



## 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. Global Air Passenger Traffic to Increase 6.3% in 2015.

World air traffic is expected to increase by 4.8%, 5.9% and 6.3% in 2013, 2014 and 2015, respectively, according to the International Civil Aviation Organization (ICAO). . . . In a snapshot of 2012 scheduled service performance, International Air Transport Association (IATA) reported that systemwide, airlines carried 2.977 billion passengers, led by Asia-Pacific airlines (947.9 million), followed by carriers in North America (808.1 million), Europe (780.6 million), Latin America (226.5 million), Middle East (144.1 million) and Africa (69.8 million). Premium travel slipped to 7% of total international, but accounted for 27% of international passenger revenues. Top countries by region based on passengers carried were Africa: South Africa (20.4 million), Asia-Pacific: People's Republic of China (361.4 million), Europe: United Kingdom (171.5 million), Latin America and Caribbean: Brazil (88.9 million), Middle East: United Arab Emirates (40.6 million), North America: United States (598.2 million). Top five airlines ranked by total scheduled passengers were Delta (116.7 million), Southwest (112.2 million), United (92.6 million), American (86.3 million) and China Southern (86.3 million). Top three city-pairs based on passengers on international routes were Hong Kong-Taipei (5.5 million), Seoul-Tokyo (3.6 million) and Kuala Lumpur-Singapore (3.4 million). Top three city-pairs based on passengers on domestic routes were Jeju-Seoul (9.5 million), Sapporo-Tokyo (8.8 million) and Fukuoka-Tokyo (7.6 million). Star remained the largest airline alliance in 2012 with 25.2% of total IATA scheduled traffic (revenue passenger kilometers), followed by SkyTeam (19.8%) and oneworld (14.1%).

### 2. FAA Finalizes New Pilot Qualification Standards.

Minimum qualification requirements for first officers (copilots) who fly for U.S. passenger and cargo airlines go into effect on August 1, said the Federal Aviation Administration (FAA). The rule requires co-pilots to hold an Airline Transport Pilot (ATP) certificate, requiring 1,500 hours total time as a pilot. Previously, first officers were required to have only a commercial pilot certificate, which requires 250 hours of flight time. The rule also requires copilots to have an aircraft type rating, which involves additional type-specific training and testing. Among other provisions, pilots must have a minimum 1,000 flight hours as co-pilot in air carrier operations prior to serving as captain for a U.S. airline; and enhanced training for an ATP certificate, including 50 hours of multi-engine flight experience and completion of a new FAA-approved training program. The new regulations stem in part from the 2009 crash of

Colgan Air 3407, and address a mandate in the Airline Safety and Federal Aviation Administration Extension Act of 2010, which also mandated new flight duty and rest requirements, finalized in December 2011, and new air carrier training requirements expected this fall to ensure pilots know how to react properly in difficult operating environments. The rule addresses recommendations from an Aviation Rulemaking Committee (ARAC) and the National Transportation Safety Board (NTSB). The announcement was hailed by the Air Line Pilots Association (ALPA), which participated in the ARAC.

**3. DOT Fines Airlines.**

The U.S. Department of Transportation (DOT) fined British Airways \$40,000 for failing to disclose that discounted baggage fees offered on its website were not available to all consumers. The carrier offered discounted rates on its U.S. website for all passengers who chose to pay baggage fees in advance, but passengers who booked through agents were not able to pay the discounted fees on the airline's website. The airline did not provide notice that the discounted fees might not be available to some passengers or make sure the lower fees were available to everyone trying to pay them. . . . American Eagle was fined \$200,000 for lengthy tarmac delays at Dallas-Fort Worth on December 25, 2012 during a snow and ice storm; 10 flights exceeded the three-hour limit, eight of which fell under exceptions to the tarmac delay rule. American Eagle was fined \$900,000 for lengthy tarmac delays at Chicago O'Hare in 2011.

**4. FAA Proposes \$2.75 Million Civil Penalty Against Boeing.**

FAA proposed a \$2.75 million civil penalty against Boeing's commercial airplanes unit for allegedly failing to maintain its quality control system in accordance with approved FAA procedures. Boeing discovered in 2008 that it had been installing nonconforming fasteners on B-777s, but failed to implement certain corrective actions for more than two years. Boeing stopped using the nonconforming fasteners after discovery, but manufacturing issues continued until after the corrective action plan was in place.

