



## WASHINGTON AVIATION SUMMARY

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### CONTENTS

I.	REGULATORY NEWS .....	1
II.	AIRPORTS .....	5
III.	SECURITY AND DATA PRIVACY .....	6
IV.	E-COMMERCE AND TECHNOLOGY .....	8
V.	ENERGY AND ENVIRONMENT .....	9
VI.	U.S. CONGRESS .....	10
VII.	BILATERAL AND STATE DEPARTMENT NEWS .....	11
VIII.	EUROPE/AFRICA .....	12
IX.	ASIA/PACIFIC/MIDDLE EAST .....	14
X.	AMERICAS .....	16

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The Kirstein & Young law firm specializes in representing U.S. and foreign airlines, airports, leasing companies, financial institutions and aviation-related companies before U.S. Government agencies, Congress, the courts and in commercial and financing matters.

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## I. **REGULATORY NEWS**

### 1. **U.S. Warns Europe in ETS Dispute.**

With the European Union Emissions Trading Scheme (EU ETS) set to take effect on January 1, 2012, U.S. Secretary of State Hillary Rodham Clinton and Department of Transportation (DOT) Secretary Ray LaHood urged the EU “to reconsider this current course; halt or, at a minimum, delay or suspend application of this directive,” and said the U.S. would respond with “appropriate action.” Their letter to the European Commission noted that at least 43 countries have publicly objected to Europe’s plans. . . . DOT ordered nine European carriers that serve the United States—Aer Lingus, Air France, Alitalia, British Airways, Iberia, KLM, Lufthansa, SAS and Virgin Atlantic—to submit traffic and carbon allowance data to DOT. The order, which was also served on the State Department Office of Transportation Affairs and the Federal Aviation Administration (FAA), requires details of free 2012 allowances allocated and 2010 revenue ton kilometers reported to the administering state and operated on flights between the U.S. and points in the EU and Norway, Iceland and Liechtenstein. Seven U.S. airlines—American, Continental, Delta, Federal Express, United, United Parcel Service and US Airways—were ordered to report carbon allowance data, as well as monetary amount paid to administering states in ETS allowance auctions and spent or received in ETS allowance markets. The DOT orders are “intended to assist in countering the illegal application of the EU ETS to U.S. airlines,” said Airlines for America (A4A, formerly Air Transport Association), as the European Court of Justice dismissed arguments by A4A and others that EU ETS infringes on national sovereignty or violates international treaties (see Section V, item 2). . . . The U.S. House of Representatives has passed a measure directing the DOT Secretary to prohibit U.S. carriers from participating in a unilaterally-imposed EU ETS; a similar measure has been introduced in the Senate.

### 2. **Michael Huerta Named FAA Acting Administrator.**

Michael Huerta was named Acting Administrator of FAA, following the arrest of Randy Babbitt for driving while intoxicated. Huerta served as FAA Deputy Administrator from June 2010 and has held numerous senior transportation-related positions. He was Managing Director of the 2002 Olympic Winter Games held in Salt Lake City.

### 3. **FAA Issues Final Rule on Pilot Fatigue.**

FAA issued its final pilot fatigue rule for commercial passenger flights; it does not cover cargo operations. Among its provisions, the rule limits flight time to

eight or nine hours; sets a 10-hour minimum rest period prior to flight duty; mandates an opportunity for eight hours of uninterrupted sleep within the 10-hour rest period; places weekly and 28-day limits on flight duty; and requires that pilots have at least 30 consecutive hours free from duty weekly. Unions representing cargo pilots called the rule “a political failure,” saying FAA yielded to “unprecedented industry pressure . . . an eleventh hour move by the cargo aviation lobby attempting to kill years of effort to incorporate science-based fatigue rules into the FARs.” Independent Pilots Association (IPA), which represents UPS pilots, will challenge the rule in federal court. IPA and the FedEx branch of Air Line Pilots Association, International, in a joint letter, asked President Obama to “direct the Office of Management and Budget to require ‘One Level of Safety,’ with respect to fatigue mitigating rules.” The National Transportation Safety Board (NTSB) also noted the failure to include cargo pilots in the long-sought rule; “A tired pilot is a tired pilot, whether the payload is passengers or pallets,” said NTSB Chairman Deborah Hersman. FAA encouraged cargo operators to voluntarily opt in to the new rules, which take effect in 2014.

