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**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 30th day of April, 2008

**Amendment of exemption under 49 U.S.C.
40109 from the conditions of CAB Order
68-7-55 for Passenger Tariff Coordinating
Conference Action**

Docket OST-2006-26409

ORDER AMENDING EXEMPTION

By Order 2007-9-16, served September 19, 2007, the Department granted an exemption from condition # 2 imposed by Order 68-7-55 on the Procedures of the International Air Transport Association (IATA) for the Conduct of the IATA Traffic Conferences, to the extent that IATA need not file certain tariff conference resolutions for review and approval by the Department. The resolutions established a new “Flex Fares” mechanism for the establishment of IATA interline passenger fares for travel within IATA’s Europe Traffic Conference, between Europe and the South West Pacific, and between Europe and the South Asian Subcontinent.¹ By earlier Order 2006-12-24, served January 2, 2007, we exempted the Flex Fares mechanism within the European Common Aviation Area (ECAA).²

Under the Flex Fares mechanism, IATA will establish interline fares by computing an average of IATA carriers’ own fully-flexible market fares for each city pair, based on certain criteria, and then adding an “interline premium.” The flex fares will be recomputed twice yearly, and the interline premium may be amended through the E-Tariffs process, an internet platform operated by IATA. Essentially, the new IATA mechanism was designed by IATA to comply with the

¹ IATA defines “Europe” for passenger tariff purposes as consisting of Albania, Algeria, Andorra, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Gibraltar, Greece, Hungary, Iceland, Ireland/Republic of, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Macedonia (FYROM), Malta, Moldova/Republic of, Monaco, Morocco, Netherlands, Norway, Poland Portugal, Romania, Russian Federation (West of the Urals), San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tunisia, Turkey, Ukraine, United Kingdom, and Yugoslavia. IATA defines the “South West Pacific” for passenger tariff purposes as consisting of American Samoa, Australia, Cook Islands, Fiji, French Polynesia, Kiribati, Nauru, New Caledonia, New Zealand, Niue, Norfolk Island, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, Vanuatu, and Wallis and Futuna Islands. IATA defines “South Asian Subcontinent” for passenger tariff purposes as consisting of Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka.

² IATA defines the ECAA as the EU member states, Iceland, Liechtenstein, Norway and Switzerland.

European Commission's denial of a block exemption for tariff coordination from EU competition law, by eliminating consultations among carriers, through face-to-face meetings, mail votes, or other means of direct communication, for the periodic establishment of fares for interline travel within the ECAA and between the ECAA and other countries. The Department's orders exempted from our agreement-filing condition the new resolutions, future amendments to those resolutions, and fares generated under the resolutions, provided that the resolutions and amendments thereto were limited to the establishment of fares for travel within the areas covered by the respective exemption applications.

IATA has filed several additional applications to broaden the scope of the exemption for Flex Fares resolutions:

Europe-Africa. Flex fares would be established for first, business and economy class normal fares and for "PEX" discount fares, with an interline premium of 20 percent.³

Europe-Mexico, Mid Atlantic, and South Atlantic. Flex fares would be established for first, business and economy class normal fares, with an interline premium of 10 percent.⁴

Europe- South East Asia. Flex fares would be established for first, business and economy class normal fares, and for PEX fares to Europe, with an interline premium of 10 percent.⁵

Europe-Japan. Flex fares would be established for first, business and economy class normal fares, and for PEX fares to Europe, with an interline premium of 10 percent.⁶

³ Application filed September 21, 2007. IATA defines "Africa" for passenger tariff purposes as consisting of Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Congo, Cote d'Ivoire, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mayotte, Mozambique, Namibia, Niger, Nigeria, Reunion, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, Swaziland, Tanzania/United Republic, Togo, Uganda, Zaire, Zambia, Zimbabwe. A duplicate application was filed February 8, 2008.

