



## 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. COVID-19 Cuts Demand and Revenues.**

The International Civil Aviation Organization (ICAO) produced preliminary forecasts in mid-February relating to expected economic impacts from travel bans on international air connectivity due to the Novel Coronavirus 2019 outbreak (COVID-19). Some 70 airlines had cancelled all international flights to/from mainland China, and a further 50 had curtailed related air operations, resulting in an 80% reduction of foreign airline capacity for travelers directly to/from China, and a 40% capacity reduction by Chinese airlines. Prior to the outbreak, airlines had planned to increase capacity by 9% on international routes to/from China for first quarter 2020 compared to 2019. Instead, a 39% to 41% overall reduction of passenger capacity (reduction of 16.4 to 19.6 million passengers) is estimated. This equates to a potential reduction of \$4 to \$5 billion in gross operating revenues for airlines worldwide. These estimates do not include potential impacts due to reductions in international air freight movements on cargo-only aircraft, airports, air navigation service providers, to Chinese domestic air traffic, or to international traffic with respect to Hong Kong, Macau or Taiwan. ICAO estimates that Japan could lose \$1.29 billion in tourism revenue, followed by Thailand at \$1.15 billion. COVID-19 impacts are expected to be greater than those caused by the 2003 SARS epidemic, due to higher volume and greater global extent of flight cancellations. Seasonal passenger load factors are another extenuating factor; also, China's international air traffic doubled, and its domestic traffic increased five-fold, since the 2003 period. . . . "This will be a very tough year for airlines," said Alexandre de Juniac, Director General and CEO of the International Air Transport Association (IATA), which urged governments "to take leadership in shoring up their economies," noting that Singapore is allocating SGD112 million to provide financial relief to airlines struggling to economically maintain connectivity. . . . In the U.S., there were 53 cases of COVID-19 as of February 23, with no deaths reported, said Centers for Disease Control and Prevention (CDC). The Department of Homeland Security (DHS) ordered all flights from China and all passengers who recently traveled to China to be routed through 11 airports with enhanced screening procedures, and entry was denied for aliens inbound from Hubei Province. Travel warnings were issued for Hong Kong, South Korea, Japan, Iran and Italy, as the virus spread. In an interim final rule, airlines were ordered to collect and submit data to CDC, including names, addresses, email addresses and phone numbers for passengers and crew arriving from foreign countries "for the purposes of health education, treatment, prophylaxis, or other appropriate public health interventions,

including travel restrictions.” Some 14,000 people traveled to the U.S. from China daily during fiscal year 2019.

**2. Administration Releases 2021 Budget Request.**

The Administration’s proposed Department of Transportation (DOT) budget for 2021 requests \$14.2 billion for the Federal Aviation Administration (FAA), including \$30 million to improve oversight, following recommendations from Boeing 737 MAX investigations and reviews. The Budget would reduce discretionary funding for the Essential Air Service Program (EAS); mandatory resources for EAS would continue at approximately \$154 million. . . . The Department of Homeland Security budget proposes \$8.2 billion to support a pay raise for Transportation Security Officers and deployment of new technologies, including 30 Computed Tomography systems to the highest risk U.S. airports. The budget would eliminate the Visible Intermodal Prevent and Response (VIPR) program. Senator Charles Schumer (D-NY) said the dog-sniffing bomb detection teams “often play a necessary and critical redundancy to other security measures that screen individuals for explosives or explosive residue” and vowed to fight the cut in Congress. The DHS budget cuts funding for Transportation Security Administration (TSA) personnel who monitor access to secure areas of airports, and would shift that responsibility to airlines. Grants to state and local governments to increase airport security were also cut.

**3. DOT Rule Would Clarify Industry Deceptive Practices.**

DOT issued a notice of proposed rulemaking that would clarify what constitutes unfair or deceptive practices by airlines and ticket agents. The proposal also requires DOT to hold formal hearings when developing future airline consumer protection regulations that are not mandated by Congress. Airlines for America said the proposal defines DOT authority regarding unfair and deceptive practices in rulemakings and enforcement actions in a manner consistent with the Federal Trade Commission’s approach, providing greater clarity and transparency for consumers. Comments are due April 20.

**4. FAA Found Lax in Oversight of Southwest Safety Systems.**

A draft audit by the DOT Office of Inspector General (OIG) found FAA lax in its oversight of Southwest’s safety management systems (SMS). The audit was initiated following a hotline complaint and the engine failure that resulted in the first U.S. passenger fatality in over 9 years in April 2018. The review revealed that Southwest continues operating non-compliant aircraft because FAA accepted its justification that issues identified were low safety risks. Among issues cited, Southwest regularly communicated incorrect aircraft weight and balance data to pilots. Also, FAA inspectors do not evaluate air carrier risk

assessments or safety culture as part of their oversight of Southwest's SMS, because FAA has not provided inspectors with guidance on how to review risk assessments or evaluate and oversee a carrier's safety culture. FAA agreed with OIG recommendations to improve oversight of Southwest's SMS and provided planned actions and completion dates.

