

WAITING ON DOT.

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Traffic World- 08 September

The International Air Transport Association has decided to stop defending a proposed rate calculation change and instead wait for Department of Transportation officials to decide whether it can make the change.

Representing the world's biggest airlines, IATA in February applied for DOT permission to modify the way it calculates cargo rates. The international organization needs DOT permission because it needs an exemption from antitrust law to make the procedural change. IATA is seeking to change its "dimensional factor," which is the formula airlines use to calculate how much space a shipment occupies in an aircraft.

Since IATA first publicly proposed the change a year ago, shippers have universally united in opposition, charging that altering the rate calculation would significantly raise their rates.

Intel Corp. Government Affairs Director Steve Harper estimates the change would raise Intel's international shipping costs by 15 to 20 percent or \$30 million to \$40 million per year. "We're a large shipper," Harper said. "We may be able to mitigate some of the impact. For smaller folks in our supply chain who don't have negotiating leverage that comes with size, we think it's going to be a pretty straight 20 percent increase in their cost."

The two sides have gone back and forth on the issue through filings with DOT. In IATA attorney David M. O'Connor's latest filing dated Aug. 22, he wrote that his organization would not respond to the latest round of criticisms and instead would await a DOT decision.

"It is obvious that IATA has not yet been able to persuade the representatives of important customers of its member airlines that the proposed modification of the traditional density standard will not result in an automatic increase in the price for transporting air freight but will produce efficiencies that will benefit shippers, intermediaries, airlines and the environment," O'Connor wrote in a letter addressed to DOT Acting Assistant Secretary for Aviation and International Affairs Michael Reynolds.

IATA initially hoped for a DOT decision on the change by Oct. 1. Reynolds and his staff face no statutory deadline for the decision.

"It's under review," DOT spokesman Bill Mosley said, noting that he had no specifics about when the department would issue a decision. "It hasn't been long since the comment period's been over, so we're still reviewing those comments."

IATA argues it needs to change its weight-to-volume ratio because today's shippers send lighter, bulkier cargo than shippers did in the past. The existing volume conversion factor equates 6,000 cubic centimeters of volume with one kilogram. The

new factor would make 5,000 cubic centimeters equal to one kilogram. The formula has not changed in more than two decades.

Shippers concede that some change may be justified, but they say IATA's proposal is too much at once, and they argue the organization does not need antitrust relief for airlines to raise their rates.

"IATA has made no effort to explain why they can't individually address the international air cargo rule without collective action," said attorney John M. Cutler, representing the National Small Shipments Traffic Conference and the Health and Personal Care Logistics Conference.

Harper said IATA's argument that it needs to raise rates to solve capacity restrictions is invalid. "The price of airfreight has gone down over time while the demand for airfreight has gone up," he said. "Supply has increased more than demand. Why would prices have gone down if supply is constrained?"

The latest comment period, during which opponents could reply to IATA's July 9 reply to the initial round of opposition, ended Aug. 15. During that comment period, shipper groups such as NASSTRAC and the High-Tech Air Freight Shippers Coalition, with which Intel works, and which have long been active in the debate, filed new comments. And several other shipper groups and companies including Gateway, the Colombian Flower Exporters Association and Limited Brands filed comments too. Collectively, the groups represent many of the world's largest shippers.

No shippers or freight forwarders have filed comments in support of the change. In the months since IATA filed its request for DOT antitrust exemption to make the dimensional change, no groups besides IATA and the four airlines that initially provided economic justification for the change have lent their support to the public docket.

"I think the rate increases would hurt a lot of shippers, if not all," Cutler said. "Even if the largest and savviest shippers could negotiate different dimensional rules with individual air carriers, a lot of shippers are less frequent users of air services."

Opponents fear the change would raise rates for low-density air shippers as much as 20 percent.

In its Aug. 15 comments, the High-Tech Air Freight Shippers Coalition told DOT officials that IATA failed to meet legal requirements that it show why a rate calculation change would be in the public interest.

"Assertions and abstract pronouncements cannot justify approval of an agreement that is anticompetitive on several grounds and that will have such far-reaching effects on air cargo shippers," the coalition wrote.

Opponents point out that IATA member airlines - as well as all other airlines - are free to set their own cargo rates. No governmental body has jurisdiction over air cargo

rates, only over whether the airlines can work as a group to make a change in the way rates are calculated.

Cutler said he feels good about shippers succeeding in curbing the rate calculation change.

"I think the legal position (IATA has) taken is not a strong one," he said. "They may be relying on the hope that DOT will be concerned enough about the financial condition of the airline industry to brush aside the legal criteria. But I think we have the better argument