**4. Appeals Court Rejects A4A Challenge to NMB Rule.**

A U.S. appeals court upheld a change in federal labor law that makes it easier for unions to organize, rejecting a challenge to the new policy by A4A. In 2010, the National Mediation Board (NMB) determined that union representation elections could be decided by a majority of those actually voting; previous NMB policy required unions to count non-voters as voting “no.” A4A argued the change would lead to more labor disputes that could disrupt commerce and increase delays.

**5. IATA Revises 2012 Outlook.**

International Air Transport Association (IATA) downgraded its forecast for 2012 profits from \$4.9 billion to \$3.5 billion for a net margin of 0.6%, and said losses could exceed \$8 billion “should the Eurozone crisis evolve into a full-blown banking crisis and European recession.” In a revised forecast for 2011, IATA said global profitability remained unchanged at \$6.9 billion for a net margin of 1.2%; passenger demand expanded by 6.1%, stronger than the 5.9% forecast in September; and revenues were \$596 billion. Regionally, Asia-Pacific carriers had the largest profit, at \$3.3 billion. European carriers generated \$1 billion, down from previously forecast \$1.4 billion. North American profits were \$2 billion from previously forecast \$1.5 billion. Middle East profits of \$400 million were down from previously forecast \$800 million. Latin American profits dropped to \$200 million from previously forecast \$600 million. African carriers were expected to break even.

**6. FAA Administrator J. Lynn Helms Dies.**

J. Lynn Helms, who served as FAA Administrator during the Reagan Administration, has died at age 86. During his tenure, 11,000 striking air traffic controllers were fired. Helms earlier was Chairman of Piper Aircraft.

**7. Cargolux Executives to Serve Prison Time.**

Two senior executives of Luxembourg-based Cargolux pleaded guilty and agreed to serve 13 months in prison and pay \$20,000 criminal fines, the Department of Justice announced, for conspiring to fix cargo rates for international air shipments from 2001 to 2006. Cargolux, which pleaded guilty in 2009 in similar U.S. proceedings and agreed to pay a fine of \$119 million, said charges against the executives "relate to conduct they undertook on behalf of the company and do not allege that they derived any personal benefit from the activities in question." A total of 22 airlines and 21 executives have been charged in the Justice Department's ongoing investigation into price fixing in the air transportation industry. To date, more than \$1.8 billion in criminal fines have been imposed and four executives have been sentenced to serve prison time.

**8. FAA Proposes Fine of \$777,000 for Horizon.**

FAA proposed a \$777,000 civil penalty against Horizon Air for allegedly operating 32 Bombardier Dash-8-400 turboprops on 49,870 flights between October 2009 and March 2010, when the aircraft were not in compliance with federal aviation regulations. The airline failed to conduct required tests for radio frequency and electromagnetic interference after installing new external lighting systems on the aircraft.

**9. October Passenger Airline Employment Rose 3%.**

U.S. scheduled passenger airlines employed 389,444 workers in October, 11,332 or 3% more than in October 2010, and the highest employment number since April 2009, reports DOT. The six network airlines employed 67.5% of total workers in October, the seven low-cost carriers employed 17.5%, and the 17 regionals employed 13.7%. Network airlines employed 7,020 more in October 2011 than in October 2010, and 18,982 fewer than in October 2007. Low-cost airline employment was up 6.2% over October 2010, and those reporting employment data in both 2007 and 2011 employed 12% more than in October 2007. Regional airline employment rose 2.1% over October 2010 and those reporting employment data in both 2007 and 2011 employed 13.4% fewer than in 2007. Airlines that operate at least one aircraft with combined passenger, cargo and fuel capacity of 18,000 pounds must report monthly employment statistics.

**10. Q2 2011 Domestic Air Fares Rise 8.5% Over Q2 2010.**

Average U.S. domestic air fares were \$370 in second quarter 2011, up 8.5% from \$341 in Q2 2010, reported DOT, and the highest of any quarter; the post-1995 high was \$359 in Q3 2008. Memphis and Cincinnati had the highest average fare, \$476, while Atlantic City had the lowest, \$205. Q2 fares increased 3.9% from Q1. Air fares in Q2 2011 increased 9% from Q2 2000, compared to an overall increase in consumer prices of 30.9% during that period. Since 1995, air fares rose 24.6% compared to a 48% inflation rate.

