



WASHINGTON AVIATION SUMMARY

November 2010 EDITION

CONTENTS

I.	REGULATORY NEWS.....	1
II.	AIRPORTS.....	5
III.	SECURITY AND DATA PRIVACY	7
IV.	E-COMMERCE AND TECHNOLOGY.....	9
V.	ENERGY AND ENVIRONMENT	10
VI.	U.S. CONGRESS.....	12
VII.	BILATERAL AND STATE DEPARTMENT NEWS	14
VIII.	EUROPE/AFRICA.....	16
IX.	ASIA/PACIFIC/MIDDLE EAST	18
X.	AMERICAS	20

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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.-Japan Joint Ventures Win ATI Approval.

U.S. and Japanese authorities granted antitrust immunity (ATI) to two alliances, oneworld members American Airlines and Japan Airlines (JAL), and Star members United, Continental and All Nippon Airways (ANA), enabling each to establish joint ventures and combine their transpacific networks. The U.S. Department of Transportation (DOT) granted preliminary immunity, subject to final approval after a comment period. In related news, the U.S. and Japan signed an open skies accord that was initialed last December (see also Section VII).

2. DOT Grants Authority for Los Angeles-Shanghai Flights.

DOT granted authority to American and United to begin daily Boeing 777 service from Los Angeles International to Shanghai Pudong. American's flights will launch April 5, 2011, and United's on May 20; Continental will code share with United on the route until the two carriers obtain a single operating certificate.

3. Australia Lobbies DOT on Virgin Blue-Delta ATI Bid.

An Australian official urged DOT to reverse a tentative ruling denying a Delta-Virgin Blue joint venture, saying ATI would facilitate long-term sustainable competition on U.S.-Australia routes. In a letter to DOT, Australia's Deputy Secretary for Transportation and Infrastructure Andrew Wilson wrote that his government expected its carriers to receive full benefits and rights available under a 2008 U.S.-Australia open skies agreement, including equitable access for Australian airlines to the transpacific route. The joint venture has been cleared by the Australian Competition and Consumer Commission and the airlines have modified their proposal to DOT.

4. Highlights of 37th Assembly of the ICAO.

Among achievements of the 37th Assembly of the International Civil Aviation Organization (ICAO) were a Declaration on Aviation Security (see Section III) and a climate change agreement (see Section V). Resolutions were adopted on new safety management programs and policies, and the sharing of safety information was strongly endorsed. Delegations from 167 countries attended. The U.S. delegation included Secretary of Transportation Raymond LaHood, Secretary of Homeland Security Janet Napolitano and John Pistole, who heads the Transportation Security Administration (TSA). Newly appointed U.S. Representative to the ICAO Duane Woerth, a former Air Line Pilots

Association President, also attended. The United States was re-elected to the 36-member Executive Council.

5. Delta Fined for Violating Baggage Liability Rules.

Delta Air Lines entered into a consent order with DOT for violation of the domestic baggage liability rules and agreed to a civil penalty of \$100,000. Half of the penalty will be waived if Delta does not violate the order for a period of 12 months. The consent order found that a "Baggage Information" pamphlet issued by Delta to passengers violated the domestic baggage liability rules by stating that no expense reimbursement would be paid when the baggage is expected to arrive within 24 hours and further that liability is capped at \$25 a day for necessities up to \$125 and only for passengers away from their permanent residence. The consent order stated that carriers cannot categorically limit liability to less than the \$3,300 cap provided in the rule.

6. FAA Cites New Research on Risks of Lithium Batteries as Cargo.

The Federal Aviation Administration (FAA) alerted operators to results of new research showing that lithium metal (non-rechargeable) and lithium-ion (rechargeable) batteries are highly flammable and capable of igniting during air transport under certain circumstances. The research also indicates that Halon 1301, the suppression agent found in cargo compartments, is ineffective in suppressing lithium metal battery fires. FAA has recommended that carriers require customers to identify shipments of lithium batteries and implement special handling and training procedures.

7. DOT Releases August Passenger Airline Employment Data.

U.S. scheduled passenger airlines employed 377,835 workers in August, reports DOT, 1.7% fewer than in August 2009. Five network airlines decreased employment from August 2009 to August 2010. The six network airlines employed 256,122 in August, 67.8% of the total, while seven low-cost carriers employed 16.9% and 18 regionals employed 13.8%.

8. Airlines Call for Reform on Aircraft Export Subsidies.

A coalition of 24 U.S. and foreign airlines proposed, in a letter to U.S. Treasury Secretary Timothy Geithner, that Europe and the U.S. cap export credits on the sale of passenger jets at 20% of deliveries. The proposal preceded a meeting sponsored by the Organization for Economic Cooperation and Development (OECD) regarding rules for financing sales of jets made by Boeing and Airbus, and contained a Statement of Common Principles regarding development of a new OECD Aircraft Sector understanding. The airlines say they are locked out of the export credit system, which reduces costs for competitors such as Emirates. "The position we jointly support has strong foundations that aim to ensure a level playing field for all airlines," wrote

James May, President and CEO of Air Transport Association of America (ATA), in the letter. "There should be fair access, sensible pricing and other terms that will encourage airlines to use commercial financing."