**5. FAA Proposes \$120,000 Civil Penalty Against UPS.**

FAA proposed a \$120,000 civil penalty against UPS for allegedly violating hazardous materials regulations when a shipment containing loosely packed lithium batteries was knowingly offered to UPS Airlines for transport from Ontario, CA, to Louisville, KY, in 2018. The batteries had no protection from short circuit, were damaged, and several were in a reactive state. Lithium ion batteries that are damaged, defective and likely to generate a dangerous evolution of heat are forbidden for air transport. The shipment was not properly packaged, was not accompanied by a Shipper's Declaration for Dangerous Goods, and was not properly described, marked or labeled to indicate the hazardous nature of its contents. FAA also alleges UPS failed to include emergency response information with the shipment.

**6. FAA Finalizes Rule on Pilot Professional Development.**

FAA finalized a rule that requires Part 121 carriers to enhance professional development of pilots. The action, effective April 27, requires carriers conducting domestic, flag, and supplemental operations to provide new-hire pilots with an opportunity to observe flight operations and become familiar with procedures before serving as a flight crew member in operations; to revise the upgrade curriculum; and to provide leadership and mentoring training for all pilots in command. "This final rule will mitigate incidents of unprofessional pilot behavior and reduce pilot errors that can lead to a catastrophic event," said FAA.

**7. FAA Agrees to Pay \$90,000 to Whistleblower.**

The U.S. Office of Special Counsel (OSC) announced a recent settlement agreement reached with FAA, including \$90,000 in compensatory damages, for an Aviation Safety Inspector who faced retaliation for disclosing that flight inspectors were certifying pilots and conducting safety check rides without the necessary formal training and certifications required to perform that oversight. The FAA Office of Audit & Evaluation substantiated the whistleblower's allegations, calling into question the operational review of several aircraft, including the Boeing 737 MAX and the Gulfstream VII.

**8. Boeing 737 MAX Update.**

The return-to-service decision for the 737 MAX “will be based solely on our assessment of the sufficiency of Boeing’s proposed software updates and pilot training,” FAA Administrator Stephen Dickson reiterated, in a speech to the UK Aviation Club in London. “We are not delegating anything.” Boeing estimates a return-to-service by mid-year, and airlines announced new delays: Southwest removed the plane from its schedule through August 10, American until August 18 and United until September 4. . . . Under a new agreement, Spirit AeroSystems will restart MAX production slowly and deliver 216 shipsets to Boeing this year. . . . Boeing found foreign object debris in fuel tanks of undelivered MAX aircraft; FAA increased surveillance and will take action based on its findings. Boeing submitted a recommendation to FAA for resolving a wiring vulnerability that could create an electrical short in MAX aircraft. FAA proposed a new airworthiness directive for MAX airplanes that would require inspection and modification or replacement of certain exterior fairing panels to ensure adequate shielding of underlying wiring from electromagnetic effects of lightning strikes or high intensity radiated fields (HIRF), which could lead to dual engine power loss. . . . The DOT OIG is auditing FAA’s process for establishing pilot training requirements for U.S. and foreign air carriers operating U.S.-certificated large passenger aircraft, and will review international authorities’ requirements for air carrier pilot training on flight deck automation. The audit was requested by House Transportation Committee leaders, who are investigating the Lion Air Flight 610 and Ethiopian Flight 302 crashes. According to the Lion Air accident report, pilot responses to effects of the Maneuvering Characteristics Augmentation System (MCAS) contributed to the crash, raising international concerns about the role of training. . . . Boeing entered into two-year loan agreements for commitments of more than \$12 billion. The company told the Securities and Exchange Commission it could not reasonably estimate a range of loss due to ongoing litigation and investigations. . . . Boeing dedicated the remaining \$50 million of its \$100 million fund for Lion Air and Ethiopian Airlines victims’ families to enable them to donate to eligible charities “to honor their loved ones in a manner that is both personal and meaningful to them while also creating a lasting legacy in their communities around the world.” All monies will be independent of any resolution provided through the legal process. Ken Feinberg and Camille Biros will oversee the fund’s creation, allocation and distribution; they also administer the \$50 million Boeing Financial Assistance Fund.