**11. DOT Air Travel Consumer Report for October.**

Based on data filed by the largest U.S. airlines.

	Oct. '11 / '10	Sept. '11	Full Year				
			2010	2009	2008	2007	2006
On-time arrivals %	85.5 / 83.8	83.9	79.8	79.5	76	73.4	75.4
Cancellations %	0.77 / 0.97	0.82	1.76	1.39	1.96	2.16	1.71
Mishandled baggage*	2.71 / 2.88	2.81	3.99	3.91	5.26	7.05	6.73
<i>Consumer complaints:</i>							
Airline service	862 / 749	974	10,985	8,821	10,648	13,180	8,325
Disability-related	60 / 49	56	572	519	477	488	430
Discrimination**	15 / 6	15	143	131	115	99	114

Note: Airlines reported seven tarmac delays of more than three hours on domestic flights, and 11 longer than four hours on international flights in October.

\* Reports per 1,000 passengers.

\*\*I.e., race, religion, national origin or sex.

## **II. AIRPORTS**

### **1. Delta, US Airways Close Slot Swap.**

Delta unveiled the schedule for its new hub at New York LaGuardia, following the close of its agreement with US Airways to exchange takeoff and landing rights at LaGuardia and Washington Reagan National. Delta will add more than 100 flights and 29 destinations from LaGuardia, including new nonstops to Miami, Dallas/Fort Worth, Houston, Charlotte, Denver, Pittsburgh, Milwaukee and Cleveland, and added frequencies to Chicago, Nashville, Raleigh-Durham and Portland, Maine. By summer, Delta will operate 264 daily flights from LaGuardia to 60 cities, more than any other airline. New all-jet service to upstate New York markets will replace turboprops operated by US Airways, and service to smaller communities will be added; the larger aircraft could mean four million additional seats available at LaGuardia without increasing congestion. Delta will invest \$100 million on an expanded terminal at LaGuardia, where it will operate 26 gates, with a 600-foot connector bridge. Separately, Delta is also investing \$1.2 billion in New York Kennedy Terminal 4, to open in 2013.

### **2. Europe Proposes “Better Airports” Package.**

The European Commission proposed measures on slots, ground-handling and noise. “Europe's airports are facing a capacity crunch,” said Transport Vice President Siim Kallas; “70% of all delays to flights are already caused by problems on the ground [and] 19 key European airports will be full to bursting by 2030.” The proposals introduce market based mechanisms for transparent slot trading among airlines, and raise the threshold on the ‘use it or lose it rule’ from 80% to 85%. Ground-handling measures—for baggage and ramp handling, refueling, freight and other services—would require three, rather than two, providers at large airports; allow staff to transfer under existing conditions when a contract goes to a new provider; and strengthen the airport’s overall responsibility for coordination of services. The proposals increase transparency in setting noise-related restrictions, including Commission oversight, and update existing legislation to make it easier for authorities to phase-out the noisiest planes. “It is necessary to take into account costs in terms of lost capacity and the impact on economic growth in a region,” said the EC. The proposals must be approved by the European Parliament and member states.

### **III. SECURITY AND DATA PRIVACY**

#### **1. TSA Screeners Win Collective Bargaining Rights.**

The Transportation Security Administration (TSA) gave airport screeners the right to vote on limited collective bargaining rights. The decision will give workers rights to bargain over vacation time, work shifts, transfers and other employment issues, but they are prohibited from negotiating on issues that could affect security, personnel deployment, job qualifications, testing or discipline; work slowdowns are barred. When union elections begin in March, TSA employees can choose between the American Federation of Government Employees and the National Treasury Employees Union for representation, or can opt not to have union representation.

#### **2. TSA Pre-Check Expands.**

TSA expanded Pre-Check to include Las Vegas McCarran, and US Airways will offer the pre-screening initiative in early 2012. The voluntary program offers vetted passengers expedited screening, with no removal of shoes, jackets and belts. Pre-Check currently is available on domestic flights for certain American and Delta frequent flyers and members of Customs and Border Protection's Trusted Traveler programs. About 140,000 passengers have been screened through TSA Pre-Check since it began in October at Dallas/Fort Worth, Miami, Detroit and Hartsfield-Jackson Atlanta. Minneapolis-St. Paul. Los Angeles will soon be added, as will United Airlines.