9. NTSB Examines Code Sharing and Safety Standards.

The National Transportation Safety Board (NTSB) held a two-day symposium, "Airline Code Sharing Arrangements and Their Role in Aviation Safety." Speakers from major and regional airlines, organizations and passenger groups addressed practices and oversight of code sharing arrangements; sharing of safety information between airlines and code sharing partners; and the role a major airline would have in family disaster assistance response for an accident involving a code sharing partner. Regional Airline Association President Roger Cohen said voluntary safety programs have been adopted by most regionals, and John Meenan, COO of the Air Transportation Association, said the proof that operations are safe is in the steady decline in airline accidents. But Captain John Prater, head of the Air Line Pilots Association, said pilot staffing levels at many regionals are kept at a bare minimum and wages are very low, compromising safety. The Business Travel Coalition (BTC) presented results from a recent survey that found "business travelers are concerned over perceived safety differences between regional airlines and major network carriers [and] confused about what carrier will be operating their flights." The survey also found that most corporations allow travelers to choose a more expensive travel option, in return for higher safety standards; have insufficient information at point of sale for notifying travelers of code sharing arrangements; and view as deceptive marketing the painting of regional airplanes with the major airline partner logo.

10. Cargo Executives Charged With Price-Fixing.

A Miami grand jury returned an indictment against two executives of Luxembourg-based Cargolux for conspiring to fix and coordinate surcharges on air cargo shipments to and from the United States, said the U.S. Department of Justice. The charge carries a maximum penalty of 10 years in prison and a \$1 million fine for individuals, which may be increased to twice the gain derived from the crime or twice the loss suffered by the victims of the crime, if either of those amounts is greater than the statutory maximum fine. In related news, four former executives of competing air cargo carriers in Miami and Peru were charged with participating in a conspiracy to fix surcharges on cargo shipments from the United States to South and Central America following Hurricanes Katrina and Rita. A total of 18 airlines and 14 executives have been charged in the Justice Department's ongoing investigation into price fixing in the air transportation industry. To date, more than \$1.6 billion in criminal fines have been imposed and four executives have been sentenced to serve prison time; charges are pending against 10 executives.

11. Strong Rebound Predicted for Inbound Travel.

The U.S. Department of Commerce (DOC) projects international travel to the United States will increase by 9% this year, with 6% to 9% annual increases through 2015. The rebound would completely offset the 5% decline in arrivals registered in 2009. Visitor volume grew 41% between 2003, the low visitor volume level over the past decade, and 2008, the record year for arrivals. The forecast predicts that international arrivals will reach almost 83 million, an increase of 51%, from 2009 through 2015. This year, all but three of the top 25 origin countries will post increases in visitor volume; the largest increases will be from China (40%), Brazil (35%), Korea (35%). The top two markets generating visitors to the United States—Canada and Mexico—are forecast to increase in 2010 by 10% and 9%, respectively, and to grow by 47% and 49%, respectively, from 2009 to 2015.

12. FAA Study: Annual Economic Cost of Flight Delays is \$32.9 Billion.

According to an FAA-commissioned study, the annual economic cost of flight delays is \$32.9 billion. Using data from 2007, when one in four domestic flights was more than 15 minutes late, researchers at the University of California, Berkeley calculated \$16.7 billion of that figure as costs to passengers, \$8.3 billion as costs to airlines. \$3.9 billion as costs from lost demand, and \$4 billion for impact on gross domestic product.

13. DOT Air Travel Consumer Report for August.

Based on data filed by 18 of the largest U.S. airlines.

	August '10 / '09	July '10	Full Year				
			2009	2008	2007	2006	2005
On-time arrivals %	81.7 / 79.7	76.7	79.5	76	73.4	75.4	77.4
Cancellations %	1 / 1	1.4	--	--	--	--	--
Mishandled baggage*	3.5 / 4.11	3.79	3.91	5.26	7.05	6.73	6.64
<i>Consumer complaints:</i>							
Airline service	1,200 / 891	1,094	8,819	10,648	13,180	8,325	8,741
Disability-related	71 / 50	56	517	477	488	430	511
Discrimination**	17 / 16	12	132	115	99	114	129

Note: There was one flight with a tarmac delay of more than three hours in August, compared to 66 in August 2009, and a total of eight from May through August, compared to 529 during same period 2009.

* Reports per 1,000 passengers. **I.e., race, religion, national origin or sex.

II. AIRPORTS

1. New International Terminal, Fourth Runway Open at Haneda.

With the opening of a 2,500-meter fourth runway and a new five-story, 160,000 square meter passenger terminal, Tokyo Haneda is set to link with 17 cities in Asia, Europe and North America by next spring. Haneda is the primary base of Japan Airlines (Terminal 1) and All Nippon Airways (Terminal 2) and also serves several low-cost carriers.

2. Reagan National Slot Decision to Come Soon.

DOT soon will award two takeoff-and-landing spots at Reagan National, according to the *Washington Post*, now that the public comment period has ended. Five airlines are vying for the slots now controlled by Republic Airways, which owns Frontier and Midwest. Midwest has threatened to sue the federal government if it cannot retain the slots it has used for more than six years. Southwest and its proposed merger partner AirTran, as well as US Airways and Sun Country have also bid for the slots.