## II. AIRPORTS

### 1. \$3.8 Billion JFK Terminal 4 Redevelopment Project Approved.

Port Authority of New York and New Jersey approved a \$3.8 billion expansion and renovation of Terminal 4 by Delta and terminal operator JFKIAT, a U.S. affiliate of Royal Schiphol Group. The Terminal 4 project will add more than 500,000 square feet and 16 domestic narrow-body gates, and expand and renovate the arrivals and departures hall to improve ticketing areas, security check points, baggage claim and arrivals areas. Delta, which operates more than 240 peak daily departures from JFK, will consolidate operations into Terminal 4 in early 2023. The project is expected to be financed by JFKIAT. . . . On the airport's south side, the Port Authority will enter into a lease agreement for The New Terminal One, a \$7.4 billion, 2.8 million square foot new international terminal with a consortium of airlines—Lufthansa, Air France, Japan Airlines and Korean Air—and development and financial partners—Carlyle Group, JLC Infrastructure and Union Labor Life Insurance Company (Ullico)—for design, construction, financing, operation and maintenance. . . . On the north side, a proposed \$3 billion, 1.2 million square foot international terminal, to be developed by JetBlue-JFK Millennium Partners, will connect to existing Terminal 5.

### 2. DOT Announces \$520.5 Million to 287 Airports in 41 States.

DOT awarded \$520.5 million to 287 airports in 41 states. Among those receiving Airport Improvement Program grants to construct runways are Chicago O'Hare (\$65 million), Reno-Tahoe International (\$31.7 million), and Dallas-Fort Worth (\$24 million). Other grants include \$15.5 million for the State of Wisconsin, \$600,000 for Milwaukee Mitchell International, \$5.6 million for Portland International (Maine), and \$1.8 million for Des Moines International.

### 3. ADP to Acquire 49% Stake in Indian Airport Group.

French airports operator Groupe ADP signed a share purchase agreement to buy a 49% stake in Indian group GMR Airports. GMR will keep a 51% stake and retain control over the company. A 24.99% stake will be purchased immediately, while 24.01% is subject to obtaining regulatory approvals, in particular from Reserve Bank of India. The GMR portfolio includes Delhi International and Hyderabad in India, and Mactan-Cebu in the Philippines.

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

#### 1. **DHS Places Visa Restrictions on Six Countries.**

DHS placed visa restrictions on Burma, Eritrea, Kyrgyzstan, Nigeria, Sudan and Tanzania, saying they “failed to meet a series of security criteria, demonstrating that they could be a risk to the homeland.” DHS has updated methodology used to assess compliance with security criteria established under an Executive Order in 2017, requiring nations to meet stronger security standards and clarifying what countries must do to meet those standards.” For example, DHS now considers whether a foreign government reports lost and stolen passports at least every 30 days, instead of considering whether they have ever shared such information. “The new, additional restrictions are not blanket restrictions,” said DHS; “countries that make the necessary improvements will have their restrictions removed accordingly.” U.S. Travel Association noted that “the new policy primarily relates to those seeking to immigrate to the U.S. as residents, as opposed to temporary visitors, and broadly describing it as a ‘travel ban’ isn’t wholly accurate.”

#### 2. **DHS Bans New York Residents from Trusted Traveler Programs.**

Residents of the State of New York are no longer eligible to apply for or renew membership in U.S. Customs and Border Protection (CBP) Trusted Traveler Programs, including Global Entry, NEXUS, SENTRI and FAST. Those currently enrolled will retain their benefits until their memberships expire. The Administration objects to provisions in a state law that restrict CBP access to certain criminal history information maintained by the New York Department of Motor Vehicles. New York’s “Driver’s License Access and Privacy Act” (or “Green Light Law”) also authorizes the granting of driver licenses to undocumented foreign nationals. New York Civil Liberties Union filed suit to stop the DHS action, saying the decision immediately impacts about 80,000 New York residents with pending applications and another 175,000 whose memberships will expire this year. Bennie Thompson (D-MS), Chairman of the House Committee on Homeland Security, called the ban “a blatant attempt by the White House to score political points and perpetuate a partisan fight with New York elected officials.” Thompson clarified that applicants already submit their passport, proof of residence and fingerprints, and submit to a background check and interview. “A driver’s license is not even required to apply,” he said. “Trusted Traveler programs exist to improve security and travel efficiency, and barring access for millions of Americans will only undermine those goals. Congress needs to respond to this abuse of power.” |

**3. DHS Authorizes Online Submission of REAL ID Documents.**

On October 1, the REAL ID Act of 2005, which requires enhanced driver's licenses, will come into full implementation. U.S. travelers on domestic flights without a REAL ID-compliant credential will be unable to proceed through TSA screening, and unable to board their flight. About two-thirds of licenses currently are not compliant with REAL ID, said DHS, which has announced increased flexibility regarding electronic submission of required documents for applications. States may now add the pre-submission of identity and lawful status source documents, through a secure electronic process, prior to an applicant's in-person DMV visit, and physical presentation of those same documents for authentication and verification by DMV personnel.