#### **3. TSA to Deploy Additional Passenger Screening Units.**

TSA said 16 airports will receive recently purchased millimeter wave Advanced Imaging Technology (AIT) units, with automated target recognition software designed to enhance privacy by eliminating passenger-specific images. AIT screens passengers for weapons, explosives and other objects concealed under layers of clothing, and has led to detection of hundreds of prohibited, illegal or dangerous items since January 2010. Currently, there are 540 AIT units at more than 100 U.S. airports. President Obama's fiscal 2011 budget included purchase of 500 units, and the 2012 budget requests funding for an additional 275.

#### **4. TSA Launches Helpline for Disabled Travelers.**

TSA launched TSA Cares for passengers with disabilities and medical conditions and their family members and travel companions. Questions about screening policies, procedures or what to expect at airport security can be answered by "a knowledgeable representative" on the toll free helpline or

passengers are referred to disability experts at TSA. Advance calls allow TSA Cares to coordinate checkpoint support with a TSA Customer Service Manager at the airport.

**5. TSA to Test Authentication Technology.**

TSA has selected authentication technology for a pilot that aims to automatically verify passenger identification documents and boarding passes. Credential Authentication Technology–Boarding Pass Scanning System (CAT/BPSS), from NCR, can read and analyze data and embedded security features on passenger IDs and boarding passes to identify fraudulent credentials. The pilot is scheduled to begin at select airports in early 2012, following lab testing by NCR.

**6. American Wins Appeal Over \$30 Million TSA Grant.**

American Airlines won a federal appeals court ruling over a \$30 million grant sought from TSA for a baggage security system deployed by the airline at New York Kennedy in 2002. The U.S. Court of Appeals in Washington said TSA acted “arbitrarily and capriciously” in denying the airline’s request “without providing a sufficient rationale on the record for doing so.”

**7. Homeland Security Fiscal Year 2012 Funding Passes.**

See Section VI, item 2.



## IV. E-COMMERCE AND TECHNOLOGY

### 1. Sabre Seeks to Pursue Antitrust Counterclaims Against American.

Sabre Holdings, in a filing in U.S. Bankruptcy Court in New York, asked for modification of the automatic stay in American Airlines' bankruptcy so it can pursue litigation in their antitrust dispute, reports Bloomberg, and said the carrier does not oppose the request. American sued Travelport and Orbitz in April accusing them of monopolizing distribution of fare and flight data; Sabre was added as a defendant in June. Trials are scheduled in the new year. In related news, American told reporters its bankruptcy filing would not alter plans to push forward with its direct connect distribution program.

### 2. United, Expedia Sign New Multi-Year Agreement.

United signed a multi-year agreement with Expedia, giving travelers booking on Expedia and Hotwire access to all United and Continental fares, schedules and inventory. Other Expedia brands include TripAdvisor and Hotels.com.

### 3. American Offers IFE on Tablets in Premium Cabins.

American is offering Samsung Galaxy tablets to premium customers on certain transcontinental flights, to replace current inflight entertainment (IFE) devices. Passengers can choose movies, music and TV shows "through a custom-built experience." Additional functionality and content to roll out in 2012 will include Wi-Fi capability on equipped aircraft, games and eReader publications. . . . Separately, American's pilots are the first to use e-tablets in Boeing 777 cockpits to view charts and flight manuals; FAA approved use of up to two iPads in all phases of flight. Passengers may not use their own electronic devices inflight due to concerns about interference with flight equipment.

### 4. Milepoint Navigates Frequent Flyer Programs.

A recent addition to aviation Internet communities is Colorado Springs-based milepoint.com, "created by travelers, for travelers." The social media site seeks to pave the way for "newbies" choosing a frequent flyer program.

## **V. ENERGY AND ENVIRONMENT**

### **1. Fuel Bill for Global Airline Industry.**

The average price of aviation jet fuel, as of December 16, was \$119.9/barrel, down 9.6% on the month and up 14.5% year-on-year, reports the International Air Transport Association (IATA). Fuel price average for 2011 was \$127.6/barrel.

