



WASHINGTON AVIATION SUMMARY

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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. IATA Revises 2010 Forecast: \$8.9 Billion Profit for Global Industry.

The global airline industry will see a profit of \$8.9 billion in 2010, reports the International Air Transport Association (IATA), in a revision of its June forecast of \$2.5 billion. The improved outlook is being driven by a combination of factors: increasing demand and disciplined capacity management are leading to sharply stronger yields pushing revenues higher, and costs remain relatively stable. All regions except Africa are showing improved prospects. IATA estimates that profitability will drop to \$5.3 billion next year, as the impact of the post-recession bounce from re-stocked inventories will dissipate. Consumer spending is not expected to pick up the slack as joblessness remains high and consumer confidence falls in Europe and North America. Travel and freight markets will remain stronger in Asia, the Middle East and South America. Slower growth is expected to keep costs in check and oil prices are expected to remain constant at \$79/barrel. Industry growth is expected to fall back to 5%, in line with the historical trend. But a surge of aircraft deliveries (1,400) will fuel capacity expansion of 6%, in excess of expected demand improvements. Falling load factors will remove the possibility for further yield improvement leading to a more challenging revenue environment.

2. Southwest to Acquire AirTran.

Southwest plans to acquire AirTran Holdings, in a \$1.4 billion cash and stock transaction. "Including the existing AirTran net indebtedness and capitalized aircraft operating leases, the transaction value is approximately \$3.4 billion," said Southwest. The proposed merger has been approved by the boards of each company and closing is expected by first half 2011, contingent upon approval by shareholders at both companies and U.S. Department of Justice antitrust clearance. Commercial and operating integration is slated to culminate in 2012. The merger would give Southwest "significant opportunities" in Atlanta, which it currently does not serve, and an expanded presence in New York, Boston and Washington. The combined company would have 43,000 employees and serve 100 million customers annually from more than 100 airports in the U.S., Mexico and the Caribbean, with an integrated fleet of 685 Boeing aircraft having an average age of 10 years. After closing, Bob Fornaro, AirTran Chairman, President and CEO, "will continue to be involved in the integration of the two companies," said Southwest, and "plans for existing AirTran facilities will be developed by integration teams"; corporate functions will reside in Dallas. Labor issues will have to be resolved: AirTran pilots are represented by Air Line Pilots Association and Southwest's

by Southwest Airlines Pilots Association; Southwest flight attendants are represented by Transport Workers Union and AirTran's by Association of Flight Attendants.

3. United-Continental Merger Closes.

The Department of Transportation (DOT) issued a route-transfer exemption for Continental and United, allowing them to operate under common ownership until DOT completes the process for a single operating certificate. Shareholders of both companies approved the merger; those of Continental will receive a 45% stake in Chicago-based United Continental Holdings, as Continental common shares traded on the New York Stock Exchange are cancelled, and United shareholders will own 55%. Continental CEO Jeff Smisek will be CEO of the new company, which will be the world's largest airline by traffic; United Chairman and CEO Glenn Tilton will be non-executive Chairman for two years, to be succeeded by Smisek. A federal judge in San Francisco denied a request brought by consumers to enjoin the merger; investigations by attorneys general in several states are pending. A settlement reached with the Ohio Attorney General limits flight cuts at Cleveland Hopkins to no more than 10% for the first two years of the merger. Continental reached a tentative agreement on a new labor contract with its flight attendants, represented by the International Association of Machinists and Aerospace Workers (IAM), which said, "We have negotiated immediate benefits [and] important protections that will safeguard flight attendants through the operational integration with United."

4. Airlines Challenge DOT Proposed Enhanced Passenger Protections.

In extensive comments by IATA and the Air Transport Association (ATA), foreign and domestic airlines opposed key aspects of the DOT Notice of Proposed Rulemaking (NPRM) issued in June 2010 to add new and change certain existing consumer protection rules. IATA called the rules "an unprecedented intervention in the business of airlines serving the US," and asserted that the proposed rules constituted an extra-territorial application of US law to foreign carriers. While supporting some of the proposed disclosure requirements, ATA strongly objected to (1) requiring carriers to incorporate customer service and contingency plans in the contract of carriage which it labeled illegal; (2) changing DOT's long established full fare advertising policy or requiring the listing two fares one of which would be an all-in fare including one or two checked bags and a carry-on bag; and (3) requiring carriers to provide optional service and fees to GDSs. Airline comments also generally opposed requiring carriers to provide refunds or cancellations within 24 hours of making reservations, increasing the compensation for involuntary denied boarding and requiring carriers to verbally explain to volunteers what they might receive if they are involuntarily bumped. Consumer groups and

corporate travel interests supported all the proposed rules and strongly urged DOT to require carriers to provide ancillary fee information to GDSs.

5. Administration Proposes \$50 Billion Infrastructure Spending Plan.

The Obama Administration unveiled a \$50 billion infrastructure spending proposal that would restore 150 miles of runways and advance the next-generation (NextGen) air-traffic control system, among other transportation projects. The plan, which requires Congressional approval, also includes an infrastructure bank that would help finance projects by combining federal, state and local government funds with private financing.

6. DOT Proposes to Deny Delta-Virgin Blue Antitrust Immunity.

DOT tentatively denied an application for antitrust immunity made by Delta and Virgin Blue with respect to joint U.S.-Australia services. DOT noted that Delta and its partners have only recently entered that market, have not shown developed plans to operate as commercial partners, and have limited cooperation to a handful of routes, thereby limiting public benefits their alliance might produce. DOT also said the airlines had failed to show that their alliance would have positive effects for consumers, such as lower fares or increased capacity. Virgin Blue Holdings, which includes V Australia, Virgin Blue and Pacific Blue in Australia and New Zealand, said the airlines would work with DOT to respond to the concerns. Australian authorities approved the proposal in December.