3. Serious Runway Incursions Halved.

The number of serious runway incursions at U.S. airports dropped 50% this fiscal year, said FAA, the second consecutive year that the number of serious incursions was cut in half. In fiscal year 2000 there were 67 serious runway incursions. Of the six incursions this fiscal year, three involved commercial aircraft. The drop is attributed to efforts including expedited installation of new technology, expanded requirements for improved signage and markings and improved pilot training on runway conflict scenarios.

4. Lowered Costs for Airlines at Indianapolis International.

Total costs for airlines using Indianapolis International are set to decrease over the five-year term of a new agreement, which, said the Airport Authority, "demonstrates our door is wide open for continued dialogue with airline executives about new and expanded air service in Indianapolis, especially to key West Coast markets." Cost per enplaned passenger will decline from the 2010 rate of \$10.50 to \$8.86 by 2015, and a new lease agreement could save airlines up to \$300 million in amortization expenses over the five-year term. The Authority will decrease operations and maintenance costs by \$65 million by 2015 and reduce its capital improvement program by \$150 million, but will move ahead with a \$90 million program to include runway and taxiway rehabilitation projects, environmental protection, master planning, safety and equipment upgrades, security and IT enhancements, and revenue development initiatives.

5. **American Eagle Los Angeles Service Expanded.**

American Airlines announced an expansion of American Eagle service from Los Angeles International, beginning April 5. The Bombardier CRJ-700 flights feature nine first class seats. Four gates will be added to the American Eagle terminal built last year.

6. **BAA Sells Naples Airport to Italian Fund.**

BAA will sell its 65% interest in GESAC, which holds the concession for Naples International Airport, to an Italian infrastructure fund, for €150 million. In other news, the UK Court of Appeal upheld a Competition Commission decision requiring BAA to sell Stansted and either Edinburgh or Glasgow airports; Gatwick has already been sold. BAA said it will seek permission to appeal to the Supreme Court. And, Madrid-based Ferrovial announced it will sell 10% of its 55.9% stake in BAA to pay down debt and fund other projects.

7. **European Passenger Traffic Up 5.3% in August.**

Passenger traffic at European airports increased by 5.3% in August, compared with August 2009, reports ACI, and by 3.6% for the January to August period. Freight traffic increased 19.6% in August and by 23.6% for first eight months.

8. **Oman Building \$1.8 Billion Muscat Airport Terminal.**

Oman awarded a \$1.8 billion contract to a joint venture of U.S. engineering firm Bechtel and Oman's Bahwan Contracting to build a terminal at Muscat International Airport. Completion is expected in third quarter 2014. The new terminal will have capacity to handle 12 million passengers annually. Further expansions planned in three subsequent phases will ultimately increase capacity to 48 million passengers by 2050. Oman is also building new airports at Sohar, Ras Al Hadd and Duqm.

III. **SECURITY AND DATA PRIVACY**

1. **ICAO Declaration on Aviation Security.**

The ICAO 37th Assembly endorsed a Declaration of Aviation Security that promotes increased information sharing and passenger screening capabilities at airports worldwide. The Declaration seeks to identify and prevent new forms of attack by improving management oversight of national aviation security capabilities, institute new screening technologies, strengthen international standards and provide assistance in building more screening capacity for member countries that require it. The strategy does not recommend implementation of specific security measures, such as whole body imaging devices, which the U.S. Department of Homeland Security (DHS) had promoted while gathering support for worldwide aviation security standards after the attempted December 25th terrorist attack. President Barack Obama applauded “the extraordinary global collaboration . . . which forges a historic new foundation for aviation security that will better protect our world from evolving terrorist threats.” DHS Secretary Janet Napolitano thanked “our international partners” and representatives, from airline CEOs to aviation industry trade associations. John Pistole, who heads the Transportation Security Administration (TSA), said DHS and TSA will collaborate with international partners to identify new and emerging threats, further enhance ICAO standards and recommended practices, increase information collection and sharing and improve and deploy more detection technology to defeat terrorists and prevent them from boarding commercial aircraft. “Because every airport offers a potential entry point into this global system, every nation faces the threat from gaps in aviation security throughout the world and all nations must share the responsibility for securing that system,” said a State Department official.

2. **U.S. Security Demands Slammed by UK Group.**

In remarks to the UK Airport Operators Association in London, British Airways Chairman Martin Broughton and others were critical of U.S. demands for increased airport security. Calling security checks completely redundant, Broughton said the UK should stop kowtowing to U.S. demands, reported the *Financial Times*. “America does not do internally a lot of the things they demand that we do,” he said. “We shouldn't stand for that. We should say, 'We'll only do things which we consider to be essential and that you Americans also consider essential.’”

3. DHS IG Audits Air Cargo Screening.

In a new report, the DHS Office of Inspector General (OIG) noted gaps in the TSA cargo screening process that could allow terrorists to place explosives on passenger jetliners. The Aviation and Transportation Security Act mandated that TSA ensure screening of all cargo transported on passenger aircraft beginning August 2010. To meet this requirement, TSA developed the certified cargo screening program, under which shippers tender cargo for transport on passenger aircraft via a facility that uses TSA-approved air cargo screening methods. Once screened, the cargo is forwarded to an air carrier for transport. According to TSA, currently over 75% of cargo transported on passenger aircraft is screened using Explosive Trace Detection (ETD), an X-ray device and/or a physical search. The recent audit evaluates the effectiveness of those methods. "As a result of our testing," said the OIG, "we made five [classified] recommendations that, when implemented, should improve the agency's screening and security measures to prevent the introduction of explosives into air cargo shipped on passenger aircraft [and] TSA acknowledged that improvements can be made."