### **2. EU Court Upholds EU ETS.**

The European Court of Justice dismissed arguments by Airlines for America (A4A, formerly Air Transport Association), that the European Union Emissions Trading System (EU ETS) infringes on national sovereignty or violates the open skies treaty prohibition against unilateral taxation or discriminatory treatment. A4A had likened the regulation to “an exorbitant tax,” but the Court said the cost to the airline is subject to an open market, from which it also may profit, and is not a tax. Several U.S. airlines, IATA and the National Airlines Council for Canada were also involved in the legal challenge. Together they argued that EU ETS contravened the Chicago Convention which prohibits such taxation of international aviation. The Court ruled that the Chicago Convention does not bind the EU which is not a signatory and that the ETS does not violate any other aspect of international law. . . . In response, A4A said it is reviewing options to pursue in the English High Court, and its members “will comply under protest.” IATA said ETS success will depend on how non-EU states view its legal and political acceptability, and again called for a global approach through the International Civil Aviation Organization (ICAO). A formal resolution of the ICAO Council supported by 26 countries urged Europe to take a different approach. “The real issue is political, not legal,” said a joint statement from Association of European Airlines, European Regions Airline Association and International Air Carrier Association; the policy “has attracted political outrage and condemnation” from Europe’s major trading partners, including China, India, Russia and the U.S. [and] unless these tensions are diffused, Europe could face further retaliatory measures in the form of trade sanctions, additional taxes or further anti-EU ETS laws.” The European Low Fares Airline Association (ELFAA) welcomed the decision, “since 80% of European aviation CO2 emissions originate from long distance flights to and from the EU.” EU ETS takes effect January 1, 2012; the EU says all major international carriers are among some 900 that have applied for free permits, and anticipates full compliance.

## VI. U.S. CONGRESS

### 1. Senate Bill Would Block EU ETS.

The EU Emissions Trading Scheme Prohibition Act of 2011 was introduced in the Senate by John Thune (R-S.D.), ranking member of the Commerce Aviation Subcommittee. Thune's bill would enable DOT to take necessary action to ensure U.S. airlines are not penalized by any tax unilaterally imposed by the EU. The House passed similar legislation in October.

### 2. Homeland Security Fiscal Year 2012 Funding Passes.

Before adjourning for holiday recess, Congress passed the Consolidated Appropriations Act of Fiscal Year 2012, which includes \$7.8 billion for TSA, up \$153 million over last year's level and \$274 million below the President's request; these funds will sustain the current cap of 46,000 full-time screeners and provide for explosive detection systems, security enforcement, cargo inspections, Federal Air Marshals and other TSA activities. Total funding for the Department of Homeland Security of \$39.6 billion is \$2 billion below last year's level and \$4 billion below the President's request. The legislation directs the State Department to hire sufficient consular officers in China, Brazil and India; report on how it will reduce current visa processing wait times; develop a plan to extend expiration periods for visas that require a consular officer interview; and develop and conduct a pilot program to conduct visa interviews using secure remote videoconferencing technology. The bill provides funding to hire an additional 300 Customs and Border Protection Officers and provides for development of a biographic air exit program for the Visa Waiver Program. TSA must submit to Congress reports on passenger and baggage screening efficiency and how its workforce is deployed at U.S. airports to maintain average wait times below 10 minutes. The bill also encourages TSA to utilize privatized screening where more cost-effective. The bill provides TSA \$10 million to implement risk-based screening and expand known-traveler populations beyond the current PreCheck program.

## **VII. BILATERAL AND STATE DEPARTMENT NEWS**

### **1. United States, Montenegro Reach Open Skies Agreement.**

The United States and Montenegro concluded their first aviation agreement; previously, air rights between the two countries were governed by an agreement between the United States and Yugoslavia. There currently are no direct U.S.–Montenegro flights. Effective immediately, the new open skies pact allows airlines of both countries to fly to, from and beyond the other's territory, without restriction on how often carriers fly, the kind of aircraft they use and the prices they charge.

### **2. U.S. Disputes EU Claim of Compliance With WTO Airbus Ruling.**

The European Union said it has complied with a December 1 deadline from the World Trade Organization (WTO) to take appropriate steps to withdraw state subsidies to Airbus or remove their adverse effects. The U.S. challenged the EU's claims. U.S. Trade Representative Ron Kirk said it appears that the EU has "granted new subsidies to Airbus' development and production of large civil aircraft." The U.S. requested authorization from the WTO Dispute Settlement Body (DSB) to impose countermeasures annually, "which, in a recent period would have been in the range of \$7–10 billion." The WTO launched an arbitration process to examine the U.S. claim, and is expected to rule on a European complaint about U.S. aid to Boeing in 2012.