7. Polar Air Cargo to Pay \$17.4 Million Fine for Price-Fixing.

Polar Air Cargo agreed to plead guilty and pay a \$17.4 million criminal fine for its role in a conspiracy to fix prices in the cargo air transportation industry, said the Department of Justice. According to a one-count felony charge, Polar conspired to fix cargo rates for international shipments between the United States and Australia, from at least January 1, 2000, until April 30, 2003, in a scheme that continued to at least February 14, 2006. Under the plea agreement, Polar agreed to cooperate with the department's ongoing antitrust investigation SAS Cargo, which previously paid a \$52 million criminal fine for price-fixing, agreed to pay \$13.9 million to settle class-action lawsuits in the United States over price-fixing and to cooperate in ongoing lawsuits; numerous class-action lawsuits in the U.S. were brought in 2006, after the Justice Department and the European Commission (EC) each announced air cargo price-fixing investigations Taiwan-based China Airlines agreed to plead guilty and pay a \$40 million criminal fine for conspiracy to fix rates for international air cargo shipments to and from the United States from at least January 2001, until at least February 14, 2006. Under the plea agreement, China Airlines has agreed to cooperate with the department's ongoing antitrust investigation And an Atlanta grand jury returned an indictment against a

Martinair Holland senior executive for participating in the same conspiracy. A total of 18 airlines and eight executives have been charged in the Justice Department's investigation. More than \$1.6 billion in criminal fines have been imposed and four executives sentenced to serve prison time. Charges are pending against the remaining four executives.

8. FAA Proposes Pilot Fatigue Rule.

The Federal Aviation Administration (FAA) proposed a rule that would set new flight time, duty and rest requirements for commercial pilots based on fatigue science; legislation stemming from the 2009 crash of Colgan Air 3407 directs FAA to issue a pilot fatigue regulation no later than August 1, 2011. The proposed rule: would eliminate current distinctions among rest requirements for domestic, international and unscheduled flights; sets different requirements for pilots based on time of day and number of scheduled segments, time zones, type of flights, and likelihood that a pilot is able to sleep under different circumstances; and defines "flight duty" as the period of time when a pilot reports for duty with the intention of flying an aircraft, operating a simulator or operating a flight training device, and doing tasks that do not involve flight time, such as record keeping and ground training. FAA proposes to set a nine-hour minimum opportunity for rest prior to the duty period, a one-hour increase over the current rules. Cumulative fatigue would be addressed by placing weekly and 28-day limits on time a pilot may be assigned duty. Additionally, 28-day and annual limits would be placed on flight time. Pilots would have to be given at least 30 consecutive hours free from duty on a weekly basis, a 25% increase over current rules. The comment period for the proposed rulemaking ends November 13, 2010.

9. Pilots, Air Traffic Controllers to Share Safety Data.

FAA will integrate voluntary error reporting programs for pilots and air traffic controllers, in order to glean "a more complete picture of the national airspace system by collecting, assessing and reviewing safety events." United Airlines and its pilots have signed on to participate in a demonstration program and FAA expects to sign similar agreements with other carriers in the future.

10. FAA Proposes \$4.855 Million Civil Penalty Against Evergreen.

FAA proposed a \$4.855 million civil penalty against Evergreen International of McMinnville, Ore., for allegedly using pilots on 232 revenue flights who had not been trained in accordance with an FAA-approved training program. The flights were made in 2009, on aircraft equipped with a new flight management system (FMS) that required a specific training program.

11. AirTran Fined \$500,000 for Violating Federal Disability Rules.

DOT assessed a civil penalty of \$500,000 against AirTran for violating rules protecting air travelers with disabilities, including lack of boarding assistance and inadequate written response to passenger complaints. Up to \$200,000 of the penalty may be used to improve service to disabled passengers beyond what is required by law, up to \$60,000 to establish a council to help the carrier comply with federal disability rules and hire a manager for disability accommodations, and up to \$140,000 to develop and employ an automated wheelchair tracking system at AirTran major hub airports within one year that will generate real-time reports of the carrier's wheelchair assistance performance.

12. NTSB Assists in UPS Crash Investigation.

The National Transportation Safety Board (NTSB) is assisting the General Civil Aviation Authority of United Arab Emirates in its investigation of the September 3 crash of a United Parcel Service cargo plane. Both pilots were killed when the Boeing 747-400, en route to Cologne, crashed shortly after takeoff from Dubai. The pilots reported smoke in the cockpit and crashed into a military base when trying to return to the airport NTSB is also investigating a September 16 near-midair collision between a US Airways Airbus 320 and a Beech 99 cargo flight near Minneapolis-St. Paul Airport. The Airbus was cleared for takeoff, en route to Philadelphia, carrying five crew and 90 passengers; the Beech, with only the pilot aboard, was cleared for takeoff on a parallel runway. There were no reports of damage or injuries NTSB is expected to investigate landing gear failures on Bombardier CRJs, following an emergency landing of a Delta Connection flight, operated by Atlantic Southeast, at New York Kennedy; all 60 passengers and four crew safely exited through the main passenger door.

13. DOT Releases July Passenger Airline Employment Data

U.S. scheduled passenger airlines employed 378,100 workers in July, reports DOT, 2.3% fewer than in July 2009. The six network airlines employed 256,400 in July, 67.8% of the total, while seven low-cost carriers employed 16.9% and 18 regionals employed 13.8%.