**5. Judge Rules WTC Developer Cannot Seek Damages from Airlines.**

U.S. District Judge Alvin Hellerstein ruled that World Trade Center developer Larry Silverstein may not seek \$3.5 billion in damages from United and American for losses sustained in the Sept. 11, 2001, terrorist attacks. Silverstein has collected \$4.1 billion from insurers and cannot collect twice under New York law, said the Judge. Silverstein had claimed airline negligence led to the destruction of his World Trade Center Properties LLC and 7 World Trade Company LP. He is appealing the decision.

**6. May Passenger Airline Employment Down 2.1%.**

U.S. scheduled passenger airlines employed 382,558 workers in May 2013, reports DOT, 8,399 fewer than in May 2012. Network airline employment was down by -2.5%, low-cost airlines by -0.3% and regionals by -4.4%. The five network airlines employed 67.3% of total workers of all scheduled passenger airlines in May, the six low-cost carriers employed 18.3% and the 13 regional carriers employed 12.9%.

**7. DOT Air Travel Consumer Report for May.**

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

	May '13 / '12	April '13	Full Year				
			2012	2011	2010	2009	2008
On-time arrivals %	79.4 / 83.4	77.3	81.85	79.6	79.8	79.5	76
Cancellations %	1.1 / 0.9	1.8	1.29	1.91	1.76	1.39	1.96
Mishandled baggage*	2.96 / 2.77	3.08	3.09	3.35	3.51	3.91	5.26
Consumer complaints:							
Airline service	973 / 1,259	1,086	15,335	11,546	10,988	8,821	10,648
Disability-related	51 / 70	61	743	628	572	519	477
Discrimination**	5 / 7	6	99	128	143	131	115

Note: Airlines reported five tarmac delays of more than three hours on domestic flights and no tarmac delays of more than four hours on an international flight in May.

\* Reports per 1,000 passengers.

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

**8. Three Killed in SFO Crash; Several Accidents Probed.**

NTSB is investigating the July 6 crash landing at San Francisco International Airport (SFO) of Asiana Flight 214, which had 307 people aboard. Three passengers were killed and many seriously injured. The Boeing 777 hit a seawall as it approached the runway. The landing gear, tail and rear fuselage were torn off by the impact, and the aircraft caught fire. Initial speculation on cause included airport difficulties and pilot error. This was the first fatal commercial air crash at SFO, which stated all pilots had been notified that part of the instrument landing system, the glide slope system, would be out of service until August 22 during a runway improvement project. The airport emphasized that weather conditions allowed Flight 214 pilots to land under

visual flight rules and noted that the precision approach path indicator light system and radio frequency system were operating. FAA since has advised foreign airlines to use a GPS-based instrument system (RNAV) to guide landings while the glide slope indicator is out of service. Korean Pilots Association and Asiana Pilots Union took issue with NTSB's press conferences "which only give prominence to the possibility of a pilot error and unprecedented speed in disclosure of related materials to the public." The South Korean Transport Ministry reported that Asiana pilots will be given enhanced training for visual approaches and for switching to a new type of aircraft.

NTSB is assisting the UK Air Accidents Investigation Branch in the probe of a fire that occurred aboard a parked, unoccupied Ethiopian Airlines Boeing 787 at London Heathrow on July 12. Initial findings showed extensive heat damage in the upper portion of the rear fuselage, near the aircraft's Emergency Locator Transmitter (ELT), with significant thermal effects on aircraft insulation and structure. Investigators said the fire may have been caused by incorrect installation of a battery in the ELT, leading to pinched wires and a short circuit. Airworthiness Directives (ADs) were issued by FAA and the European Aviation Safety Agency ordering operators to inspect or remove ELTs on 787s. Boeing asked operators of 717, Next-Generation 737, 747-400, 767 and 777s to inspect aircraft with the Honeywell fixed ELTs and report back, in an effort to gather data to support potential rule-making.

NTSB is investigating a Southwest Boeing 737-700 nose-down landing, on July 22, at New York LaGuardia. The nose landing gear collapsed rearward and upward into the fuselage, damaging the electronics bay. The exterior of the airplane was also damaged from sliding 2,175 feet on its nose before coming to rest. All 145 passengers and five crew members evacuated the airplane, with some being treated for minor injuries.