## IV. TECHNOLOGY AND EQUIPMENT

### 1. Amadeus, ARC Partner on Retailing Technology Standards.

Amadeus and Airlines Reporting Corp. (ARC) signed a cooperative agreement to facilitate industry adoption of evolving airline retailing technology standards. “This alliance provides greater choice for airlines to select between different industry standards for indirect distribution. It also ensures that travel agencies in North America can continue to report and settle airline ticket transactions without interruption or delay regardless of the standard being used, including New Distribution Capability (NDC),” said ARC. . . . Amadeus completed its acquisition of Sky Suite, the airline network planning software business of Optym. . . . Japan Airlines is integrating NDC contents into the Amadeus Travel Platform for distribution using Amadeus NDC Connect, a solution designed for Amadeus Altéa airlines . . . . Through a renewed long-term agreement, Lufthansa Group airlines will continue to use the Altéa Passenger Service System for reservation, inventory, ticketing and disruption management and departure control; new services benefit merchandising and airport services. Lufthansa will collaborate with Amadeus to develop an improved online experience across its brands, and Group airlines are consolidating payment services with Amadeus to offer travelers a one-stop and consistent payment experience across their websites.

### 2. Bombardier Completes Exit from Commercial Aviation.

Bombardier transferred its remaining interest in Airbus Canada to Airbus and the Government of Quebec. Airbus now holds 75% and Quebec increased its holding to 25% for no cash consideration, redeemable by Airbus in 2026. Airbus, via wholly owned subsidiary Stelia Aerospace, acquired the A220 and A330 work package production capabilities from Bombardier in Saint-Laurent, Quebec, to be operated by newly created subsidiary Stelia Aéronautique Saint Laurent. . . . Bombardier is selling its rail business to focus exclusively on its business aircraft franchise, which includes the Global 7500, 5500 and 6500; the Challenger 350 and 650; and the Learjet 75 Liberty. For 2020, Bombardier Aviation expects to deliver 160 or more aircraft. . . . In other Airbus news, the A330-800 received joint Type Certification from the European Aviation Safety Agency and FAA.

## V. **ENERGY AND ENVIRONMENT**

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

The average price of aviation jet fuel on February 14 was \$67.49/barrel, down 11.9% on the month and down 17.7% compared to a year ago, reports IATA. Jet fuel price average for 2020 was \$73.2/barrel. Impact on 2020 fuel bill was down \$10.3 billion.

### 2. **Delta Commits \$1 Billion to Becoming Carbon Neutral.**

Delta is committing \$1 billion over the next 10 years to mitigate all air and ground emissions. The company plans a fleet renewal program, improved flight operations, weight reduction, and increased development and use of sustainable aviation fuels. Delta will invest in projects and technology to remove carbon emissions from the atmosphere and investigate carbon removal opportunities through forestry, wetland restoration, grassland conservation, marine and soil capture. To support its carbon strategy, Delta “will allocate some of its financial commitment into investment vehicles, including a dedicated fund focused on achieving its carbon neutral ambition.”

### 3. **IATA to Develop Aviation Carbon Exchange Platform.**

IATA will partner with Xpansiv CBL Holding Group (XCHG), a commodity exchange company, to develop a platform that helps airlines meet emissions-reduction commitments as outlined in the Carbon Offset Reduction Scheme for International Aviation (CORSIA). The Aviation Carbon Exchange (ACE) “will serve as a centralized marketplace for CORSIA eligible emission units, providing a secure, intuitive destination for airlines to access real-time data with full price transparency.” Trials with airlines begin in first quarter 2020. CORSIA eligible emission units will be listed on ACE once ICAO has published those accepted under the scheme. ACE trading will be supported by the IATA Settlement System and Clearing House. “We recognize the need to build capacity and deliver solutions in order for airlines to meet CORSIA requirements,” said IATA; the platform “will be open and accessible to everyone, whether a buyer or seller. ACE will ensure that carbon offsets are competitively priced, with the goal of lowering compliance costs and increasing confidence by ensuring that only high-quality, verified offsetting credits are available. CORSIA could generate upwards of \$40B in climate financing—this exchange will play a major role in ensuring success.”

**4. New Sustainable Aviation Fuel Pathway Approved.**

A new sustainable aviation fuel (SAF) specification approved and published by ASTM International establishes criteria for the production and use of catalytic hydrothermolysis jet fuel (CHJ), a type of synthetic kerosene. The standard provides that CHJ fuel, developed by Applied Research Associates, may be blended at up to 50% by volume with conventional jet fuel. “We commend ASTM International, the U.S. Federal Aviation Administration, the airframe and engine manufacturers, the U.S. military, jet fuel producers and our entire CAAFI team for continuing to advance the commercialization and deployment of SAF to help the aviation industry meet its emissions reduction goals, diversify fuel supply and enhance energy security,” said Airlines for America.