⁴ Application filed November 8, 2007, with an amendment filed February 8, 2008. IATA defines "Mexico" for passenger tariff purposes as consisting of USA (excluding Puerto Rico and the Virgin Islands, US) and Canada on the one hand and Mexico on the other. IATA defines "Mid Atlantic" for passenger tariff purposes as consisting of Anguilla, Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bermuda, Bolivia, Cayman Islands, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, French Guiana, Grenada, Guadeloupe, Guatemala, Guyana, Haiti, Honduras, Jamaica, Martinique, Mexico (for cargo matters only) Montserrat, Netherlands Antilles, Nicaragua, Panama, Peru, St. Kitts-Nevis, Saint Lucia, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago, Turks and Caicos Islands, Venezuela, Virgin Islands (British). IATA defines "South Atlantic" for passenger tariff purposes as consisting of Argentina, Brazil, Chile, and Paraguay.

⁵ Application filed November 28, 2007. IATA defines "South East Asia" for passenger tariff purposes as consisting of Brunei Darussalam, Cambodia, China, Christmas Island, Cocos (Keeling) Islands, Guam, Hong Kong, Indonesia, Kazakhstan, Kyrgyzstan, Lao People's Democratic Republic, Macau, Malaysia, Marshall Islands, Micronesia, Mongolia, Myanmar, Northern Mariana Islands (includes Mariana Islands except Guam), Palau, Philippines, Russian Federation (East of the Urals), Singapore, Taiwan/Province of China, Tajikistan, Thailand, Turkmenistan, Uzbekistan, Vietnam.

⁶ Application filed December 7, 2007, with an amendment filed December 18, 2007.

Europe-Middle East. Flex fares would be established for first, business and economy class normal fares, and PEX fares to Europe, with an interline premium of 10 percent.⁷

Middle East, Africa - South West Pacific. Flex fares would be established for first, business and economy class normal fares, and for PEX fares with an interline premium of five percent in 2008 and 10 percent in 2009.⁸

Europe-Korea. Flex fares would be established for first, business and economy class normal fares, and for excursion fares, with an interline premium of 10 percent.⁹

In its applications, IATA states that the broadening the exemption is justified by substantially the same reasons the Department relied on in Order 2006-12-24 granting the original exemption, and would be in the public interest. First, the subject agreements concern non-U.S. fares, and such fare agreements typically are approved using expedited procedures, because they seldom raise any public interest issues involving U.S. passengers under U.S. aviation policy or U.S. antitrust laws. Second, the Flex Fares system in the additional markets will be subject to the competition laws of the EU. Third, granting the requested exemption is consistent with actions the Department has taken on other IATA agreements that do not present significant issues under U.S. antitrust laws, such as the agreements of the IATA Services and Agency Conferences.

We will grant the expanded exemptions as requested, under the same conditions. IATA fares for travel between non-U.S. markets typically present no public interest concerns justifying our review of agreements limited to such travel. We find that an expansion of the Flex Fare mechanism to include IATA interline fares for travel in the additional non-U.S. markets to/from Europe is consistent with the public interest for the reasons stated in Order 2006-12-24.

In our earlier orders, we expanded our exemption to cover passenger and cargo agency conference resolutions that apply solely to agents within Europe and the other world areas covered by Flex Fares, because the agency resolutions, like IATA's tariff coordination activities, are fully subject to the competition laws of the EU and other jurisdictions and are more properly the concern of those authorities.¹⁰ With the widespread expansion of Flex Fares to additional markets it would be anomalous to exempt the agency resolutions only for the countries covered by IATA's instant applications, leaving a shrinking number of markets subject to the Department's filing and approval requirements. In addition, the present scope of our exemptions of agency resolutions has engendered some confusion. For example, a number of pending

⁷ Application filed February 8, 2008. IATA defines "Middle East" for passenger tariff purposes as consisting of Bahrain, Egypt, Iran/Islamic Republic of, Iraq, Israel, Jordan, Kuwait, Lebanon, Oman, Qatar, Saudi Arabia, Sudan, Syrian Arab Emirates, and Yemen.

⁸ Application filed February 29, 2008. IATA is adopting flex fares to/from South West Pacific points to comply with the decision of the Australian Competition and Consumer Commission terminating the authorization for IATA tariff coordination under Australian competition law.

⁹ Application filed March 11, 2008, with an amendment filed March 28, 2008.