### **3. New U.S.-EU PNR Agreement Signed.**

The United States and the European Union signed a new Passenger Name Records (PNR) agreement, following passage by the EU Council. European Parliament consent is still pending.

## VIII. EUROPE AND AFRICA

### 1. IAG to Acquire bmi.

International Airlines Group (IAG) reached a binding agreement with Lufthansa to acquire British Midland (bmi), comprised of bmi mainline, bmi regional and bmibaby. The transaction, subject to competition clearance, will give IAG another 56 daily slot pairs at Heathrow. IAG CEO Willie Walsh said the £172.5 million cash transaction is “subject to significant reduction if Lufthansa does not opt to sell bmibaby before completion.” Lufthansa agreed to take on bmi's defined benefit pension scheme. IAG will maintain the domestic schedule, including Belfast, and expand the longhaul network, said Walsh, but the scale of bmi's losses means “an urgent need to restructure,” with some job cuts. IAG will finance the purchase from its own funds. £60 million of the purchase price will be paid in four installments to Lufthansa pre-completion; this amount will be secured by Heathrow slots. IAG, a oneworld member, is the holding company of British Airways and Iberia. Virgin Atlantic, an early bidder for bmi, said it “will fight this monopoly every step of the way.”

### 2. Etihad–Air Berlin Strategic Partnership Announced.

In a new strategic partnership, Etihad will increase its stake in Air Berlin to 29.21%, becoming the German carrier's largest single shareholder, and will provide five-year financing facilities of up to \$255 million to support fleet development and future network growth. Etihad will have two seats on the Air Berlin Board of Directors. Air Berlin will shift its Middle East operation from Dubai to Abu Dhabi and operate four weekly A330-200 Berlin–Abu Dhabi flights from January 15, and 42 from mid-April. Air Berlin CEO Hartmut Mehdorn said Abu Dhabi “will become our new gateway to Asia and Australia.” The carriers will code share on 36 of Air Berlin's 171 destinations and 24 of Etihad's 82 passenger destinations. Etihad will sign code share agreements with Air Berlin units, Austrian airline NIKI and Swiss airline Belair. Air Berlin, Germany's second largest airline, code shares with oneworld members American, British Airways, Finnair, Iberia, Malev, Royal Jordanian and S7, and is set to become a full member of the global alliance. Etihad CEO James Hogan said the partnership “gives us immediate access to a broad and complementary European market, with outstanding connectivity options for customers of both airlines.” The carriers carry a combined 40 million passengers a year, operate 233 aircraft, employ 18,000 people and generate more than \$9 billion in revenues. They will seek antitrust immunity.

3. **American, OpenSkies Sign New Code Share Agreement.**

American Airlines and British Airways premium subsidiary OpenSkies will code share on OpenSkies flights between New York Newark and Paris Orly, with connecting opportunities via Newark to Dallas/Fort Worth, Chicago O'Hare, Los Angeles and Miami. Officials said the pact "will further develop into OpenSkies joining the joint business agreement between American Airlines, British Airways and Iberia."

4. **Air France Strengthens Medium-Haul Network.**

Air France will operate 1,200 weekly flights from Marseille, Toulouse and Nice by summer, with one-way fares starting at €50; a Bordeaux base will follow. "Air France's challenges on its medium-haul network are considerable," said Chairman and CEO Alexandre de Juniac. "With more sustained activity on the routes, productivity gains will be achieved with a rationalized and optimized use of aircraft, with cabin crew based in the provinces who will carry out more flight hours and with greater operational efficiency on the ground."

5. **EC Stages Unannounced Inspections in TAP-Brussels Investigation.**

European Commission officials undertook unannounced inspections at Brussels Airlines and TAP Portugal, as they investigate whether their code sharing agreements violated EU antitrust rules. EC officials were accompanied by counterparts from national competition authorities.

6. **Cargolux Executives to Serve Prison Time.**

See Section I, item 7.

7. **Alliance News.**

See Section IX, item 6.

