may be examined at the places specified in Item IV below. MBS has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to modify the account maintenance fee for the EPN service. Specifically, the proposed rule change modifies the EPN Schedule of Charges to reflect separate account maintenance fees for a direct account and an omnibus account. MBS previously charged EPN Users an account maintenance fee of $250.00 per month per account. MBS will continue to charge this fee for a direct account (i.e., an account maintained by an EPN User acting on its own behalf). MBS, however, will charge EPN Users $250.00 per month per account plus $25.00 per month per customer account, up to a maximum of $250.00 per month per account, for an omnibus account (i.e., an account maintained by an investment advisor or correspondent acting on behalf of others). An investment advisor or correspondent acting on behalf of others previously was required to open separate accounts for each customer account.

The proposed rule change also modifies the EPN billing procedure to reflect the account maintenance fee as a separate type of fee[3] and to enable MBS to waive one or more EPN fees for such time as determined by MBS. This will allow new EPN Users an opportunity to use and become familiar with EPN services before being required to pay fees.

MBS believes that the proposed rule change is consistent with Section 17A(b)(3)(D) of the Act[4] and the rules and regulations thereunder in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its participants.

(B) Self-Regulatory Organization's Statements on Burden on Competition

MBS does not believe that the proposed rule change will have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments relating to the proposed rule change have been solicited or received. MBS will notify the Commission of any written comments received by MBS.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[5] and pursuant to Rule 19b–4(e)(2) promulgated thereunder[6] because the proposed rule change establishes a due, fee, or other charge imposed by MBS. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of MBS. All submissions should refer to File No. SR–MBS–95–04 and should be submitted by August 11, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–17995 Filed 7–20–95; 8:45 am]

BILLING CODE 8010–01–M

[2] The Commission has modified the language in these sections.

[3] The account maintenance fee previously was included as part of message processing fees.

[4] 15 U.S.C. 78q–1(b)(3)(D) (1988).

[5] 15 U.S.C. 78s(b)(3)(A)(ii) (1988).

[6] 17 CFR 240.19b–4(e)(2) (1994).

[7] 17 CFR 200.30–3(a)(12) (1994).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Order Approving and Granting Antitrust Immunity

SUMMARY: This document approves and grants antitrust immunity to the agreement in Docket 48831 and those portions of the agreement in Docket 49596 as set forth in the order. The order is published as an appendix to this document.

DATES: The order was issued in Washington, DC, July 13, 1995 and the order became effective on July 13, 1995.

FOR FURTHER INFORMATION CONTACT: Lawrence Myers, U.S. Department of Transportation, Office of the Assistant General Counsel for International Law, room 10105, 400 Seventh Street, SW., Washington, DC (202) 366–9183.

Patrick V. Murphy,

Acting Assistant Secretary for Aviation and International Affairs.

[Order 95–7–19; Docket 48831 Resolution 600b Docket 49596 R–1, R–8]

Agreements adopted by the Cargo Services Conferences of the International Air Transport Association relating to conditions of contract.

Order

Various members of the International Air Transport Association (IATA) have filed two agreements with the Department for approval and antitrust immunity under sections 41309 and 41308 of Title 49, United States Code, and Part 303 of the Department's regulations. They were adopted at the annual meetings of the Cargo Services Conferences in 1993 and 1994 for amended intended effectiveness on October 1, 1994.[1]

In 1989, IATA adopted Resolution 600b, which was a new, abbreviated version of the standard Air Waybill Conditions of Contract contained in Resolution 600b(II), which it was intended to replace. Portions of Resolution 600b were disapproved by the Department in Order 89–10–52 and the decision confirmed on reconsideration in Order 91–10–21. As a result, the airlines continued to use Resolution 600b(II). In 1993, IATA amended Resolution 600b, taking into account the Department's expressed concerns, and submitted the amended version for approval in Docket 48831 with an intended effective date of October 1, 1995. In 1994, IATA further amended Resolution 600b, taking into account certain U.S. court decisions interpreting provisions of the

[1] IATA memoranda CSC/Reso/062, Docket 48831; and CSC/Reso/063, Docket 49596.