14. **DOT Air Travel Consumer Report for July.**

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

	July '10 / '09	June '10	Full Year				
			2009	2008	2007	2006	2005
On-time arrivals %	76.7 / 77.6	76.4	79.5	76	73.4	75.4	77.4
Cancellations %	1.4 / 1.2	1.5	--	--	--	--	--
Mishandled baggage*	3.79 / 4.06	3.72	3.91	5.26	7.05	6.73	6.64
<i>Consumer complaints:</i>							
Airline service	1,094 / 827	1,419	8,819	10,648	13,180	8,325	8,741
Disability-related	56 / 54	60	517	477	488	430	511
Discrimination**	12 / 17	22	132	115	99	114	129

Note: There were three flights with tarmac delays of more than three hours in July, compared to 161 flights in July 2009.

* Reports per 1,000 passengers.

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

II. AIRPORTS

1. Louis Miller Named Atlanta Hartsfield General Manager.

Louis Miller was named Aviation General Manager at Atlanta Hartsfield-Jackson. He previously served as Executive Director and CEO of Tampa International and held several positions with the Salt Lake City Department of Airports. Miller will oversee the airport's \$6 billion-plus improvement program, including a new \$1.4 billion international terminal. In other news, Delta, AirTran and other airlines agreed to pay a supplementary terminal rental payment of \$30 million, spread over four years beginning in 2013, over the remainder of the current lease, which expires in 2017. The supplementary payments will help fund the new international terminal and will enable the airport to retain adequate financial reserves to maintain its credit rating. Bond issues are also planned.

2. Boston Logan Reduces Airline Fees.

Rates and charges for October 1, 2010 to September 30, 2011 "hold the line on landing fees, baggage screening fees and terminal rents at Boston Logan," said the Massachusetts Port Authority Board (Massport). Due to a disciplined fiscal austerity program, historically low natural gas prices and a recent successful bond refunding, Massport will return \$9.8 million to airlines for fees collected in the previous fiscal year, and rates for next year are \$5 million below last year's rates.

3. Chicago Approves Issuance of O'Hare Bonds.

The Chicago City Council approved an ordinance allowing up to \$1 billion of revenue bonds to continue O'Hare expansion. The city expects the transaction to close in first quarter 2011.

4. Court: LAX Can Enforce Non-Solicitation of Funds Policy.

Airport police can enforce a city ordinance prohibiting solicitors from asking for immediate donations at Los Angeles International. A U. S. Court of Appeals decision lifted a preliminary injunction imposed in 1997 on the city ordinance passed in 1997 and upheld by the California Supreme Court in 2010, to prohibit the International Society for Krishna Consciousness of California (ISKON) and other groups from solicitation and immediate receipt of funds in terminals, parking areas and adjacent sidewalks at LAX. On July 7, 2010, the U.S. Ninth Circuit Court of Appeals lifted the preliminary injunction, but ISKON requested a re-hearing, which resulted in a stay of enforcement; that request was denied and in September, the court mandated its July 7 judgment become effective immediately. Organizations still can distribute literature, speak to

willing travelers and seek financial support, as long as they do not request the immediate receipt of funds. Violators face a penalty of up to six months in jail or a fine of \$1,000, if convicted.

5. Ontario Seeks Control of Airport.

The city of Ontario is seeking to gain control of Ontario International from Los Angeles World Airports (LAWA), “to stop a continuing slide in the numbers of flights and passengers using the Inland Empire airport.” Los Angeles would remain the owner and serve as an advisor. Los Angeles has driven away carriers by raising costs and failing to promote the facility, say city officials; flight schedule reductions of nearly 8% for second half 2010 have been announced. LAWA also operates Los Angeles International, Van Nuys and Palmdale airports. Burbank, Orange County, Long Beach and Palm Springs operate as secondary airports under local control.

III. SECURITY AND DATA PRIVACY

1. DHS Seeks ICAO Security Resolution.

Homeland Security Secretary Janet Napolitano and Transportation Security Administration (TSA) chief John Pistole are attending the International Civil Aviation Organization (ICAO) 37th General Assembly meeting in Montreal, where they hope to achieve a global security resolution. Since the attempted terrorist attack on December 25, 2009, the Department of Homeland Security (DHS) has led a global initiative to develop and deploy new security technologies, strengthen security measures and standards, enhance information collection and sharing and coordinate technical assistance.

2. Napolitano Cites Progress, New Threats, on 9/11 Anniversary.

On the ninth anniversary of the 9/11 terror attacks, Napolitano told New York City First Responders that DHS has made progress on a promise made last year to make the counter-terror approach a shared endeavor, to make it more layered, networked and resilient, smarter and more adaptive. There are now 72 fusion centers nationwide, serving as focal points for information-sharing among federal, state, local, tribal and territorial partners, and by yearend they “should be able to analyze information and spot trends in order to effectively share timely intelligence with local law enforcement and DHS, so the information can also be used by others within the intelligence community.”

3. Europe Adopts PNR Strategy.

The EC adopted proposals on the exchange of passenger name record (PNR) data with third countries, which include recommendations for negotiating directives for new PNR agreements with the United States, Australia and Canada. Currently, exchange of PNR data with third countries is done under different frameworks. General principles that any PNR agreement with a third country should observe include protection of personal data; PNR data should be used only to fight terrorism and serious transnational crime. Passengers should have clear information about what data is being exchanged and the right to judicial redress. Third countries should store the data only as long as necessary. A provisional EU-US agreement on passenger data exchange is currently in operation.