**5. Lawsuit Threatened Over EPA Failure to Regulate Aircraft Emissions.**

Environmental groups sent a legal notice to the Environmental Protection Agency (EPA) “highlighting that pollution from aircraft is rising steeply and that the EPA is skirting its duty to implement a reduction plan.” Planes are already the third-largest source of transportation-related greenhouse emissions, and the industry is expected to generate 43 metric gigatons of CO<sub>2</sub> through 2050, said the Center for Biological Diversity and Friends of the Earth, represented by Earthjustice. “The Clean Air Act requires that the Trump administration take action on greenhouse gases from aircraft,” said Friends of the Earth. “The court must put the law above the politics of climate change-denial by requiring the agency to curb dirty greenhouse gas emissions from aviation.” In 2019, EPA announced it would release a proposed rule on aircraft greenhouse emissions by September but did not.

## **VI. U.S. CONGRESS**

### **1. “Restoring Aviation Accountability Act” Introduced in Senate.**

As a response to discoveries in Boeing 737 MAX 8 crash investigations, Senate Commerce Committee Democrats introduced legislation that would reverse provisions enacted by the FAA Reauthorization Act of 2018, which allowed the aviation industry to regulate many of its own certification processes. The “Restoring Aviation Accountability Act” would establish a commission to review the current FAA safety delegation program (ODA) to determine and evaluate if alternative certification programs would provide more robust oversight. It would require that pay, compensation and bonuses for officers and employees of FAA are not contingent on delivery of airplanes, number of aircraft certified, or number of audits completed. The bill would prohibit safety certification system employees of manufacturers from having performance standards tied to delivery of aircraft. It would bolster whistleblower incentives and protections for employees, contractors, and subcontractors of aircraft manufacturers, aircraft repair stations, and FAA, providing whistleblowers with access to court for a jury trial and monetary incentives for information that leads to a successful resolution of a complaint.

### **2. “Expedited Delivery of Airport Infrastructure Act” Introduced.**

The “Expedited Delivery of Airport Infrastructure Act of 2020” was introduced in the House by Transportation Committee Republicans. H.R. 5912 would allow airports to use up to \$1 million in Airport Improvement Program funds to incentivize a contractor to complete a project early.

### **3. “Trusted Traveler REAL ID Relief Act” Introduced.**

To avoid “the mass confusion, chaos, and delays that will most certainly occur across our nation’s airports” on October 1, when REAL ID-compliant identification becomes a requirement for air travel in the U.S., the “Trusted Traveler REAL ID Relief Act” was introduced in the House. Provisions of H.R. 5827 include requiring TSA to accept PreCheck enrollment as an alternative to REAL ID-compliant identification for domestic air travel until April 1, 2022 and to develop and implement alternative screening procedures for those who arrive at an airport checkpoint without an acceptable REAL ID credential or exemption. Airlines for America called the bill “a positive step toward ensuring that the 2.4 million people who travel every day will be able to flow through the system as seamlessly as possible this Fall.”

**4. House Hearing on Use of Biometric Technologies.**

The House Homeland Security Committee held its second hearing on DHS use of facial recognition and other biometric technologies. Chairman Bennie Thompson (D-MS) stated he is “not wholly opposed” to use of the technology, but is “deeply concerned” about privacy, transparency, data security and accuracy. In December, a National Institute for Standards and Technology report confirmed age, gender, and racial bias in some facial recognition algorithms. CBP says the match rate for its facial recognition systems is over 98%, but Thompson said this figure does not account for images of travelers who could not be captured due to factors such as lighting or skin tone. “This technology is not ready for ‘prime time’ and requires further testing before widespread deployment,” said Thompson. “Misidentifying even a relatively small percentage of the traveling public could affect thousands of passengers annually, and likely would have a disproportionate effect on certain individuals. This is unacceptable. Data security also remains an important concern. Last year, a CBP subcontractor experienced a significant data breach, which included traveler images being stolen.”

**5. Hearing on Future of Maintenance and Manufacturing Workforce.**

At a House Transportation Committee hearing on the “Future of America’s Aviation Maintenance and Manufacturing Workforce,” Chairman Peter DeFazio (D-OR) noted that half of the 330,000 mechanics and repair technicians in the United States were between 50 and 70 years old at the end of 2018, according to FAA data, and the industry anticipates 193,000 slots in North America over the next 20 years. According to the Government Accountability Office, the Labor Department predicts roughly 11,800 job openings per year from 2018 through 2028 for mechanics and technicians, but FAA certificated only about 8,600 per year over the last four years. Aviation Subcommittee Chairman Rick Larsen (D-WA) and witnesses addressed the status of women, who currently make up less than 3% of the U.S. aviation maintenance workforce. With the aid of a National Science Foundation grant, Everett Community College’s Advanced Manufacturing Training & Education Center is partnering with local school districts and the aviation industry to increase recruiting of women into aerospace technician programs by 30% over the next three years, Larsen said. . . . Ensuring that FAA issues a final rule that calls for modernizing AMT training requirements (Part 147) “is the best and most immediate measure Congress could take to address AMT workforce issues,” said a Delta Technical Operations executive, in his testimony. The rule was due by March 2019 and a Supplemental Notice of Proposed Rulemaking was issued in April 2019. Current regulations “are woefully out of date [and] retain requirements that serve no purpose (e.g. wood and cloth aircraft materials). Without reform, Part 147 regulations will continue to be a