Warsaw convention as applied to the contents of a cargo waybill. The latter amendments to Resolution 600b were submitted to the Department as R–1 in Docket 49596, with a revised intended effective date of October 1, 1994, for the resolutions in both dockets.[2]

We will approve the text of Resolution 600b as submitted in Docket 48831, CSC(15)600b. As IATA noted in its justification in that docket, Order 89–10–52 approved the language of paragraph 7.1.1 only upon the understanding that the words ''immediately after discovery of the damage'' do not constitute a time limit for filing claims independent of the specified 14-day period from the date of receipt of the cargo. IATA assures us that the words are ''intended to encourage prompt reporting'' without constituting a separate requirement. We will therefore approve IATA's language, subject to a condition implementing this understanding.

However, with respect to the additional amendments to Resolution 600b submitted in Docket 49596, CSC(16)600b, we have two substantial difficulties. First, IATA has proposed a new paragraph 4.2 which states that in carriage to which the Warsaw Convention does *not* apply, a carrier ''may'' permit a shipper to increase its cargo liability limitation by declaring a higher shipment value and paying a supplemental charge if so required. The cargo liability limitation for this non-Warsaw carriage is the same as that set forth in paragraph 3 for Warsaw carriage: 17 Special Drawing Rights (as defined by the International Monetary Fund) per kilogram of cargo lost, damaged or delayed. Paragraph 4.2 is intended, in IATA's words, to provide the same ''option'' to shippers that is provided by paragraph 4.1 for Warsaw carriage. However, paragraph 4.2 is clearly permissive, while the language in paragraph 4.1 indicates that the shipper's right to declare a higher value under the Convention is absolute for cargo accepted for carriage. We have not objected to the extension of the Warsaw cargo liability limit to non-Warsaw carriage, but are firmly of the view that, in return, the complementary right of the shipper to declare excess value should be no less assured in the case of non-Warsaw carriage. We will therefore defer action on paragraph 3 of Resolution 600b until IATA changes the word ''may'' to ''shall'' in paragraph 4.2, or adopts other acceptable language that assures the shipper of the same right to declare excess value in non-Warsaw situations.

Our second problem with the latest amendments to Resolution 600b is the addition of language to the Notice on the face of the air waybill and similar language to paragraph 7 on the back which may be interpreted by carriers, shippers and the courts as expanding the applicability of the Warsaw Convention to carriage not heretofore considered covered by its provisions, and which could cause great uncertainty over its application.[3]

IATA indicated in its justification that the proposed language was prompted by ''recent court decisions'' interpreting Articles 8 and 9 of the Warsaw Convention.[4] Article 8 of the Convention requires, *inter alia*, that the air waybill shall contain various particulars, including ''the agreed stopping places.'' Article 9 of the Convention provides that if the waybill does not contain these and other particulars, the carrier shall not be entitled to avail itself of the provisions of the Convention which exclude or limit its liability. Apparently, IATA is concerned that courts may deny the carriers the Warsaw limits on their liability unless they list all intermediate points that might be used for any type of stop or else incorporate language such as that proposed which arguably makes any stop selected by the carrier one agreed to by the shipper.

If this is indeed IATA's position, we do not share its premise or agree with its interpretation of the proposed language. In the context of cargo service, whose hallmark is routing flexibility which benefits shippers as well as carriers, the language proposed by IATA is not objectionable from an operational standpoint, and we therefore approved it on that basis by Order 94–7–17 in the context of amendments to Resolution 600b(II). In this sense, the language is merely an elaboration of the right of the carrier under the waybill to determine the routing of the shipment.

However, it is neither necessary nor appropriate to construe the proposed language as broadening the meaning of ''agreed stopping place,'' as that term is used in the Warsaw Convention, where it appears not only in Article 8 but also in Article 1. Article 1 confines the applicability of the Convention itself to carriage between at least two contracting parties or within one contracting party if there is an ''agreed stopping place'' in another jurisdiction, whether or not it is a contracting party.

