

Posted: 5/22/98
9:30 a.m.

Order 98-5-30



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

SERVED MAY 29 1998

Issued by the Department of Transportation
on the 22nd day of May, 1998

Agreement adopted by the Tariff :
Coordinating Conferences of the : **Docket** OST-98-3566
International Air Transport Association :
relating to currency 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, and Part 303 of the Department's regulations. The agreement was adopted by mail vote.1/

The agreement affects Resolution 024c which deals with the conversion of local currency amounts when a journey requires either the combination of different local currency fares on the same ticket or the use of add-on amounts to construct a through fare. Under the terms of this resolution, the IATA Clearing House issues "IATA Rates of Exchange" (IROE's) in February, May, August and November of each year to be used for such conversions during the next quarter.2/ In addition, IATA monitors these IROE's and if a variation of ten percent or more between an effective IROE and the market rate of exchange for that IROE occurs, IATA updates the IROE which then becomes the effective conversion rate for ticket sales.3/

The agreement proposes to reduce this ten percent tolerance for updating an IROE to six percent. IATA states that the recent currency problems in South East Asia and Korea revealed that the present ten percent tolerance is too large, and states further that a reduction to six percent, which is the same level used by the Clearing House to highlight currency changes, will provide for a quicker response to currency fluctuations.

1/ IATA memorandum COMP Mail Vote 913, file with the Department on February 27, 1998.

2/ Since these IROE's are used to establish fares in foreign air transportation, under the terms of Order 88-8-52, August 19, 1988, they must be filed in tariffs with the Department.

3/ Generally, the revised IROE becomes effective on the first day of the second month following the month that the revised IROE is issued. For example, revised IROE's issued in March become effective for sales on May 1.

We have decided to approve the agreement, subject, where applicable, to previously imposed conditions.^{4/} 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.

Acting under Title 49 of the United States code, and particularly sections 40101, 40103, 41300 and 41309:

1. We do not find that the following resolution, which is incorporated in the agreement in Docket OST-98-3566 and which has direct application in foreign air transportation as defined by the Code, to be adverse to the public interest or in violation of the Code, subject, where applicable, to conditions we have previously imposed:

<u>Docket</u>	<u>IATA Resolution</u>
OST-98-3566	PTC 1, 2, 3, 1/2, 2/3, 3/1, 1/2/3 (Mail 913) 024c

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 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, the conferral of antitrust immunity is mandatory under Title 49 of the United States 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 the Code. Consequently, we will grant antitrust immunity to the agreement in Docket OST-98-3566 as set forth in finding paragraph 1 above, subject, where applicable, to conditions previously imposed.

^{4/} See Order 88-8-52, August 19, 1988, regarding the filing of these rates of exchange in tariffs with the Department.

ACCORDINGLY,

We approve and grant antitrust immunity to the agreement contained in Docket OST-98-3566, as set forth in finding paragraph one above, subject, where applicable, to conditions previously imposed.

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation
and International Affairs

(SEAL)