4. DHS Announces \$98 Million for Baggage Screening.

DHS announced American Recovery and Reinvestment Act funding of \$98 million for advanced technology (AT) carry-on baggage X-ray units and inline baggage screening systems TSA is deploying body scanners, or advanced imaging technology (AIT), to eight airports nationwide, in addition to

200 installed to date And, iris scan technology that could be used instead of fingerprinting is being tested, reports *USA Today*; the scanners store digital images in a database and can capture images from up to six feet away.

5. ACLU Challenges DHS Policy for Seizing Electronic Devices.

The American Civil Liberties Union (ACLU) filed a lawsuit challenging DHS policy permitting border agents to search, copy and detain travelers' electronic devices without reasonable suspicion. DHS asserts the right to look though the contents of a traveler's electronic devices and to keep them or copy their content, in order to continue searching them once the traveler has been allowed to enter the U.S., said ACLU, regardless of whether the traveler is suspected of any wrongdoing. The lawsuit was filed on behalf of the National Press Photographers Association and a dual French-American citizen whose laptop was searched and confiscated at the Canadian border; he was questioned, handcuffed and kept in a holding cell for several hours before being released without charge, said ACLU, and when his laptop was returned 11 days later, there was evidence that many personal files had been searched. Joining the ACLU in the suit are the New York Civil Liberties Union and the National Association of Criminal Defense Lawyers.

6. Treaties to Improve Aviation Security Adopted.

See Section VII, item 2.

IV. E-COMMERCE AND TECHNOLOGY

1. **JetBlue to Offer ViaSat Inflight Broadband Connectivity.**

Telecommunications company ViaSat will begin installing satellite broadband Internet and TV service on JetBlue's fleet of 160 aircraft by mid-2012. The new system must be tested and certificated by FAA prior to fleetwide installation.

2. **Gogo Inflight Internet Reaches 1,000 Aircraft.**

Aircell has installed its Gogo Inflight Internet service on 1,000 airplanes, announced President and CEO Michael Small, and is available on more than 3,800 flights daily, up from 2,100 a year ago. The service allows passengers to access the Web, send and receive e-mail and connect to virtual private networks, via any Wi-Fi-equipped laptop or personal electronic device.

3. **OpenTravel, Open Axis to Align Standards.**

Open AXIS Group and the OpenTravel Alliance agreed to align their standards and work together with the airline industry to create useful, workable and interoperable XML schema to distribute airline information and inventory. "Together, we will adopt, promote, enhance and maintain this schema to create a robust industry standard that addresses the needs of both the supply and demand sides of the travel supply chain," said Jim Young, Open AXIS Executive Director. Each organization will maintain its individual goals and objectives.

4. **Sabre Holdings Acquires Flight Planning Company f:wz.**

Sabre Holdings acquired f:wz, a provider of flight planning solutions. Vienna-based f:wz, a subsidiary of Dubai Aerospace Enterprises, will become part of Sabre Airline Solutions.

5. **Google Bid for ITA Raises Competition Concerns.**

Google's \$700 million bid for ITA reportedly has raised Department of Justice competition concerns. ITA Software powers many ticket search and booking sites, including Kayak, SideStep and Hotwire and those of numerous airlines.

V. **ENERGY AND ENVIRONMENT**

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

The average price of aviation jet fuel, as of September 17, was \$89/barrel, up 1.9% on the month and up 12.8% year-on-year, reports IATA. Fuel price average year-to-date was \$88.2/barrel.

2. **EU ETS Under Pressure.**

The United States, Canada and Mexico urged ICAO to pass a resolution stating that countries seeking to implement an emissions trading system that applies to other contracting states' aircraft operators do so only on the basis of mutual agreement.

3. **Industry Calls for Global Emissions Framework.**

Industry leaders attending the fifth Aviation & Environment Summit in Geneva urged governments to endorse targets for reducing aviation emissions, and to establish a global policy framework to deliver them, in advance of the ICAO 37th Assembly (September 28-October 8), in Montreal. John Byerly, U.S. State Department Deputy Assistant Secretary for Transportation Affairs, said the Obama Administration, unlike its predecessor, notes the efficacy and potential of market based measures like the EU Emissions Trading Scheme (ETS), but a global agreement through ICAO is needed. Summit organizer Air Transport Action Group (ATAG) said industry has tools to achieve global goals of "capping our net carbon emissions from 2020 and halving our net carbon emissions below 2005 levels by 2050." Initiatives showcased included efforts by European airports to reduce CO2 emissions; ACI said 22 airports in 12 European countries have received Airport Carbon Accreditation. ATAG is an independent coalition of industry organizations and companies; funding members are ACI, Airbus, Boeing, CFM, IATA and Rolls-Royce. The 16th Conference of the Parties (COP16) of the United Nations Framework Convention on Climate Change (UNFCCC) will take place in Cancun at the end of the year; Christiana Figueres, UNFCCC Executive Secretary said it is vital that ICAO and the UNFCCC meet the challenge of climate change in a complementary fashion, and avoid a patchwork of conflicting and potentially overlapping national and regional policies that would adversely affect the industry.

4. **"Cash for Carbon" Proposal to Fund NextGen Aircraft Upgrades.**

Safely expanding the capacity of our national airspace system and addressing growing environmental and energy concerns are the two most significant challenges facing civil aviation, says Aerospace Industries Association (AIA),

in a new report, "Civil Aviation Growth in the 21st Century: Meeting Capacity and Environmental Challenges." Recommendations include: Design and implement a 'cash for carbon' program to fund FAA's Next Generation Air Transportation System (NextGen) aircraft equipage. Establish a mechanism for addressing the issue of FAA ground infrastructure consolidation and modernization. Ensure industry has significant involvement in NextGen/SESAR harmonization challenges. Better leverage in international forums like ICAO to create comprehensive global environmental standards.