The United Arab Emirates (UAE) General Civil Aviation Authority (GCAA) released its final report on the UPS Flight 6 crash near Dubai, on September 3, 2010, which killed both pilots. A fire on the main cargo deck resulted in severe damage to flight control systems and caused the upper deck and cockpit to fill with continuous smoke. The Boeing 747-44AF was en route from Dubai to Cologne. Some lithium batteries shipped as cargo were neither properly packaged and labeled nor declared as dangerous goods. Some batteries also failed to comply with mandatory testing requirements. GCAA recommended that FAA and ESA develop better firefighting standards and equipment for cargo planes, with visual warnings about where a fire is located. ALPA reiterated demands "that the United States must take a leadership role

in protecting aircraft against the possibility of catastrophic fires caused by lithium batteries.” The Rechargeable Battery Association urged enforcement agencies to “aggressively use their authority to stop non-compliant shippers of lithium batteries from offering their batteries for transport.”

Following the investigation of five incidents in which commercial jetliners came within hazardous proximity of other aircraft while arriving or departing at major U.S. airports, NTSB recommended that FAA modify rules for air traffic controllers to reduce possibility of mid-air collisions near airports by ensuring safe separation of airplanes during go-around maneuvers. Current FAA procedures have specific requirements for ensuring separation between two airplanes that are departing from different runways but have intersecting flight paths; they do not prohibit controllers from clearing an airplane to land at a time when it would create a potential collision hazard with another aircraft if the pilots of the landing airplane perform a go-around.

## II. AIRPORTS

### 1. Charlotte Douglas Operational Control to Transfer From City.

The North Carolina General Assembly passed a bill that would immediately transfer control of Charlotte Douglas International from the city to a regional operating authority, but legal action to protect the city's investments in the airport was taken and a temporary reprieve granted by a judge. The General Assembly then repealed the authority bill and instead passed a bill creating an airport commission to handle operations, with the city retaining ownership. The city remains unconvinced. FAA clarified that until a decision is made on the transfer of control, the city of Charlotte remains the airport sponsor and the certificate holder. Mayor Patsy Kinsey said the city is committed to keeping Charlotte one of the lowest-cost, best-performing airports in the country. Kinsey replaced new DOT Secretary Anthony Foxx as Mayor of Charlotte; Foxx was opposed to state efforts to remove the airport from city control, but said he has recused himself from the matter.

### 2. Port Authority to Manage Atlantic City Airport.

Port Authority of New York and New Jersey (PANYNJ) has taken over operations of Atlantic City International from South Jersey Transportation Authority. The 15-year agreement can be renegotiated every five years. Spirit currently is the sole scheduled carrier at Atlantic City. . . . PANYNJ announced four new taxiways for Newark Liberty's longest runway as part of a \$97.3 million rehabilitation slated to begin in early 2014; authorized \$255 million for site, building and utility improvements at LaGuardia; and approved a four-year, \$221 million contract with Allied Barton Security Services for unarmed guard coverage at Kennedy, Newark and LaGuardia.

### 3. Chicago Airport News.

Chicago O'Hare received a \$65 million grant for runway improvements from U.S. DOT, as part of the O'Hare Modernization Program (OMP). . . . Ferrovial/Macquarie and Industry Funds Management of Australia/Manchester Airports Group are the two remaining groups bidding for the lease of Chicago Midway, reports Bloomberg. Final bids are due in August. . . . The Illinois Department of Transportation (IDOT) was authorized to develop a third major Chicago regional area airport and will seek a public-private partnership for the development, construction and operation of the facility near Peotone in Will County. Illinois has invested about \$40 million to date on land acquisition for the project and fiscal 2014 budget includes another \$71 million. IDOT produced an Airport Master Plan that is under review by FAA. The airport site

comprises 5,800 acres, with about half of the land already acquired, and could eventually encompass 20,000 acres including land necessary for access roads and noise abatement. There have been talks about constructing a south suburban airport for over 40 years. Will County is the ideal location, said officials, because of its major highway and railroad infrastructure, growing population and nearby presence of many global logistics firms.