One of the primary goals of the Convention was legal predictability, and that goal would be undermined if ''agreed stopping place'' in Article 1 had been intended to encompass all possible routings rather than just those expressly agreed to by the shipper and entered on the waybill. Such an interpretation would mean that the determination of many important contractual rights of both carriers and shippers would depend on operational vagaries which may not reflect assent by either party for jurisdictional purposes and, indeed, which may engender wasteful litigation over the facts of individual routings which deviate from points specified on the waybill.

We will approve IATA's language as proposed in CSC(16)600b, but only upon the condition that its reference to intermediate points does not constitute an ''agreed stopping place'' for purposes of jurisdiction under Article 1(2) of the ''Warsaw Convention.'' We similarly clarify that our approval in Order 94–7–17 of amended paragraphs 8./8.1 and 8.2 of Resolution 600b(II), submitted in Docket 49595, is based on the same understanding.[5]

Acting under Title 49 of the United States Code, as amended, (''the Code'') and particularly sections 40101, 4013(a), 41308 and 41309:

1. We do not find Resolution 600b, set forth in the agreement in Docket 48831, to be adverse to the public interest or in violation of the Code, subject to the condition that the phrase ''immediately after discovery of the damage'' in paragraph 8.1.1 of Resolution 600b does not constitute a time limit for filing claims independent of the 14-day period specified elsewhere in that paragraph;

2. Except as provided in finding paragraph 3 below, we do not find R–1 and R–8 of the agreement in Docket 49596, to be adverse to the public interest or in violation of the Code, subject to the condition that the reference to intermediate stopping places in paragraph 2 of Resolution 600b does not constitute an ''agreed stopping place'' for purposes of jurisdiction under Article 1(2) of the Warsaw Convention;

3. We find paragraph 4.2 of Resolution 600b, set forth in R–1 of the agreement in Docket 49596, to be adverse to the public interest and in violation of the Code; and

4. These agreements are 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, as amended.

Order 85–5–32 contemplates that the products of fare, rate and services 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 Act. Consequently, we will grant antitrust immunity to the agreements set forth in finding paragraphs 1

[2] A French version of the amended Resolution 600b (R–1) was submitted as Recommended Practice 16006 (R–8) in the same docket, along with various other cargo resolutions. Orders 95–2–3 and 95–3–12 approved all these resolutions except R–1 and R–8. In addition, an expedited agreement amending resolutions 600AA, 600AB, 600B(II) and 670A was filed in Docket 49595 and was approved by Order 94–7–17.

[3] The words ''shipper agrees that the shipment may be carried via intermediate stopping places which the carrier deems appropriate'' would be added to the Notice on the face of the waybill, and the underlined words ''Carrier is authorized *by the shipper* to select the routing *and all intermediate stopping places that its deems appropriate* or to change or deviate from the routing shown on the face hereof'' would be added to the last sentence of paragraph 7.

[4] IATA provided no further explanation of its position, but, upon request, provided the Department with a reference to one case, *Maritime Ins. Co. LTD. v. Emery Air Freight Corp.*, 983 F.2d 437 (2nd Cir. 1993).

[5] We understand that IATA intends for Resolution 600b to replace Resolution 600b(II), but wish to make clear the scope of our approval of the latter provisions to avoid the possibility of legal confusion until Resolution 600b comes into effect.

and 2 above, subject to the conditions imposed therein.

Accordingly,

1. We approve and grant antitrust immunity to the agreement in Docket 48831 and to those portions of the agreement in Docket 49596, set forth in finding paragraphs 1 and 2 above, subject to the conditions imposed therein;

2. We disapprove that portion of the agreement in Docket 49596 set forth in finding paragraph 3, above; and

3. We attach the following condition to our approval in Order 94–7–17 of the amendments to paragraphs 8/8.1 and 8.2 of Resolution 600b (II) in Docket 49595: The references to intermediate stopping places in paragraphs 8/8.1 and 8.2 of Resolution 600b (II) do not constitute an ''agreed stopping place'' for purposes of jurisdiction under Article 1(2) of the Warsaw Convention;

4. We defer action on paragraph 3 of Resolution 600b, set forth in R–1 of the agreement in Docket 49596, until such time as IATA amends paragraph 4.2 of the same resolution to assure shippers of the same right to declare excess value when the Warsaw Convention is not applicable as when it is applicable; and

5. We will publish this order in the **Federal Register**.

By:

Patrick V. Murphy,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 95–17827 Filed 7–20–95; 8:45 am]

BILLING CODE 4910–62–P

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended July 7, 1995

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–95–296.

