

- The DOC failed to base the initiation of its sunset review on sufficient evidence that the termination of the antidumping duty order would likely lead to a continuation or recurrence of dumping;
- The use by the United States of a de minimis standard of 0.5 percent in a sunset review;
- The DOC's misapplication of the "likelihood" standard;
- The U.S. standard for determining whether the termination of antidumping orders would be "likely" to lead to the continuation or recurrence of injury;
- The failure by the ITC to conduct an "objective examination" of the record and its failure to base its determination of "positive evidence"; and
- The U.S. statutory requirements that the ITC determine whether injury would be likely to continue or recur "within a reasonably foreseeable time" and that the ITC "shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time".

Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons submitting comments may either send one copy by U.S. mail, first class, postage prepaid, to Sandy McKinzy at the address listed above, or transmit a copy electronically to FR0051@ustr.gov, with "Argentina Sunset Dispute" in the subject line. For documents sent by U.S. mail, USTR requests that the submitter provide a confirmation copy, either electronically, to the electronic mail address listed above, or by fax to (202) 395-3640. USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files. Comments must be in English. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitting person. Confidential business information must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page of each copy.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitting person believes that information or advice may qualify as such, the submitting person—

- (1) Must so designate the information or advice;
- (2) Must clearly mark the material as "SUBMITTED IN CONFIDENCE" in a contrasting color ink at the top of each page of each copy; and
- (3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket No. WT/DS-268, Argentina Sunset Dispute) may be made by calling the USTR Reading Room at (202) 395-6168. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

Daniel E. Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Termination of Review Under 49 U.S.C. 41720 of Delta/Northwest/Continental Agreements

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Termination of review of joint venture agreements.

SUMMARY: As required by 49 U.S.C. 41720, Delta Air Lines, Northwest Airlines, and Continental Airlines submitted code-sharing and frequent-flyer program reciprocity agreements to the Department for review. After

analyzing the agreements and conducting an extensive informal investigation, the Department has determined that the agreements, if implemented as presented by the three airlines, could result in a significant adverse impact on airline competition, unless the airlines formally accept and abide by certain conditions that are intended to limit the likelihood of competitive harm. If the airlines choose to implement the agreements without accepting those conditions, the Department will direct its Aviation Enforcement office to institute a formal enforcement proceeding regarding the matter.

FOR FURTHER INFORMATION CONTACT:

Thomas Ray, Office of the General Counsel, 400 Seventh St. SW., Washington, DC 20590, (202) 366-4731.

SUPPLEMENTARY INFORMATION: On August 23, 2002, as required by 49 U.S.C. 47120, Delta, Northwest, and Continental ("the Alliance Carriers") submitted code-sharing and frequent-flyer program reciprocity agreements to us for review. That statute requires such agreements between major U.S. airlines to be submitted to us more than 30 days before they are implemented. We may extend that waiting period by up to 150 days for code-sharing agreements and 60 days for other types of agreements. The airline parties to a joint venture agreement may implement the agreement without obtaining our approval once the waiting period has expired.

Our authority to extend the waiting period enables us to conduct an informal investigation and make a preliminary determination as to whether the agreement may unreasonably reduce competition and therefore constitute an unfair method of competition that would violate 49 U.S.C. 41712, formerly section 411 of the Federal Aviation Act.¹ If we determine that an agreement violates section 411, we may bar the airlines from implementing it. Unfair methods of competition include airline agreements and other practices that violate the antitrust laws or antitrust principles. *See United Air Lines v. CAB*, 766 F.2d 1101 (7th Cir. 1985). A complaint that an airline practice is an unfair method of competition would be resolved after a hearing before an administrative law judge.

Rather than institute a formal enforcement proceeding, we may also ask the airline parties to make changes to their agreement to address our concerns about the agreement's impact

¹ This notice will refer to the section as section 411, its traditional name.