4. EU Approves Liquid Scanners for Airports in Europe.

UK-based Kromek, which specializes in the development of disruptive technology solutions for commercial markets including airport and border security, has received European Union (EU) certification to provide color x-ray liquid detection systems to all European airports. The scanners can distinguish between liquids and solids.

5. Senators Introduce Aviation Security Reform Bill.

See Section VI, item 3.

6. U.S.-Brazil Sign Statement of Intent on Aviation Security.

See Section VII, item 3.

IV. **E-COMMERCE AND TECHNOLOGY**

1. **Passengers at Ease With Self-Service Technologies.**

The 5th annual SITA/Air Transport World Passenger Self-Service Survey finds that airline passengers demonstrate increasing ease with online, kiosk and mobile phone channels. Two-thirds would use kiosks for other purposes including booking/changing a flight, purchasing meals, printing bag tags, claiming delayed baggage. On the day of the survey, 74% of interviewed passengers had booked flights online. Actual usage rates of online check-in are now at 61% and kiosk check-in is at 71%. Close to half the passengers who checked in at a desk did so because of the need to check a bag. About 70% would tag their own bag. Almost a quarter of all respondents claimed to have used mobile check-in at least once. The survey data is extracted from interviews with 2,490 passengers travelling on 106 airlines, conducted earlier this year at the departure gates of seven leading international airports.

2. **Verizon Installing 4G LTE at 60 Airports.**

Verizon Wireless is installing its 4G Long Term Evolution at more than 60 U.S. airports this year. The company expects 4G LTE average data rates to be significantly faster than 3G network speeds.

3. **Airline Ancillary Revenue Reaches \$22.6 Billion Worldwide in 2010.**

Airline ancillary revenue will reach \$22.6 billion worldwide in 2010, according to the Amadeus Guide to Ancillary Revenue, compiled by travel consultant IdeaWorks from disclosures made by 46 airlines. Carriers generating the highest activity as a percent of operating revenue include Allegiant, Flybe, Ryanair, Spirit and Tiger. Amadeus solutions enable airlines to automatically offer and collect fees for ancillary services.

4. **Online Travel Companies Challenge Google-ITA Deal.**

Expedia, Kayak, Sabre and Farelogix have formed the FairSearch.org coalition to urge the Justice Department to challenge Google's proposed \$700 million acquisition of ITA Software. "Acquiring ITA Software would give Google control over the software that powers most of its closest rivals in travel search and could enable Google to manipulate and dominate the online air travel marketplace," said the group, resulting in higher prices, fewer choices for consumers and businesses, and less innovation in online travel search.

V. **ENERGY AND ENVIRONMENT**

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

The average price of aviation jet fuel, as of October 15, was \$95.8/barrel, up 6.2% on the month and 14.6% year-on-year, reports the International Air Transport Association (IATA). Fuel price average year-to-date was \$88.7/barrel.

2. **ICAO Reaches Agreement on Aviation and Climate Change.**

The 37th ICAO Assembly adopted new provisions for addressing greenhouse gas emissions from international aviation. A resolution calls for: improving fuel efficiency by 2% annually to 2050; capping aviation's carbon emissions from 2020; a global CO₂ standard for aircraft engines with a target date of 2013; and development of a global framework on economic measures by the 38th Assembly (2013) designed to minimize market distortions, safeguard fair treatment of aviation relative to other sectors, ensure that aviation's emissions are accounted for only once, and recognize past and future efforts of carriers. "No other industry sector has a similar globally agreed framework for managing its response to climate change in a manner that takes into consideration the needs of both developed and developing states," said IATA Director General and CEO Giovanni Bisignani. ATA applauded the resolution and market-based provisions; President and CEO James May said ATA has "been greatly concerned about measures such as the European Emissions Trading Scheme (EU ETS) and the proliferation of emissions levies in the United Kingdom, Germany and elsewhere that run afoul of these principles." The EU said, "ICAO has taken a step in the right direction [but] the goal is not as ambitious as Europe thinks it should be." EU Commissioner for Climate Action Connie Hedegaard said, "the deal is a good basis for proceeding swiftly with the inclusion of aviation in the EU's Emissions Trading Scheme from 2012 as foreseen by the EU legislation in force . . . Crucially, ICAO has refrained from language which would make the application of the EU's ETS to their airlines dependent on the mutual agreement of other States." The EU "agreed to engage constructively in dialogue with third countries during the implementation of its ETS, notably regarding how to deal with emissions from incoming flights from third countries."