drag on training.” Delta TechOps has 10,000 employees and provides full-service maintenance to 875 Delta aircraft and 150 other airline, military and government customers. Top-of-scale mechanics make average base salary of more than \$100,000, achievable after 7.5 years of service—approximately 75% of mechanics currently earn top-of-scale pay, a reflection of the seniority of the workforce. More than 50% of the skilled and trade TechOps workforce will be eligible to retire this year. The 2019 Boeing Pilot and Technician Outlook projects demand for 632,000 commercial aviation maintenance technicians worldwide over the next 20 years. To address this challenge, Delta has a Pipeline Strategy, a recruitment and professional development effort that includes a Military Potential Employee program that provides job training and hands-on experience and mentorships within the final 180 days of enlistment. Veterans comprise 20% of the Delta TechOps population.

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

### 1. **U.S. to Raise Tariffs on New Airbus Aircraft.**

The U.S. Trade Representative (USTR) announced an increase in duties imposed on new commercial aircraft imported from the EU to 15% from 10%, effective March 18, noting the United States was authorized by the World Trade Organization (WTO) “to take countermeasures on \$7.5 billion in goods after a victory in its unfair trade practices case against the European Union, France, Germany, Spain, and the United Kingdom.” Airbus said the decision creates “more instability for U.S. airlines that are already suffering from a shortage of aircraft” and ignores submissions made by U.S. airlines “that they—and the U.S. flying public—will ultimately have to pay these tariffs.” The UK maintained it is now compliant with WTO rules on this issue, adding, “we will continue to work with other Airbus nations, France, Germany and Spain, and the EU on a negotiated settlement, and on the use of Boeing retaliatory rights as and when awarded.” The WTO is expected to authorize the EU to impose tariffs on Boeing aircraft in May. Meanwhile, legislation introduced in Washington state would remove an aerospace tax break that is part of the WTO case against Boeing. “By canceling the tax breaks, Boeing said it will be in full compliance with WTO rules, and the threat of tariffs on its jet sales should melt away,” reports the Seattle Times. . . . Separately, the USTR is issuing a report on the WTO Appellate Body’s “failure to comply with WTO rules and interpret WTO agreements as written,” stating “the conduct of the Appellate Body has converted the WTO from a forum for discussion and negotiation into a forum for litigation.”

### 2. **US, Kenya Amend Air Transport Agreement.**

The U.S. and Kenya amended their air transport agreement to allow U.S. all-cargo airlines to fly between Kenya and a third nation without a stop in the U.S., and to give Kenyan all-cargo carriers reciprocal rights to serve the U.S. Two-way goods trade between the United States and Kenya was valued at \$1.1 billion in 2019, up 4.9% from 2018. . . . The Department of State and Federal Bureau of Investigation partnered to assist Kenya in creating the first Joint Terrorism Task Force (JTTF), a multi-agency counterterrorism investigative force in Nairobi. The initiative was established after the al-Shabaab terrorist attack on a Nairobi hotel in January 2019.

## VIII. EUROPE AND AFRICA

### 1. Airbus to Pay \$3.9 Billion to Resolve Foreign Bribery and ITAR Case.

Airbus agreed to pay combined penalties of more than \$3.9 billion to resolve charges with authorities in the United States, France and the UK stemming from a scheme to use third-party business partners to bribe government officials and airline executives, said the U.S. Department of Justice, and to resolve the company's violation of the Arms Export Control Act and its implementing regulations, the International Traffic in Arms Regulations, in the United States.

### 2. Air France, KLM, Delta, Virgin Atlantic Launch JV.

Air France, KLM, Delta and Virgin Atlantic launched their expanded joint venture for travel between Europe, the UK and North America. The JV represents about 23% of passenger and cargo trans-Atlantic capacity, said the companies; combined annual revenues are estimated at \$13 billion.

### 3. Brussels Airlines Begins Year-Round Service to Washington D.C.

Brussels Airlines increased seasonal service to Washington Dulles to year-round. The four weekly Airbus 330-200 flights increase to daily on March 29.

### 4. Air Italy Ceases Operations.

Air Italy ceased flight operations, as shareholders Alisarda and Qatar Airways, via AQA Holding, resolved to liquidate the company. Qatar, which holds a 49% stake in Air Italy, said it was "prepared to play its part in supporting the growth of the airline, but this would only have been possible with the commitment of all shareholders."