5. IATA Launches iFlex Program to Shorten Routes.

IATA announced the launch of the iFlex program, which will allow airlines to reduce carbon emissions and fuel burn by up to 2% on certain long-haul flights. The program will concentrate on long-haul routes through low-density airspace in regions where maximum benefit can be achieved through a more flexible airspace structure. The South Atlantic and Africa will be the initial focus, concentrating on the Johannesburg-Atlanta and Dubai-Sao Paulo routes. In the coming months, IATA will work with airlines, ICAO, air navigation service providers and governments on proof-of-concept work which will include data analysis and route simulation using modern flight planning tools. A pilot project is planned for 2011 where flights will be able to better optimize their routing by taking advantage of prevailing weather conditions.

6. Finnair's Emissions Calculator First to Use Actual Figures.

Finnair launched an emissions calculator that is uniquely based on actual cargo, passenger and fuel consumption figures, rather than averages or assumptions. Certified by PricewaterhouseCoopers, the calculations are updated quarterly on the basis of actual realized figures.

VI. U.S. CONGRESS

1. Oberstar Wants Congress to Rethink Deregulation.

James Oberstar (D-Minn.), Chairman of the House Transportation Committee, said it may be time for Congress to rethink deregulation of the airline industry. His remarks followed Department of Justice antitrust clearance of the United-Continental merger, in late August. "When Congress deregulated the airlines in 1978, we were promised better service, added competition, and more choices for consumers," he said. "With the United-Continental merger, our domestic carrier fleet will have shrunk to four network carriers. Moreover, each merger appears to trigger another, as carriers feel the need to get bigger in order to compete with the newly merged airlines. American merged with TWA, then America West merged with US Airways, followed by Delta absorbing Northwest, and now United merging with Continental. Can a US Airways-American Airlines merger be far behind? This consolidation of the mainline companies into three or four mega-carriers is not what I voted for in 1978. Nor did anyone foresee three international alliances dominating the global airline market."

2. New Three-Month Extension for FAA.

Unable to reconcile differences in their long-term reauthorization bills, the House and Senate passed another three-month extension for FAA. Issues to be resolved include whether to change the perimeter rule at Washington National Airport and authorize additional long-distance service; allowing FedEx ground employees to organize locally, like those of UPS; and raising the passenger facility charge from \$4.50 to \$7.

3. Senate Hears Testimony on Homeland Terrorist Threat.

At a Senate Homeland Security Committee hearing, "Nine Years After 9/11: Confronting the Terrorist Threat to the Homeland," Homeland Security Secretary Janet Napolitano gave an update on domestic and international measures taken since 9/11. She said terrorist threats against the U.S. are becoming more diverse and the number of attacks against the U.S. has increased in the past 15 months. FBI Director Robert Mueller and Michael Leiter, Director of the National Counterterrorism Center, also testified.

VII. BILATERAL AND STATE DEPARTMENT NEWS

1. Boeing, Airbus Claim Victory in Latest WTO Decision.

A World Trade Organization (WTO) panel examining European Union (EU) allegations of U.S. government assistance to Boeing issued a confidential interim ruling that, according to Boeing, rejects “the vast majority of Europe's claims.” Europe also claimed victory, saying the panel found that Boeing had received massive federal, state and local aid that violated global trade rules. Airbus called for an end to the long-running transatlantic dispute and a start to negotiations to define new equitable rules of the game; Boeing called on Airbus to play by the rules by “withdrawing their still-outstanding A380 prohibited launch-aid subsidy and financing the A350 on commercial terms.” EU Trade Commissioner Karel De Gucht called for negotiations at the highest political level.

2. Treaties to Improve Aviation Security Adopted.

The United States was among 77 countries meeting in Beijing that adopted two new counterterrorism treaties meant to improve aviation security: The 2010 Beijing Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation, and the 2010 Beijing Protocol to the 1971 Hague Convention on the Suppression of Unlawful Seizure of Aircraft. The treaties will require parties to criminalize new and emerging threats to the safety of civil aviation, including using aircraft as a weapon, and reflect the international community's shared effort to prevent, prosecute, and punish those who would commit acts such as those committed during 9/11. They update provisions to promote cooperation between states in combating terrorism directed against civil aviation, while emphasizing human rights and fair treatment of terrorist suspects. The 2010 Beijing Convention will also require states to criminalize transport of biological, chemical, and nuclear weapons and related material.

3. U.S. Signs Global Safety Information Exchange Agreement.

Under a Memorandum of Understanding signed at the ICAO Assembly, DOT, the EU, IATA and ICAO will participate in the Global Safety Information Exchange (GSIE). The aim of the exchange is to improve civil aviation safety by providing a clearer perspective on existing and emerging risk areas and increasing the opportunity to identify timely solutions. GSIE will provide a framework for identifying what safety information could be shared, how to communicate it, and mechanisms for actual exchange of information. Participants will not exchange confidential or protected information but will focus on findings from broad studies and analyses. The agreement builds on work of the U.S. Commercial Aviation Safety Team (CAST) which, along with

new aircraft, regulations and other activities, reduced the fatality risk for commercial aviation in the United States by 83% from 1998 to 2008. The FAA Aviation Safety Information Analysis and Sharing (ASIAS) program ties together 46 U.S. safety databases across the industry and is integrated into the CAST process.