3. **U.S. Accelerates Production of Affordable Renewable Av Fuels.**

FAA is working with the U.S. Department of Agriculture (USDA) to assess availability of different kinds of feedstocks that could be processed by bio-refineries to produce jet fuels. In remarks to the National Press Club in Washington, USDA Secretary Vilsack announced programs to accelerate

production of renewable aviation fuels by U.S. farmers. To meet the Renewable Fuel Standard goal of producing 36 billion gallons of biofuels by 2022, construction will begin in 2011 of a biorefinery or bioenergy plant in five regions serviced by Biomass Research Centers. These centers will focus, accelerate, and coordinate the science and technology needed to incorporate feedstock production into existing agricultural and forest based systems. Vilsack urged Congress to reinstate the Biodiesel Production Tax Credit and provide “a fiscally responsible” short-term extension of the Volumetric Ethanol Excise Tax Credit. ATA said the programs will provide investors, farmers, bankers and U.S. energy companies with confidence to invest in these proven, green technologies.

4. Boeing to Test China Biofuel.

Boeing, in cooperation with Air China and others, plans to test a commercial jet biofuel in China, which is produced from locally grown jatropha, supplied by PetroChina. The Air China demonstration flight is expected to be conducted by May or June next year, the company said in a *Wall Street Journal* interview. Boeing has been testing different types of biofuels on different engines since 2008 and claims engine modifications are unnecessary. To accelerate research and development of algae-based aviation biofuels, Boeing earlier this year opened a joint research laboratory in Qingdao with a Chinese government research institute and may expand the effort to other labs.

5. House Approves Algae Biofuel Tax Credit Legislation.

See Section VI, item 4.

VI. U.S. CONGRESS

1. ATA Calls for Fresh Start on FAA Reauthorization.

With November elections looming, ATA's Jim May urged the incoming Congress to make a fresh start on FAA reauthorization. "After two and a half years and 16 extensions, it's time to get very serious," he told the Air Traffic Control Association conference on aviation priorities. May called for legislation that: maintains and improves "our remarkable safety record"; fosters rather than hinders U.S. aviation competitiveness, realizing that we are a global industry; and accelerates implementation of NextGen "and holds FAA more accountable for delivering benefits now, not in 2020."

2. Oberstar Calls for Rigorous Scrutiny of Southwest-AirTran Merger.

House Transportation Committee Chairman James Oberstar (D-Minn.) urged the Department of Justice to rigorously scrutinize the proposed Southwest-AirTran merger, reports the *Atlanta Journal-Constitution*, and "take all available action, including the pursuit of injunctive relief, to remedy any anticompetitive effects that may flow from Southwest's acquisition of AirTran." Oberstar warned, "the U.S. airline industry will be continuing down the path of consolidation, which, I strongly believe, will lead to less service, higher prices, and fewer choices for consumers." The acquisition presents the Antitrust Division with new but important questions about the future role of low-cost carriers in promoting competition, he said.

3. Senators Introduce Aviation Security Reform Bill.

Members of the Senate Homeland Security Committee introduced the Aviation Security Innovation and Reform (AIR) Act, which would require standardized baseline TSA screener training nationwide, raise minimum training requirements to improve screeners' ability to spot potential terrorists, and require bi-annual re-certifications. The bill would also create an office to coordinate all behavior detection programs within TSA and DHS and bring them together under one roof. It would improve state and local law enforcement partnerships.

4. House Approves Algae Biofuel Tax Credit Legislation.

The House passed the Algae-Based Renewable Fuel Promotion Act, which would expand the definition of cellulosic biofuel to include algae-based biofuel, for purposes of the cellulosic biofuel producer tax credit and other incentives. Under the proposal, "algae-based biofuel" would be defined as any liquid fuel produced from the biomass of an algal organism.

5. **Mica Wants Implementation of Pilot License Requirement.**

House Transportation Committee Republican leader John Mica (FL), in letters to FAA, TSA and DHS executives, said FAA's attempt to produce an effective, tamperproof license for commercial passenger airline pilots "looks like a Three Stooges episode." Mica said the Intelligence Reform and Terrorism Prevention Act of 2004 included a provision directing the FAA Administrator to develop improved pilot licenses or certificates that are resistant to tampering, alteration, and counterfeiting, and contain a photograph of the pilot and unique identifier. FAA plans to propose a regulation next year requiring a photo on the license.

VII. BILATERAL AND STATE DEPARTMENT NEWS

1. Byerly Retires, Kris Urs Named Chief Aviation Negotiator.

The U.S. State Department said Kris Urs will become Deputy Assistant Secretary of State for Transportation Affairs on November 1, replacing John Byerly, who is retiring. Urs, a foreign service veteran, has been Director of Aviation Negotiations for the past year. In parting remarks to the International Aviation Club in Washington, Byerly said “international air service will remain the greatest opportunity for U.S. airlines to expand and succeed in the future. All of us—government, management, labor—need to be lashed together and focused on taking robust advantage of opportunities abroad. If we can ‘grow the pie,’ we can all come out ahead.”