### 5. Indigo Partners Sells Wizz Air Stake.

U.S. private equity fund Indigo Partners sold most of its 20.6% stake in Wizz Air. The Hungarian carrier, which recently reported improved performance, is the largest low-cost airline serving central and eastern Europe. Wizz Air Chairman William Franke is the founder and Managing Partner of Indigo, and Chairman of Frontier Airlines. With the sale, Indigo's stake in Wizz is 3.4%.

### 6. Azul, TAP Portugal Sign Commercial Joint Venture Agreement.

Azul and TAP Portugal will offer "expanded flight schedules, competitive fares and increased access to European and Brazilian destinations," under a new commercial non-corporate joint venture agreement, subject to regulatory approvals. Azul is owned by David Neeleman, who leads the Atlantic Gateway



consortium that holds a 45% stake in TAP. There are reports that Lufthansa and United are considering a stake in TAP; all three are members of the Star Alliance.

7. **Qatar Increases Stake in IAG, Takes Stake in RwandAir.**

See Section IX, item 3.

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

### **1. Delta, Vietnam Airlines Enhance Code Share Flights via Tokyo.**

Delta and Vietnam Airlines enhanced their code share agreement to add Delta codes to all Vietnam Airlines flights between Tokyo and Hanoi. Customers on Delta flights from Minneapolis and Los Angeles to Tokyo Haneda can connect to Vietnam Airlines flights from Haneda to Hanoi. Once all of Delta's Tokyo flights consolidate at Haneda on March 29, Delta customers from Atlanta, Detroit, Seattle, Portland and Honolulu also can connect to Vietnam Airlines' Hanoi flights at Haneda. Vietnam Airlines will also add its codes to all Delta flights to/from Haneda.

### **2. American, Qatar Renew Code Share Agreement.**

American Airlines and Qatar Airways renewed their code share agreement as "the first step in building a strategic partnership." Pending government approvals, American will place its code on select Qatar nonstop and connecting services between the U.S. and Doha, allowing access to destinations in the Middle East, East Africa, South Asia and South East Asia not currently served by American. Qatar will place its code on select flights beyond American's hubs at Dallas-Fort Worth, Chicago, New York Kennedy, Philadelphia, Miami and Los Angeles, as well as on American's flights to and from Europe, the Caribbean, Central America and South America.

### **3. Qatar Increases Stake in IAG, Takes Stake in RwandAir.**

Qatar Airways Group increased its shareholding in International Consolidated Airlines Group (IAG) from 21.4% to 25.1%. At the CAPA Qatar Aviation Aeropolitical and Regulatory Summit in Doha, Qatar Airways CEO Akbar Al Baker said the company is taking a 49% percent stake in RwandAir, after recently acquiring 60% of the new Kigali airport. . . . Also at the two-day Summit, industry leaders adopted a second iteration of the Doha Declaration of 2019, highlighting the growing need for sustainable operations and engaging stakeholders to act collectively to address climate change and promote sustainability. The Doha Declaration of 2020, among other things, also recommends that governments consult actively with industry to complement industry action while minimizing the regulatory temptation to impose additional taxes in the form of charges and fees; transparently allocate taxes to activities that will serve to reduce the industry's impact on the environment, and take urgent steps to improve the effectiveness of air traffic management to achieve reduction in carbon emissions.

**4. AirAsia's Tony Fernandes Steps Aside.**

AirAsia Group CEO Tony Fernandes and Chairman Kamarudin Meranun denied allegations of wrongdoing or misconduct, but stepped aside as the airline and authorities investigate allegations that Airbus paid a bribe of \$50 million to the company. Senior company executive Tharumalingam Kanagalingam is acting CEO.

**5. Saudia CEO Jaan Albrecht Steps Down.**

Saudi Arabian Airlines Group (Saudia) appointed COO Ibrahim Koshy as its new CEO, succeeding Jaan Albrecht whose contract expired at the beginning of the year. Before joining Saudia, Albrecht was an executive at Mexicana and Austrian Airlines and CEO of Star Alliance.

**6. Tel Aviv Launching Tourism Master Plan.**

Tel Aviv launched a tourism master plan that seeks to make the city one of the most popular urban destinations in the world by 2030. Last year, Ben Gurion Airport handled 24 million international passengers, 1.6 million more than in 2018. Ten new airlines added flights to Israel, for a total of 140 airlines with direct flights to Tel Aviv, and six new destinations were added to 180 destinations in 56 countries. Flights into Israel were from Turkey, United States, Italy, France, Greece, Germany, Russia, UK, Spain and Ukraine.

**7. Airbus to Pay \$3.9 Billion to Resolve Foreign Bribery and ITAR Case.**

See Section VIII, item 1.