## **IX. ASIA/PACIFIC AND MIDDLE EAST**

### **1. American, Hainan Announce Joint Cooperation.**

American Airlines and Beijing-based Hainan agreed to code share on Hainan-operated direct flights between Beijing and Seattle, and beyond Beijing for American's Chicago–Beijing for connections within China. The pact, subject to government approval, would also allow code sharing on American-operated direct flights beyond Seattle to American's domestic network, between Shanghai and Chicago/Los Angeles and between Beijing and Chicago.

### **2. JetBlue, Singapore Airlines Partner.**

JetBlue and Singapore Airlines launched an interline agreement for JetBlue destinations in the United States to Europe, Singapore and beyond. Singapore offers daily flights from New York Kennedy to Singapore via Frankfurt and as of January 16 will utilize the Airbus A380; the Star Alliance member also offers daily all-business class Changi–Newark service, the world's longest nonstop commercial flight, with connections throughout Southeast Asia. JetBlue offers 150 daily flights from Kennedy.

### **3. Virgin Australia, Singapore Airlines Alliance Authorized.**

The Australian Competition and Consumer Commission authorized an alliance of Virgin Australia and Singapore Airlines, for cooperation on all Australia–Singapore services and connecting routes, with joint pricing, scheduling, marketing and sales. The airlines have begun frequent flyer program cooperation and reciprocal lounge access. Singapore's regional full service unit, SilkAir, will begin four weekly Singapore–Darwin flights in March. In other news, the Virgin Blue Holdings trading name has been changed to Virgin Australia Holdings, and international units Pacific Blue and V Australia have adopted the Virgin Australia brand.

### **4. India to Revamp Aviation Policy.**

India's Ministry of Civil Aviation expects to complete a new aviation policy within five months that will establish a regulatory mechanism to monitor air fares, promote investments and develop infrastructure, especially for cargo. India's air cargo industry has been averaging annual growth of 12%; foreign direct investment limit in cargo airlines has been raised from 49% to 74%. New cabinet minister Ajit Singh will head civil aviation; he was educated in and has worked in the United States in the field of technology.

5. **United to Offer Daily Washington–Qatar Service.**

United will launch daily Boeing 777 service between Washington Dulles and Doha, via Dubai, on May 1, subject to government approval. United also serves Kuwait City and Bahrain from Dulles.

6. **Alliance News.**

American Airlines Chairman, President and CEO Tom Horton was named oneworld Chairman, replacing Gerard Arpey, who retired from the carrier. . . . Mark Schwab was appointed CEO of Star. He succeeds Jaan Albrecht, who became Austrian Airlines CEO in November. Schwab was Senior Vice President Alliances at United and served as a member of the Star Alliance Management Board. . . . Ethiopian Airlines became Star Alliance's third African-based carrier. Of the 28 Star carriers, 16 offer 750 daily flights to 110 destinations in 48 countries in Africa, with Addis Ababa, Cairo and Johannesburg as the main hubs. . . . Kingfisher will become part of oneworld on February 10, the first carrier from the subcontinent to join a global airline group.

7. **Etihad–Air Berlin Strategic Partnership Announced.**

See Section VIII, item 2.



## **X. AMERICAS**

### **1. Delta to Invest \$100 Million in GOL.**

Delta and GOL agreed to an alliance, in which Delta will invest \$100 million in GOL, in exchange for preferred shares, and hold a seat on its Board of Directors. Expanded code sharing will cover Delta-operated U.S.–Brazil flights, and within both carriers' domestic networks and to some international destinations. “The carriers will leverage the extended, long-term commercial agreement to exchange, pending regulatory approvals, best practices across operations, marketing and sales.” Sao Paulo-based GOL has a 40% market share in Brazil and is Latin America's largest low-fare airline; other GOL brands are Varig, Gollog, Smiles and Voe Facil. Delta also code shares with Aerolineas Argentinas, which will join SkyTeam in 2012, and with SkyTeam partner Aeromexico, in which Delta is planning to take an equity stake. . . . In other news, Delta now offers daily Detroit–Sao Paulo and Atlanta–Brasilia services, and has upgraded U.S.–Brazil premium services with full flat-bed seats. U.S.–Brazil flight demand is expected to grow by 11% over the next four years, and Brazil is expected to become the world's fourth largest aviation market by 2014, with more than 90 million passengers.