2. U.S.- Japan Open Skies MOU Signed.

U.S. Ambassador to Japan John Roos and Japanese Minister of Land, Infrastructure, and Transport Sumio Mabuchi signed a memorandum of understanding (MOU) in Tokyo, which, said the Japanese government, fully liberalizes the Japanese and U.S. aviation industries. The MOU is based on a framework initialed last December, which made opens skies implementation contingent on the granting of antitrust immunity for transpacific joint ventures between U.S. and Japanese carriers; prior to the MOU signing, Japanese authorities approved ATI for joint ventures of ANA, Continental and United, and of Japan Airlines and American Airlines, and DOT granted preliminary immunity, subject to a three-week comment period (see Section I). JAL began daily flights from Tokyo Haneda to San Francisco and Honolulu, and American announced it will begin daily flights between New York Kennedy and Haneda on January 20. United, Continental and ANA intend to begin implementation of their joint venture in spring 2011. In addition, ANA and Hawaiian agreed to explore cooperation in areas such as code sharing, frequent flyer programs and cargo, subject to necessary government approvals; ANA began Haneda service to Honolulu on October 31, and on November 17 Hawaiian will launch its first scheduled operations to Japan, between Honolulu and Haneda.

3. U.S.-Brazil Sign Statement of Intent on Aviation Security.

The United States and Brazil signed a Joint Statement of Intent on aviation security between DHS, TSA and INFRAERO, a state-owned company which operates under the Brazilian Ministry of Defense. Homeland Security Secretary Janet Napolitano and Brazilian Minister of Defense Nelson Jobim highlighted a mutual commitment to strengthening aviation security through enhanced employee training and continued collaboration by both nations to

develop and implement best practices regarding screening, equipment testing and certification and airport security standards.

4. **Canada, UAE Dispute on Landing Rights.**

United Arab Emirates evicted Canada from a military logistics camp near Dubai, in retaliation for Canada's refusal to increase landing rights for UAE carriers, including Emirates and Etihad. Air Canada opposes additional flights, which would compete with Canadian air service to Asia, Europe and the Middle East.

5. **Egypt, Iran Agree to Resume Direct Flights.**

Egypt and Iran agreed to resume direct flights for the first time since diplomatic relations were severed after the Iranian revolution of 1979. The Egyptian Civil Aviation Authority said there will be 28 weekly flights between Cairo and Tehran. A U.S. State Department official said, "We continue to urge all countries, including Egypt, not to pursue any new business deals until Iran complies with its international obligations."

6. **EU to Negotiate Pact with Brazil, Signs With Vietnam.**

The European Commission (EC) was granted a mandate by EU transport ministers to open negotiations with Brazil, aimed at opening market access for airlines and achieving a high level of regulatory convergence in areas such as security, environmental aspects and consumer protection. More than four million passengers were carried in 2009 on flights between the EU and Brazil and, according to an economic impact assessment study, an agreement could generate up to €460 million annually in consumer benefits. Brazil will host the FIFA World Cup in 2014 and the Olympic Games in 2016. . . . The EU and Vietnam signed an aviation agreement that will allow any EU airline to operate flights between any EU member state and Vietnam, where a bilateral agreement exists and traffic rights are available.

VIII. EUROPE AND AFRICA

1. European Aviation Sector Challenges Discussed.

EC Transport Vice President Siim Kallas convened the Aviation Platform, comprised of 15 senior aviation sector executives, to give strategic advice and establish the basis for a sustainable and competitive future for the European aviation industry. “Air transport is facing tremendous challenges and is under increased pressure to respond to business and policy requirements,” said Kallas. “In order to maintain the competitiveness of the European economy and to satisfy the mobility needs of Europe's citizens and businesses, we need an efficient, reliable and affordable air transport system.” The Commission announced the establishment of an Aviation Platform in the wake of the volcanic ash cloud crisis. . . . The Belgian Presidency of the EU convened an Aviation Summit that produced the “Declaration of Bruges,” which calls for study of the impact of the EU ETS, investments in innovative technology and no further taxes on aviation. . . . In remarks to the first European Air Transport Regulation Forum, in Florence, Mike Ambrose, Director General of the European Regions Airline Association (ERA), criticized European regulatory bodies for not applying their own best practice rules when proposing or amending legislation, leading to “ambiguous and confusing legislation which creates unnecessary costs for airlines and benefits neither the airline nor the passenger” As an example, he cited the recent Accident Investigation Regulation “where no consultation with stakeholders took place.” . . . And, at a meeting of CEOs of the Association of European Airlines (AEA), British Airways CEO Willie Walsh said, “It’s about time Europe makes up its mind what it wants from its airline industry. The liberalization of the market has brought about huge efficiency benefits, a stream of product innovations, lower prices and consumer choice. Yet all along the line these benefits are being eroded by heavy-handed and inappropriate regulation in some areas, and a reluctance to tackle structural deficiencies in others.” Walsh is AEA Chairman for 2010. AEA cited the “imminent inclusion” of aviation in the European Emissions Trading Scheme, “inefficiency inherent in the fragmentation of airspace,” and “taxes and charges at home,” as obstacles to effective competition. AEA CEOs debated international trade rules, reviewed lessons learned from the atmospheric ash contamination last spring and the level of preparedness for a similar occurrence.

2. Commission Warns Member States on Bilaterals With Russia.

The European Commission launched infringement procedures against France, Germany, Austria and Finland over bilateral air service agreements with Russia that may violate EU rules by including provisions on Siberian overflight

charges. The agreements do not contain a clause recognizing that the terms apply equally to all EU carriers, said the EC, which is assessing compliance with EU law of 23 other member states' bilateral air service agreements with Russia. The EU says Russia has failed to follow through on a 2006 accord to end the fees, which cost European carriers \$420 million in 2008—most of it directly to Aeroflot.