## **X. AMERICAS**

### **1. Alaska, American Form West Coast International Alliance.**

Alaska and American will expand their domestic code share to include international routes from Los Angeles and Seattle, and announced daily service from Seattle to Bangalore, India from October 2020, and to London Heathrow from March 2021. Alaska intends to join the oneworld alliance by summer 2021. Implementation of all “subject to negotiation and execution of definitive documentation and governmental review.”

### **2. American, TWU-IAM Reach Tentative Agreements.**

American Airlines and the TWU-IAM Association reached tentative agreements for new joint collective bargaining agreements with Maintenance & Related and Fleet Service workers. The contracts “include meaningful improvements in pay, quality of life and job protections,” said American Chairman and CEO Doug Parker.

### **3. United to Consolidate Regional Flying.**

Trans States Airlines, which operates Embraer 145s for United, announced it will cease operations by yearend. Trans States is a subsidiary of Trans States Holdings, which also owns Compass and GoJet. Meanwhile, ExpressJet will add 36 Embraer ERJ145s to its United Express fleet over the next 12 months, and is working toward a multi-year extension of its agreement with United. ExpressJet plans additions to its crew bases and facilities at United hubs, and will phase out E175s “to speed-up growth and become an efficient single-fleet airline.” The company is offering up to \$40,000 for qualified pilot captains upon completion of training; the program will include a \$22,500 sign-on bonus and an additional \$17,500 for all captain-qualified pilots joining the company. ExpressJet is a subsidiary of ManaAir, in which United holds a 49% stake. A new SkyWest agreement with United calls for the regional airline to operate 25 E175 aircraft under a multi-year contract; “the aircraft are financed by United and are to be sourced from another United Express operator.”

### **4. JetBlue Begins Guadeloupe Service.**

JetBlue began three times weekly Airbus A320 seasonal service between New York Kennedy and French Caribbean island Guadeloupe. . . . In other news, the company adopted revised limits on tenure and an age-based retirement threshold. Founding board members Joel Peterson, Frank Sica and Stephan Gemkow will retire at the end of their current term. Peter Boneparth will

succeed Peterson as Chairman. CEO Robin Hayes agreed to extend the term of his employment contract for an additional year through July 2022.

5. **Spirit Adds Fort Lauderdale, Orlando Service.**

Spirit plans to begin or upgrade frequencies on 16 routes from Fort Lauderdale and Orlando, from April 1 through July, including additional flights to Guatemala City, San Salvador and St. Croix from Fort Lauderdale. . . . Spirit will open an \$11 million Operations Control Center (OCC) in Williamson County, TN, near Nashville. The 49,000-square-foot facility “will bolster network resiliency and reduce hurricane and tropical storm risk,” said Spirit, which will transfer 240 employees from its OCC in Miramar, FL by early 2021. The OCC controls round-the-clock flight operations for more than 650 flights each day across the U.S., Latin America and the Caribbean.

6. **U.S. Startups Set to Begin Service This Year.**

Salt Lake City-based Breeze, the start-up formerly known as Moxy, is expected to begin low-fare flights by yearend “between places currently without meaningful or affordable service,” said CEO and President David Neeleman; “20 years ago, we brought humanity back to the airline industry with JetBlue. Today, we’re excited to introduce plans for ‘the World’s Nicest Airline’.” Passengers will be able to avoid a customer service network by using an app to find tickets, change or update travel plans, and add rental cars or accommodations. Breeze has ordered 60 new Airbus 220-300s, with deliveries beginning in April 2021, and has leased 30 Embraer 195s from Neeleman’s Brazilian airline Azul, to be delivered starting May 2020. . . Andrew Levy, a former United executive and co-founder of Allegiant, said he’ll transform Florida-based charter XTRA Airways, which he purchased in 2018, into a low-cost scheduled airline, Houston Air Holdings, with Boeing 737-300 nonstops from secondary airports to midsize and large markets, to begin later this year.

7. **LATAM to End oneworld Membership.**

LATAM Airlines Group will end its membership in the oneworld alliance effective May 1, 2020. In December, LATAM and Delta formed a strategic partnership in which Delta will invest \$1.9 billion for a 20% stake in the Latin American conglomerate. Delta is a SkyMiles member.

8. **Airbus to Pay \$3.9 Billion to Resolve Foreign Bribery and ITAR Case.**

See Section VIII, item 1.

9. **Air France, KLM, Delta, Virgin Atlantic Launch JV.**

See Section VIII, item 2.

10. **Brussels Airlines Begins Year-Round Service to Washington D.C.**  
See Section VIII, item 3.
11. **Indigo Partners Sells Wizz Air Stake.**  
See Section VIII, item 5.
12. **Azul, TAP Portugal Sign Commercial Joint Venture Agreement.**  
See Section VIII, item 6.
13. **Delta, Vietnam Airlines Enhance Code Share Flights via Tokyo.**  
See Section IX, item 1.
14. **American, Qatar Renew Code Share Agreement.**  
See Section IX, item 2.