Date filed: July 6, 1995.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 3, 1995.

Description: Application of American Airlines, Inc. pursuant to 49 U.S.C. 41102, and Subpart Q of the Regulations, applies for renewal of segment 5 of its certificate of public convenience and necessity for Route 560 (Miami–Mexico City), as amended and reissued by Order 92–5–20, May 8, 1992.

Docket Number: OST–95–297.

Date filed: July 6, 1995.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 3, 1995.

Description: Application of American Airlines, Inc., pursuant to 49 U.S.C. 41102 and Subpart Q of the Regulations, applies for renewal of segment 4 of its certificate of public convenience and necessity for Route 389 (between the coterminal points New York, New York/Newark, New Jersey and Miami, Florida and the coterminal points Rio de Janeiro and Sao Paulo, Brazil).

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 95–18007 Filed 7–20–95; 8:45 am]

BILLING CODE 4910–62–P

Aviation Proceedings; Agreements Filed During the Week Ended July 7, 1995

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–95–288.

Date filed: July 3, 1995.

Parties: Members of the International Air Transport Association.

Subject: TC2 Reso/P 1776 dated June 23, 1995 r–1 to r–26, TC2 Reso/P 1777 dated June 23, 1995 r–27 to r–34, TC2 Reso/P 1778 dated June 23, 1995 r–35 to r–50, Expedited Within Europe Resolutions.

Proposed Effective Date: Expedited August 15/September 15/October 1 November 1, 1995.

Docket Number: OST–95–289.

Date filed: July 3, 1995.

Parties: Members of the International Air Transport Association.

Subject: TC12 Reso/P 1676 dated June 30, 1995, US–Europe Expedited Resos r–1 to r–11.

Proposed Effective Date: September 1, 1995.

Docket Number: OST–95–295.

Date filed: July 6, 1995.

Parties: Members of the International Air Transport Association.

Subject: TC1 Reso/C 0257 dated June 16, 1995, Cargo Except to/from USA r–1 to r–5.

Proposed Effective Date: October 1, 1995.

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 95–18008 Filed 7–20–95; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

RTCA, Inc. Special Committee 172; Future Air-Ground Communications in the VHF Aeronautical Band (118–137 MHz)

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee 184 meeting to be held August 7–9, 1995, starting at 9:30 a.m. on August 7. The meeting will be held at the RTCA, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC, 20036.

The agenda will be as follows: (1) Introductory Remarks; (2) Review and Approval of the Agenda; (3) Monday, August 7: Work Group 2, VHF Data Radio Signal-in-Space MASPS, and Continue Refinement of Upper Layers; (4) Tuesday, August 8: Work Group 3, Review VHF 8.33 MHz written comments relating to DO–186A (draft), VHF MOPS, and vote on acceptance of changes; Advance the VHF Digital Radio MOPS Document Program. (5) Wednesday, August 9: Plenary Session Convenes at 9:00 A.M.; (6) Approve the Summary of the Meeting Held on May 1–3, 1995; (7) Reports from Working Groups 2 and 3; (8) Reports on ICAO AMCP and Update on Comsat Half-Rate Vocoder Tests; (9) Address Future Work; (10) Other Business; (11) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue NW., suite 1020, Washington, DC 20036; (202) 833–9339 (phone) or (202) 833–9434 (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on July 17, 1995.

Janice L. Peters,

Designated Official.

[FR Doc. 95–18006 Filed 7–20–95; 8:45 am]

BILLING CODE 4810–13–M