3. Boeing Projects \$90 Billion Commercial Plane Market in Russia, CIS.

Air carriers in Russia and Commonwealth of Independent States (CIS) will take delivery of about 960 new airplanes over the next 20 years at an investment of \$90 billion, according to Boeing's 2010 CIS Market Outlook. Almost 60% of the new deliveries will be single-aisle. Twin-aisle fleets will evolve as airlines continue to expand international point-to-point services to a wider range of airport pairs and frequencies. Small- and mid-sized twin-aisle airplanes will grow to represent 17% of the fleet. Boeing expects passenger traffic for the region to grow at a rate of 4.8% on average.

4. New President for LOT Polish Airlines.

Zbigniew Mazur was named President of LOT Polish Airlines, following the resignation of Sebastian Mikosz.

5. EasyJet, Stelios Settle Brand-Name Dispute.

EasyJet resolved a brand-license dispute with founder Stelios Haji-Ioannou, retaining the right to the EasyJet name for up to 50 years, with a minimum commitment of 10 years, by paying an annual royalty of 0.25% of total revenue, fixed at £3.9 million and £4.95 million in first and second years. CEO Carolyn McCall said the dispute had cost the company about £4 million in legal fees. Stelios owns a 36% stake in EasyJet.

6. Ash Compensation Claims Mounting in UK.

The UK's Air Transport Users Council (ATUC) has received more than 3,000 complaints about airlines refusing to repay expenses of passengers stranded during the airspace closure last spring, caused by volcanic ash cover. Under EU regulations, airlines are obligated to compensate stranded passengers. ATUC is planning to name non-compliant airlines in a November report; BBC Watchdog has already done so.

7. American, BA and Iberia Launch Joint Business.

See Section X, item 2.

IX. ASIA/PACIFIC AND MIDDLE EAST

1. The MENA Challenge: Coping with Growth

In a keynote address to the Arab Air Carriers Organization (AACO) Annual General Meeting in Cairo, IATA Director General and CEO Giovanni Bisignani called for coordinated efforts to deal with the challenges of growth in the Middle East and North Africa (MENA). Those challenges include: A hull loss rate for Western-built aircraft that slipped from zero accidents in 2006 to 3.32 accidents per million flights in 2009, 4.6 times the global average of 0.71. Airport construction totaling \$100 billion is planned, but military airspace covers 60% of the region, limiting capacity and forcing inefficient routings. Governments need to adapt local regulations to facilitate modern business practices; MENA is on target to meet the December deadline for 100% implementation of bar coded boarding passes, but only two countries are participating in IATA e-freight. Governments need to keep costs in check, curb unilateral increases in taxes and charges, create the regulatory framework to balance burgeoning long-haul opportunities with short-haul regional liberalization, and take a more proactive approach to liberalization. MENA carriers over the last decade have grown from 5% of global traffic to 11%; aircraft purchases of \$200 billion are planned over the next decade. IATA expects \$400 million in profits for the region this year and \$300 million in 2011.

2. Turkish to Offer Service to Washington and Los Angeles.

Turkish Airlines is introducing five weekly nonstops from Istanbul to Washington DC in November, and four weekly to Los Angeles in March.

3. American, Jetstar Announce Code Share.

American Airlines and Qantas unit Jetstar signed an agreement, in which American will place its code on Jetstar-operated flights in New Zealand, subject to regulatory approvals.

4. American, JAL to Code Share on New York-Sao Paulo Route.

Japan Airlines and oneworld partner American Airlines agreed to code share on flights operated by the latter between New York and Sao Paulo, subject to government approval. JAL had suspended Sao Paulo-Tokyo via New York operations.

5. Sanjay Aggarwal Named Kingfisher CEO.

Sanjay Aggarwal was named CEO of India's Kingfisher Airlines, with immediate effect. The former SpiceJet CEO will report directly to Chairman and Managing Director Vijay Mallya. Prior to joining Spicejet, Sanjay was an

executive with private jet provider Flight Options; he earlier worked for US Airways.

6. Cebu Air IPO Raises \$540 Million.

Manila-based Cebu Air raised \$540 million in an initial public offering, which President Lance Gokongwei said will be used to acquire 24 airplanes by 2014 and to pay down debt. The Philippines' second largest airline had net income of \$68.4 million in the first half of this year and estimates international demand will outpace domestic over five years.

7. U.S.-Japan Joint Ventures Win ATI Approval.

See Section I, item 1.

8. DOT Grants Authority for Los Angeles-Shanghai Flights.

See Section I, item 2.

9. Australia Lobbies DOT on Virgin Blue-Delta ATI Bid.

See Section I, item 3.

10. New International Terminal, Fourth Runway Open at Haneda.

See Section II, item 1.

11. U.S.- Japan Open Skies MOU Signed.

See Section VII, item 2.

X. AMERICAS

1. Ninth Consecutive Month of Revenue Growth for U.S. Airlines.

U.S. airline passenger revenue rose 19% in September, compared to September 2009, reports ATA. Miles flown by paying passengers rose 7%, while average price to fly one mile rose 11%. Passenger revenue improved 12% domestically and 35% in international markets. Cargo traffic measured in cargo revenue ton miles rose 14% year over year (5% domestically and 22% internationally) in August 2010. September 2010 cargo data was not yet available.