4. Kallas: Investment Restrictions Make Aviation a Global Anomaly.

Siim Kallas, EC Transport Vice President, held talks in Washington with Secretary of Homeland Security Janet Napolitano, Secretary of Transportation Ray LaHood, House Transportation Committee Chairman James Oberstar (D-Minn.) and others, regarding transatlantic cooperation in aviation matters. In remarks to the International Aviation Club, Kallas said the U.S.-EU open skies agreement remains far from completed. The EU will continue to urge the dismantling of investment restrictions that make the aviation sector a global anomaly, he said.

5. World Bank Study Urges Air Services Liberalization in Africa.

African countries can improve air safety and promote economic growth by putting into practice commitments they have made to open local air service markets to foreign operators, says a new study by the World Bank. "At present, 31 African countries have poor safety standards, resulting in more air crashes than in any other region of the world." said Charles Schlumberger, the World Bank's lead air transport specialist and author of the study, *Open Skies for Africa—Implementing the Yamoussoukro Decision*. The 1999 Yamoussoukro Decision commits its 44 signatory countries to deregulate air services, and promote regional air markets open to transnational competition. Today several African states are applying principles of the Decision in bilateral air service agreements, but about one-third are reluctant to liberalize as this would expose non-competitive carriers to operational standards they would be unlikely to meet. "Most countries in Africa that have abandoned their ailing carriers and opened up to foreign operators now have air services, both passenger and freight, that are more efficient, safer, and with more competitive prices," Schlumberger said.

VIII. EUROPE AND AFRICA

1. Lufthansa Names Franz to Succeed Mayrhuber.

Lufthansa Deputy Chairman Christoph Franz will succeed Wolfgang Mayrhuber as Chairman and CEO of the Lufthansa Group, effective January 1, 2011. Carsten Spohr will head Lufthansa German Airlines, with Karl Ulrich Garnadt succeeding him as Chairman and CEO at Lufthansa Cargo. Mayrhuber has been with the airline for 40 years, Franz for 20. In other news, Lufthansa confirmed an order for 40 new Airbus and eight Embraer 195 aircraft.

2. Iberia-British Airways Merger Moves Forward.

Iberia elected not to exercise its right to cancel a merger contract with British Airways, following resolution of British Airways' pension deficit; a new scheme requires payments to 2026, with all contributions to be met by British Airways and not Iberia or the merged airline. The merger requires approval of shareholders of both companies. Antonio Vazquez Romero will be Chairman of International Consolidated Airlines Group (IAG), the holding company formed by the merger. In related news, British Airways, Iberia and American Airlines will begin their transatlantic alliance in October; the pact, approved by antitrust regulators in July, allows them to share revenue from flights between the EU, Switzerland and Norway and the U.S., Mexico and Canada.

3. US Airways to Offer Charlotte Service to Madrid and Dublin.

US Airways will offer daily, nonstop seasonal summer service between Charlotte and Madrid and Dublin between May 4 and October 29.

4. S7 Airlines Joins oneworld.

Russian carrier S7 will become part of oneworld, effective November 15. S7 operates from hubs in Moscow (Domodedovo), Novosibirsk (Tolmachevo) and Irkutsk, to destinations in Europe, the Middle East, Southern Asia and Asian Pacific, with "the most modern and youngest fleet in Russia."

5. EU Law Ensures Independence of Accident Inquiries.

The European Parliament adopted a new law that ensures a safety investigation into an accident is conducted free of pressure from regulatory or other authorities. Statements taken from individuals by a safety investigator, as well as voice and image recordings inside cockpits and air traffic control units, will be used only for safety investigation, unless there is an overriding reason for disclosure to the judiciary. EU member states must set up a civil aviation accident emergency plan and ensure that airlines have a plan to

assist victims and relatives; airlines must produce a manifest within two hours of an accident. A European Network of Civil Aviation Safety Investigation Authorities will be set up to advise the EU institutions, make Europe-wide air safety recommendations, promote best investigation practices and strengthen national safety investigation authorities.

6. Airlines Battling German Air Travel Tax.

Germany confirmed that an environmental tax will be imposed on flights departing the country from January 1, subject to legislative approvals. The charge ranges roughly at €8, €25 and €45, depending on flight duration. German airlines vowed to fight the rule, saying customers will begin trips from airports in neighboring countries to avoid paying the extra charge.

7. SAS Appoints New President and CEO.

Rickard Gustafson will become President and CEO of SAS by March 2011, replacing Mats Jansson, who departs October 1, 2010; Deputy CEO John Dueholm will serve in the interim. Gustafson currently is CEO of insurance company Codan/Trygg-Hansa. In other news, SAS sold all but 10% of its stake in Estonian Air to the Estonian government.

8. Malev Receives Emergency Cash Injection.

Malev received a \$26 million emergency cash injection from the Hungarian government to be used for aircraft lease payments. "Malev's situation would have become almost completely unsustainable," without the assistance, the National Development Ministry told Reuters, but "changes are needed in the airline's operation and efficiency as this system is unsustainable in the long run." Malev was re-nationalized early this year.

9. EU Court Reduces Olympic Illegal Aid Debt.

The EU's second highest court found that Olympic Airlines (and defunct Olympic Airways) owes some €400 million of illegal aid to the Greek state, rather than the €600 million determined by the EC, in the long-running dispute. The General Court said the EC erred in its analysis.