¹⁰ IATA's passenger and cargo agency conference resolutions do not apply in the United States.

agency agreements include resolutions applicable only in geographic areas we have already exempted, and those resolutions should not have been filed. For these reasons we will grant an exemption for the resolutions of IATA's passenger and cargo agency conferences on a worldwide basis.¹¹

ACCORDINGLY,

1. We exempt the Passenger Tariff Coordinating Conference resolutions identified in Appendix A to this order, amendments to them, and fares generated under the resolutions, from condition #2 imposed on IATA's Procedures for the Conduct of the IATA Traffic Conferences, Agreement 1175, as amended by Order 68-7-55, to the extent that IATA need not file the resolutions for review and approval by the Department prior to a declaration of effectiveness by IATA and implementation by IATA members, provided that the resolutions and amendments thereto are limited to the establishment of fares for travel between Europe and Africa;
2. We extend the exemption in paragraph 1 to Passenger Tariff Coordinating Conference resolutions corresponding to those in Appendix B to this Order for travel between Mexico, Mid Atlantic, South Atlantic, and Europe;
3. We extend the exemption in paragraph 1 to Passenger Tariff Coordinating Conference resolutions corresponding to those in Appendix C to this Order for travel between Europe and South East Asia;
4. We extend the exemption in paragraph 1 to Passenger Tariff Coordinating Conference resolutions corresponding to those in Appendix D to this Order for travel between Europe and Japan, Korea;
5. We extend the exemption in paragraph 1 to Passenger Tariff Coordinating Conference resolutions corresponding to those in Appendix E to this Order for travel between Europe and the Middle East;
6. We extend the exemption in paragraph 1 to Passenger Tariff Coordinating Conference resolutions corresponding to those in Appendix F to this Order for travel between the Middle East, Africa and the South West Pacific;
7. We extend the exemption in paragraph 1 to Passenger Tariff Coordinating Conference resolutions corresponding to those in Appendix G to this Order for travel between Europe and Korea;
8. We exempt the resolutions of the Passenger Agency Conference and Cargo Agency Conference, from condition #2 imposed on IATA's Procedures for the Conduct of the IATA

¹¹ We will dismiss IATA's pending applications for approval of passenger and cargo agency conference agreements in Dockets OST-2008-0027 and OST-2008-0061, and refund IATA's filing fees.

Traffic Conferences, Agreement 1175, as amended, by Order 68-7-55, to the extent that IATA need not file the resolutions for review and approval by the Department prior to a declaration of effectiveness by IATA and implementation by IATA members;

9. This exemption may be revoked in whole or in part, at any time;

10. We dismiss IATA's applications in Dockets OST-2008-0027 and OST-2008-0061; and

11. This Order will be served on the International Air Transport Association.

By:

Michael W. Reynolds
Acting Assistant Secretary for Aviation
and International Affairs

(SEAL)

An electronic version of this document is available on the World Wide Web at:

<http://www.regulationst.gov/>

Appendix A

Reso No.	IATA No.	Title	Expiry
R-1	002	TC2 Amending Resolution between Europe and Africa	
R-2	111ef	TC2 Flex Fares between Europe and Africa	Indefinite
R-3	042ee	TC2 Intermediate/Business Class Flex Fares between Europe and Africa	Indefinite
R-4	052ee	TC2 First Class Flex Fares between Europe and Africa	Indefinite
R-5	062ee	TC2 Economy Class Flex Fares between Europe and Africa	Indefinite
R-6	074ef	TC2 PEX Flex Fares between Europe and Africa	Indefinite

Appendix B

Reso No.	IATA No.	Title	Expiry
R-1	002	TC12 Amending Resolution between Mexico, Mid Atlantic, South Atlantic and Europe	Indefinite
R-2	111hh	TC12 Flex Fares between Mexico, Mid Atlantic, South Atlantic and Europe	Indefinite
R-3	044hh	TC12 Intermediate/Business Class Flex Fares between Mexico, Mid Atlantic, South Atlantic, and Europe	Indefinite
R-4	045hh	TC12 First Class Flex Fares between Mexico, Mid Atlantic, South Atlantic and Europe	Indefinite
R-5	064hh	TC12 Economy Class Flex Fares between Mexico, Mid Atlantic, South Atlantic and Europe	Indefinite