### **2. TAM–LAN Merger Approved With Restrictions.**

Brazil's antitrust regulator, CADE, approved the merger of TAM and LAN Airlines, on condition that TAM withdraws from Star Alliance or LAN from oneworld, and that two slot pairs on the Sao Paulo Guarulhos–Santiago route are ceded. Chile's Free Competition Court required similar arrangements. LAN shareholders approved the \$3 billion purchase and LAN expects to close the transaction in first quarter 2012. LATAM, with a market value of \$11 billion, will replace Singapore as the world's second-largest airline after Beijing-based Air China. LAN's Enrique Cueto will be CEO of LATAM, while Tam's Mauricio Rolim Amaro will be Chairman; both existing operating certificates and brands will be retained. . . . In other news, Aires is now LAN Colombia; LAN purchased the Colombian carrier a year ago.

### **3. American Bankruptcy Update.**

AMR, which filed for Chapter 11 bankruptcy protection on November 29, won court approval to reject leases for some aircraft and to continue the process of purchasing 32 Boeing planes through 2012; the company has ordered 460 new planes. AMR halted plans to spin off regional unit American Eagle and announced it will furlough 119 pilots and 104 flight attendants in February, as it replaces 21 ATR 72 turboprops operating at Dallas/Fort Worth with regional

jets and trims flights. CEO Tom Horton said the bankruptcy process will require “next-generation, competitive labor contracts,” and warned employees that AMR may become a takeover target by “opportunists who wish to acquire our company while we are in this situation.”

**4. NMB Rules in Favor of Delta.**

The National Mediation Board rejected claims of interference filed by the International Association of Machinists and Aerospace Workers (IAM) following the November 2010 representation elections by Delta fleet and customer service workers, and upheld the decision of a majority of voters to reject IAM representation. “We have now closed the chapter on all representation issues,” said Delta, and will “align pay, benefits, work rules and seniority for employees in these workgroups.”

**5. Southwest Launch Customer for Boeing 737 Max.**

Southwest will be the launch customer for Boeing's 737 MAX and will take delivery of the first of 150 of the new aircraft in 2017. Southwest also ordered 58 Next-Generation 737s, bringing the total Boeing order of mostly replacement aircraft to 350 for 2012 through 2022. In other news, the airline reached a tentative Seniority Integration Agreement with unions representing its flight attendants (Transport Workers Union) and those of AirTran (Association of Flight Attendants).

**6. Virgin America Attendants Vote Against Unionization.**

Virgin America flight attendants have voted against unionization. NMB said 59% of the 547 attendants who cast ballots rejected representation by the Transport Workers Union. TWU said management pressured and intimidated employees. In other news, Virgin America has been struggling with a technology glitch that occurred with a reservations system change made in October. The company acknowledges on its website that call center waits are “longer than usual” and that “some guests may encounter errors while making flight changes [or] trying to check-in online, upgrade or complete bookings,” and refers customers to Orbitz, Expedia, Travelocity and Priceline. Free tickets and other compensation were being offered to make up for the inconvenience.

**7. Spirit to Launch Phoenix-Mesa Gateway Service.**

Spirit will begin offering service from Phoenix-Mesa Gateway to Las Vegas, Dallas/Fort Worth and Fort Lauderdale during first quarter 2012. Spirit is the second airline to serve Gateway, after Allegiant.

**8. JetBlue Flies to U.S. Virgin Islands**

JetBlue began service to the U.S. Virgin Islands with twice-daily San Juan–St. Thomas and once-daily San Juan–St. Croix flights.

**9. Azul to Expand.**

Azul will take delivery of eight Embraer jets in 2012 and 14 ATR-600 turboprops, eight of which will replace older ATR-200s. The Brazilian carrier also will bid for a 1% stake in its hub airport, Viracopos, in Campinas, the maximum that airlines are allowed to own. Founder David Neeleman, who also founded JetBlue, said Azul's market share is about 10%. "Our load factor is always above 80%," he told Bloomberg. "Our yield is higher." Neeleman raised \$200 million to create Azul in December 2008 and owns an 80% stake. There is "no big rush to hold an initial public offering," he said, because "we don't need the money."

**10. American, OpenSkies Sign New Code Share Agreement.**

See Section VIII, item 3.

**11. American, Hainan Announce Joint Cooperation.**

See Section IX, item 1.

**12. JetBlue, Singapore Airlines Partner.**

See Section IX, item 2.

**13. United to Offer Daily Washington–Qatar Service.**

See Section IX, item 5.