10. Eyjafjallajökull Update.

Europe's airline and airport directors agreed to take legal action to recover financial damages incurred in April during the Mount Eyjafjallajökull eruption, which caused widespread closure of airspace and cancellation of flights. Meeting at the Annual General Assembly of the European Regions Airline Association, they "expressed outrage at the failure of Europe's politicians and regulators to act to provide financial compensation to the industry . . . for events totally beyond their control." In related news, a conference was held in Iceland to review the effect on aviation of measures taken in Europe during the

eruptions. Hosts included Icelandic Transport and Civil Aviation Authorities and Association of European Airlines. Many experts said the extended closure of two-thirds of European airspace was due to political pressure. During a six-day period, IATA estimated costs to global airlines at \$1.7 billion in lost revenue. The UN World Tourism Organization estimates that global tourism lost \$5 billion. "Through extensive dialogue, consultations and experience with events such as this," said the Air Transport Association of America, "the worldwide aviation community is rapidly enhancing the capability to more effectively cope with future events."

11. EU Adds Two Ghanaian Cargo Airlines to Blacklist.

The EC banned Meridian Airways of Ghana from flying in EU airspace, due to "very poor results" from inspections of their aircraft and facilities used by the airline in the EU. Operating restrictions were placed on Airlift International, also Ghanaian, because inspection results "indicated a standard well below that required by international standards."

12. Delta Offers Service to Liberia, Angola.

Delta became the first U.S. carrier to offer service to Liberia since a 1989 coup, with one weekly flight between Monrovia and Atlanta via Accra, Ghana. Delta will begin service between to Luanda, Angola, in January, with three weekly Airbus A330-200 flights from Atlanta via Dakar, Senegal, and is working with TAAG Angolan on future code sharing.

13. Ethiopian Appoints New CEO.

Tewolde Mariam will succeed Girma Wake as CEO of Ethiopian Airlines, effective January 1, 2011. Mariam has been with the airline for 25 years, most recently serving as COO. Retiring Wake has been with Ethiopian for 37 years. In other news, the carrier's application to join Star Alliance was approved.

14. World Bank Study Urges Air Services Liberalization in Africa.

See Section VII, item 5.

15. Air France, China Southern Sign Joint Venture Agreement.

See Section IX, item 4.

IX. ASIA/PACIFIC AND MIDDLE EAST

1. JAL Revises Restructuring Plan.

Japan Airlines sold its 72% stake in JAL Logistics to Hamakyorex, as it strives “to achieve a swift and fundamental reform . . . with the support of the Enterprise Turnaround Initiative Corporation of Japan.” A revised restructuring plan calls for 16,000 fewer workers by March 31, 2011, retiring 103 aircraft and cutting 49 unprofitable routes. JAL announced new code share arrangements for flights from the new Haneda international terminal, scheduled to open October 21. A pact with oneworld partner American Airlines connects to six U.S. destinations—Dallas/Fort Worth, Los Angeles, Miami, Chicago, New York and Honolulu—via San Francisco.

2. ANA to Form First Japanese Low Cost Carrier.

All Nippon Airways is establishing the first Japanese low cost airline. The new airline will operate international and domestic short-haul routes out of Kansai International in Osaka. It will operate independently from ANA and operations are expected to begin in second half 2011. Japanese investors will hold a 66.7% stake, of which ANA will hold 39%, and First Eastern Investment Group will hold the remaining 33.3%, the maximum foreign ownership currently allowed for an airline in Japan.

3. China Airlines Joins SkyTeam.

Taiwan flag carrier China Airlines began the process of joining SkyTeam, expected to be completed by mid-2011. “The inclusion of China Airlines in our network will solidify SkyTeam's unrivalled presence in the Greater China market,” said SkyTeam, which also includes Guangzhou-based China Southern and Shanghai-based China Eastern. China Airlines serves 93 destinations in 28 countries and regions worldwide and offers extensive cross-strait operations.

4. Air France, China Southern Sign Joint Venture Agreement.

SkyTeam partners Air France and China Southern signed a joint venture agreement that will come into effect on November 1, 2010 and which is based on sharing revenues on the Paris-Guangzhou route. Those flights are operated on a code share basis and additional destinations beyond those two cities will gradually be introduced on a code share basis within the framework of the joint venture. The agreement was signed in Paris by Air France KLM Group CEO Pierre-Henri Gourgeon and China Southern President and CEO Tan Wan Geng. The carriers will have joint governance of the joint venture. A management committee will be implemented, with five working groups in

charge of implementing the joint venture agreements in the fields of network management, revenue management, sales, products and finance.

5. **China Strengthens Entry Procedures For Pilots.**

The Civil Aviation Administration of China (CAAC) said a 2008 investigation found that resumes of 192 pilots described flying experience that “to different degrees did not accord with reality.” The pilots were given compulsory retraining and after thorough inspection of qualifications, were allowed to resume their posts, said CAAC, which has strengthened entry procedures for pilots.

6. **China Eastern to Increase Capacity, Expand Intl. Network.**

China Eastern plans to take delivery of 45 new planes between second half this year and end of 2011, as it expands its international network to meet demand for outbound travel. Executive Director Luo Zhuping, in an interview with Dow Jones, said the proportion of total revenue from international services will expand to 50% in two years, from an expected 35% at the end of 2010. Improved yields have resulted from a government decision to liberalize first- and business-class ticket prices, Luo said, and the May through October Shanghai World Expo helped raise the carrier’s passenger numbers by 47% in first nine months of this year, to 42.9 million. Luo said China Eastern remains open to strategic investors “that can bring expertise in operating international flights, enhance our products and sales network.”

7. **Goh Named CEO of Singapore Airlines.**

Goh Choon Phong will become CEO of Singapore Airlines on January 1, replacing Chew Choon Seng who retires at the end of the year. Goh has been with the airline since 1990. He currently is Executive Vice President for Marketing and the Regions as well as Chairman of SilkAir.