2. American, BA and Iberia Launch Joint Business.

The new joint business between oneworld partners American Airlines, British Airways and Iberia was launched with the announcement of four new routes to start from April: New York Kennedy-Budapest and Chicago-Helsinki, operated by American; London Heathrow-San Diego, operated by British Airways; and Madrid-Los Angeles, operated by Iberia. The three airlines will share revenues on flights between the EU (plus Switzerland and Norway) and the U.S., Canada and Mexico, and code share on North Atlantic routes. American will add its code to 322 British Airways and Iberia flights serving 101 destinations, British Airways will add its code to 2,063 American and Iberia flights serving 181 destinations and Iberia will add its code to 354 American and British Airways flights serving 96 destinations.

3. United, Air Canada to Form Transborder JV.

Air Canada and United Continental Holdings agreed to form a revenue-sharing joint venture on U.S.-Canada transborder flights, subject to regulatory approvals.

4. American Airlines, WestJet Announce Commercial Agreement.

American and WestJet entered into an interline agreement and are exploring other commercial cooperation agreements. The interline agreement provides American's customers seamless connecting service to 25 new Canadian cities not currently served by American or American Eagle. The connections will first be available through the six gateways in Canada currently served by American or American Eagle—Toronto, Montreal, Calgary, Vancouver, Halifax and Ottawa. A second phase, to be implemented in December, will add connecting opportunities through WestJet's nonstop U.S. flights to Canadian cities. This is the first interline agreement with a U.S. carrier for WestJet, which serves 31 Canadian cities and 71 destinations in 13 countries.

5. **Continental to Add U.S.-Mexico Service.**

United Continental Holdings announced that Continental will offer daily Boeing 737-500 nonstops between Los Angeles and Leon/Guanajuato, Mexico, beginning November 1.

6. **Delta Hiring Hundreds, 85,000 Apply.**

More than 85,000 people have applied for Delta flight attendant jobs, reports the *Atlanta Journal-Constitution*, since the airline announced in August that it would call workers back from furlough and then hire new ones, especially those with foreign language skills. Delta has also hired about 300 pilots and more than 100 mechanics this year.

7. **US Airways, Mesa Sign Term Sheet.**

US Airways and Mesa agreed in principle to extend their code share agreement covering 38 CRJ-900s for an additional term of 39 months to September 2015. Mesa will continue to provide US Airways Express regional jet service. The agreement is subject to approval by Mesa and US Airways boards and the Bankruptcy Court overseeing Mesa's restructuring. Mesa Air Group filed for bankruptcy in January.

8. **FedEx Ordered to Pay \$66 Million to Defunct ATA.**

A federal jury in Indianapolis ordered FedEx to pay \$66 million to now-defunct ATA for profits lost in 2008 and 2009, finding the company broke a contract that ultimately pushed ATA into bankruptcy. FedEx in 2008 abruptly ended a military charter business, which had utilized ATA services for more than 20 years. ATA had ramped up its fleet after receiving a written commitment from FedEx that the contract would continue through 2009.

9. **Southwest Offers Service to Mexico with Volaris.**

Southwest will begin its partnership with Mexico's Volaris on December 1, with flights to five Mexican destinations, from 20 Southwest cities connecting through Los Angeles International, Oakland and San Jose.

10. **Spirit Announces Next Phase of Expansion.**

Spirit will introduce 11 new nonstops in its next phase of expansion, beginning in January, and offer \$9 introductory fares each way. The carrier is adding 5 new destinations - - Plattsburg, NY, Niagara Falls, NY, Latrobe, PA, Charleston, WV, and Dallas/Ft. Worth, TX.

11. **Aerolineas Argentinas to Join SkyTeam.**

Aerolineas Argentinas will become the first South American member of SkyTeam and expects to join the alliance in 2012. The carrier last year

introduced a five-year restructuring plan that includes fleet renewal and rationalization, adding key international destinations, increasing density of the domestic and regional network and improving product quality and consistency.

12. LAN to Acquire AIRES.

LAN Airlines agreed to acquire 98.942% of Colombian airline AIRES for \$32.5 million. AIRES, the second largest operator in the Colombian domestic market with a 22% market share, provides scheduled service to 27 domestic and three international destinations, the fleet includes nine Boeing B737-700s. Once the acquisition receives regulatory and other approvals, AIRES will become an affiliate of LAN and each company would comply with foreign ownership and control regulations in the country in which they operate. If the proposed LAN-TAM connection is approved, AIRES would become part of the new Latin American airline group, LATAM Airlines Group S.A.

13. Neeleman Acquires JetSuite.

David Neeleman and Acadia Woods Partners have acquired JetSuite, which operates Embraer Phenom 100s in charter and jet card programs in the Western United States, Canada and Mexico. Founder and owner of Azul Brazilian Airlines, Neeleman also founded and ran JetBlue.

14. Turkish to Offer Service to Washington and Los Angeles.

See Section IX, item 2.

15. American, Jetstar Announce Code Share.

See Section IX, item 3.

16. American, JAL to Code Share on New York-Sao Paulo Route.

See Section IX, item 4.