopted as RP1724c) could be circulated to Member airlines for their information. These notices will be circulated with the upcoming agenda of the PSC. It is not planned to adopt these notices as IATA standards. Carriers are at liberty to provide another notice using their own wording.

**Proposed Action:**

PSC to rescind RP 1724c and replace Resolution 724c with fresh verbiage as shown in **Attachment A**.

**RESOLUTION 724c**  
**NOTICE OF LIABILITY LIMITATIONS - NEUTRAL**  
*(amended)*

PSC(MV83)724c

Expiry: Indefinite  
Type: B

RESOLVED that:

Pursuant to the requirements of European Community (EC) Regulation 889/2002, passengers must be provided with notice of air carrier liability for tickets sold within the EC for departures from the EC.

The notice below shall be provided with neutral tickets, e.g. for BSP tickets. In cases where Members provide neutral tickets to passenger sales agents or commercial accounts in neutral ticketing schemes, the notice below shall also be provided. ~~Regarding airline's own sales, refer to RP 1724c.~~

*(Note: the following wording completely replaces the current text)*

**NOTICE OF LIABILITY LIMITATIONS**

The Montreal Convention or the Warsaw Convention system may be applicable to your journey and these Conventions govern and may limit the liability of air carriers for death or bodily injury, for loss of or damage to baggage, and for delay.

**Where the Montreal Convention applies, the limits of liability are as follows:**

1. **There are no financial limits in respect of death or bodily injury;**
2. **In respect of destruction, loss of, or damage or delay to baggage, 1,000 Special Drawing Rights (approximately EUR 1,200; US \$1,470) per passenger in most cases.**
3. **For damage occasioned by delay to your journey, 4,150 Special Drawing Rights (approximately EUR 5,000; US \$6,000) per passenger in most cases.**

**EC Regulation No. 889/2002 requires European Community carriers to apply the provisions of the Montreal Convention limits to all carriage by them of passengers and their baggage by air. Many non-European Community carriers have elected to do so in respect of the carriage of passengers and their baggage.**

Where the Warsaw Convention system applies, the following limits of liability may apply:

1. 16,600 Special Drawing Rights (approximately EUR 20,000; US \$20,000) in respect of death or bodily injury if the Hague Protocol to the Convention applies, or 8,300 Special Drawing Rights (approximately EUR 10,000; US \$10,000) if only the Warsaw Convention applies. Many carriers have voluntarily waived these limits in their entirety, and US regulations require that, for journeys to, from or with an agreed stopping place in the US, the limit may not be less than US \$75,000.
2. 17 Special Drawing Rights (approximately EUR 20; US \$20) per kg for loss of or damage or delay to checked baggage, and 332 Special Drawing Rights (approximately EUR 400; US \$400) for unchecked baggage.
3. The carrier may also be liable for damage occasioned by delay.

**Further information may be obtained from the carrier as to the limits applicable to your journey. If your journey involves carriage by different carriers, you should contact each carrier for information on the applicable limits of liability.**

**Regardless of which Convention applies to your journey, you may benefit from a higher limit of liability for loss of, damage or delay to baggage by making at check-in a special declaration of the value of your baggage and paying any supplementary fee that may apply. Alternatively, if the value of your baggage exceeds the applicable limit of liability, you should fully insure it before you travel.**

Time limit for action: Any action in court to claim damages must be brought within two years from the date of arrival of the aircraft, or from the date on which the aircraft ought to have arrived. Baggage claims: Written notice to the carrier must be made within 7 days of the receipt of checked baggage in the case of damage, and, in the case of delay, within 21 days from the date on which it was placed at the disposal of the passenger.