8. **ACCC Blocks Virgin Blue-ANZ Trans-Tasman Alliance.**

The Australian Competition and Consumer Commission (ACCC) in a draft decision denied authorization for a Virgin Blue-Air New Zealand alliance on Australia-New Zealand flights, as it likely would reduce competition in the trans-Tasman market, adversely affecting more than one million passengers per year. Coordinated conduct on the route could occur, said ACCC, due to the increase in concentration and removal of the constraint posed by Pacific Blue. ACCC is not convinced that the alliance would enable more effective competition against the Qantas-Jetstar group, than a scenario where Virgin Blue and Air New Zealand continue to operate independently and pursue their publicly stated aims to develop their business models. In response, Virgin Group Chairman Richard Branson suggested that Virgin Blue may cease trans-Tasman operations since they are not profitable.

9. **ACCC Grants Interim Virgin Blue-Etihad Approval.**

ACCC granted temporary approval to a proposed Virgin Blue-Etihad alliance. Virgin Blue CEO John Borghetti, a former Qantas executive, said Virgin and Etihad can move toward providing 27 weekly services between Abu Dhabi and Australia, while V Australia still plans to operate three Sydney to Abu Dhabi services per week from February 2011 and three from Brisbane from February 2012. Qantas, in a submission to ACCC, opposed a Virgin Blue request to fast-track the proposed alliance and suggested the applicants will coordinate prices between Australia and Europe “when they are price-fixing on the Australia to Abu Dhabi route.”

10. **DOT Proposes to Deny Delta-Virgin Blue Antitrust Immunity.**

See Section I, item 6.

X. AMERICAS

1. Delta Workers to Get Union Representation Election.

The National Mediation Board (NMB) established that Delta and Northwest constitute a single transportation system for passenger service employees, acting on an International Association of Machinists and Aerospace Workers (IAM) application, and ordered a union representation election for more than 14,000 fleet service workers at Delta, to run October 14-November 18, 2010. In other labor news, IAM entered federally-mediated negotiations with Alaska Airlines on behalf of 2,700 clerical, office and passenger service employees; direct bargaining began March 2 and the current contract became amendable on July 19. The International Brotherhood of Teamsters (IBT) reached tentative collective bargaining agreements with Continental, representing aircraft maintenance technicians, and with Horizon Air, covering pilots.

2. Delta to Cut Comair Fleet, Jobs.

Delta plans to eliminate more than half of subsidiary Comair's 50-seat Bombardier manufactured Canadair Regional Jets (CRJ) jets and reduce staff, due to high costs. Comair President John Bendoraitis said the regional will retain its 65- and 76-seat CRJs. The Kentucky-based Delta Connection carrier employs 2,500 and operates 400 flights a day to 70 cities in the United States, Canada and the Bahamas. Delta sold Mesaba and Compass in July, though they remain Delta Connection carriers.

3. US Airways to Acquire Stake in Mesa.

US Airways would acquire a 10% stake in Mesa Air Group, in exchange for a flying contract extension to 2015, under a restructuring plan filed by the bankrupt regional.

4. Sun Country Reorganization Plan Approved.

Sun Country's reorganization plan was confirmed by a Minneapolis judge and approved by creditors. The plan provides for cash payments to certain creditors, as well as a distribution of equity in the reorganized company to other creditors. Sun Country filed for Chapter 11 in 2008, after the collapse of an illegal financial scheme run by the former owner, and has continued normal operations. Current CEO Stan Gadek said Sun Country will emerge as a profitable and debt-free company.

5. **Spirit Files for \$300 Million IPO.**

Ultra low-cost Spirit Airlines filed with U.S. securities regulators to raise up to \$300 million in an initial public offering. The Florida-based company said it will retain \$150 million of net proceeds and use the rest to repay debt.

6. **American Expands Brazil Service.**

American will offer seasonal three days a week service between Dallas/Fort Worth and Rio de Janeiro, from December 16 through April 4, 2011, and between June 9, 2011 and August 22, 2011. The Boeing 767-300 service will resume for the 2012 season in November 2011. This November, American also will begin Miami-Brasilia and New York Kennedy-Rio service. American has launched code sharing on GOL-operated flights between Sao Paulo and Salvador, Belem, Brasilia, Curitiba, Fortaleza, Manaus, Natal, Porto Alegre and Recife, and between Rio de Janeiro and Porto Alegre.

7. **Venezuela Suspends Conviasa Flights After Crash.**

President Hugo Chavez called for greater efficiency in Venezuelan air transport, following the crash of a Conviasa ATR 42 which killed 17 people. The turboprop was carrying 47 passengers and four crew members when it crashed in Puerto Ordaz. The state-run airline suspended service until October to conduct a technical audit and review of internal procedures.

8. **Mexicana Restructuring Underway.**

Mexicana, which suspended operations in late August, has been granted bankruptcy protection and a restructuring plan is underway. ASUR, operator of Cancun and eight other airports in southeast Mexico, said Aerovias Caribe, has also filed for bankruptcy protection; together Mexicana Group and Aerovias Caribe represented 10.88% of ASUR's revenues for eight months ended August 31, primarily from domestic passengers; most routes operated by Grupo Mexicana were also operated by other carriers.

9. **Southwest to Acquire AirTran.**

See Section I, item 2.

10. **Airlines Challenge DOT Proposed Enhanced Passenger Protections.**

See Section I, item 4.

11. **DOT Proposes to Deny Delta-Virgin Blue Antitrust Immunity.**

See Section I, item 6.