Appendix C

Reso No.	IATA No.	Title	Expiry
R-1	002	TC23 Amending Resolution between Europe and South East Asia	Indefinite
R-2	111ff	TC23 Flex Fares between Europe and South East Asia	30 March 09
R-3	045ff	TC23 Intermediate/Business Class Flex Fares between Europe and South East Asia	30 March 09
R-4	055ff	TC23 First Class Flex Fares between Europe and South East Asia	Indefinite
R-5	065ff	TC23 Economy Class Flex Fares between Europe and South East Asia	30 March 09
R-6	070fe	TC23 PEX Flex Fares from South East Asia to Europe	30 March 09

Appendix D

Reso No.	IATA No.	Title	Expiry
R-1	002	TC23 Adopting/Amending/Revalidating Resolution between Europe and Japan, Korea (Dem. Rep. of) , Korea (Rep. of) via AP, EH, FE, RU, TS	Indefinite
R-2	111gg	TC23 Flex Fares between Europe and Japan via AP, EH, FE, RU, TS	Indefinite
R-3	045gg	TC23 Intermediate/Business Class Flex Fares between Europe and Japan via AP, EH, FE, RU, TS	Indefinite
R-4	055gg	TC23 First Class Flex Fares between Europe and Japan via AP, EH, FE, RU, TS	Indefinite
R-5	065gg	TC23 Economy Class Flex Fares between Europe and Japan via AP, EH, FE, RU, TS	Indefinite
R-6	074ge	TC23 PEX Flex Fares from Japan to Europe via EH, FE RU, TS	Indefinite

Appendix E

Reso No.	IATA No.	Title	Expiry
R-1	002	TC2 Amending Resolution between Europe and Middle East	Indefinite
R-2	111ed	TC2 Flex Fares between Europe and Middle East	Indefinite
R-3	042dd	TC2 Intermediate/Business Class Flex Fares between Europe and Middle East	Indefinite
R-4	052dd	TC2 First Class Flex Fares between Europe and Middle East	Indefinite
R-5	062dd	TC2 Economy Class Flex Fares between Europe and Middle East	Indefinite
R-6	074ed	TC2 PEX Flex Fares from Middle East to Europe	Indefinite

Appendix F

Reso No.	IATA No.	Title	Expiry
R-1	002	TC23 Special Adopting/Amending Resolution between Middle East, Africa and South West Pacific	Indefinite
R-2	111kk	TC23 Flex Fares between Middle East, Africa and South West Pacific	Indefinite
R-3	045kk	TC23 Intermediate/Business Class Flex Fares between Middle East, Africa and South West Pacific	Indefinite
R-4	055kk	TC23 First Class Flex Fares between Middle East, Africa and South West Pacific	Indefinite
R-5	065kk	TC23 Economy Class Flex Fares Middle East, Africa and South West Pacific	Indefinite
R-6	070ek	TC23 Excursion Flex Fares between Middle East, Africa and South West Pacific	Indefinite

Appendix G

Reso No.	IATA No.	Title	Expiry
R-1	002	TC23/123 Special Adopting/Amending/Revalidating Resolution between Europe and Korea (Dem. Rep. of), Korea (Rep. of) via AP, EH, FE, RU, TS	Indefinite
R-2	111LL	TC23/123 Flex Fares between Europe and Korea (Dem. Rep. of) Korea (Rep. of) via AP, EH, FE, RU, TS	Indefinite
R-3	045LL	TC23/123 Intermediate/Business Class Flex Fares between Europe and Korea (Dem. Rep. of), Korea (Rep. of) via AP, EH, FE, RU, TS	Indefinite
R-4	055LL	TC23/123 First Class Flex Fares between Europe and Korea (Dem. Rep. of), Korea (Rep. of) via AP, EH, FE, RU, TS	Indefinite
R-5	065LL	TC23/123 Economy Class Flex Fares between Europe and Korea (Dem. Rep. of) Korea (Rep. of) via AP, EH, FE, RU, TS	Indefinite
R-6	071kL	TC23 Excursion Flex Fares from Korea (Dem. Rep. of), Korea (Rep. of) to Europe via EH, FE, RU, TS	Indefinite