**4. \$125 Million Three-Year Plan to Improve BWI.**

A \$125 million three-year plan to further improve Baltimore/Washington International will include a new secure connector between Concourse D and Concourse E, a new security checkpoint to serve domestic and international travelers and airline gates configured to support additional international flights. The multi-phase project, to be completed in 2016, will receive a \$25 million investment from the Maryland Transportation Infrastructure and Investment Act of 2013, and \$100 million from passenger facility charges.

**5. One Airport Selected for 2013 MAP Program.**

FAA selected Jose Aponte de la Torre in Ceiba, PR, as the only airport to participate in the 2013 Military Airport Program (MAP), which uses federal funds to convert former military airports to civilian use. The Ceiba facility is being redesignated for five years. Construction of a fuel farm, rehabilitation of hangar facilities and utility improvements are among planned projects.

**6. London Airports Propose New Runways.**

Heathrow proposed three options to the UK Airports Commission that would place a third runway to the north, northwest or southwest of the airport, saying each option would raise airport capacity to 740,000 flights a year (from current limit of 480,000) between 2025 and 2029, for £14-18 billion, “quicker and cheaper than any rival hub option.” . . . Gatwick proposed a second runway to the south of the existing one to the Commission, saying it can be privately financed and would not require substantial government subsidy. . . In its submission to the Commission, Ryanair “rubbished” any plans for a new airport and recommended that Gatwick, Heathrow and Stansted each be allowed to develop a new additional runway as “the only way to keep Ferrovial/Heathrow honest as it promotes its plans to waste further billions on inefficient, gold-plated facilities which will allow them to again ‘game’ the CAA’s inadequate regulatory regime to further penalize airlines and passengers at Heathrow, with much higher charges.”

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

1. **Janet Napolitano Resigns.**

Homeland Security Secretary Janet Napolitano resigned to become President of the University of California. The former Arizona governor held the Obama Administration position for more than four years.

2. **TSA Launches Application Program for TSA PreCheck.**

The Transportation Security Administration (TSA) will implement an expansion of its PreCheck expedited screening program. A fee-based application process will allow U.S. citizens to apply online and visit an enrollment site to provide identification and fingerprints; enrollment fee is expected to be \$85 for a five-year membership. Currently, travelers opt-in through an airline frequent flier program, or are enrolled in Global Entry, SENTRI or NEXUS Trusted Traveler programs. The new phase will roll out this fall, initially at Washington Dulles and Indianapolis International. Once approved, travelers will receive a Known Traveler Number (KTN) to be used when booking reservations; passengers may enter their KTN to their frequent flyer airline profiles. TSA PreCheck allows pre-approved travelers to leave on shoes, light outerwear and belt, and keep a laptop in its case, in select screening lanes.

3. **Pre-Clearance for Birmingham-U.S. Passengers via Dublin.**

Passengers en route to the U.S. from Birmingham Airport in the UK can now connect through Dublin to complete pre-clearance and customs. Aer Lingus Regional offers six daily Birmingham-Dublin flights, and estimates the service will save up to two hours at U.S. destinations including New York, Boston, Chicago and Orlando. Ireland is the only country in Europe to offer passport and customs pre-clearance to U.S. destinations.

## **IV. E-COMMERCE AND TECHNOLOGY**

### **1. IATA Urged to Withdraw, Amend, Resubmit Resolution 787 Proposal.**

The Business Travel Coalition (BTC), with nearly 120 corporate travel managers, travel agency executives and industry stakeholders from 16 countries, urged IATA to withdraw its application before DOT for approval of Resolution 787 and the New Distribution Capability (NDC); amend it after consultation and codify guarantees that it would not adversely impact current airfare transparency, consumer choice, personal data privacy and airline and distribution channel competition; and resubmit the application to DOT. Among five proposals, the coalition seeks “guarantees that nothing in Resolution 787 would directly or indirectly prevent its member airlines from freely distributing their ‘enhanced content’ and any other products and services through any distribution system or within any business model construct using any messaging format (including any XML standard and EDIFACT) and that other industry players would not under any circumstances be required to follow the processes adopted by Resolution 787.” In comments filed with DOT IATA has stated that the purpose of adopting an XML standard is to be as accommodating as possible and to provide “maximum business process flexibility,” using the current state of the art internet technology. IATA denies that it is, or has any desire to, mandating a particular business model or altering how carriers choose to market their services. IATA notes that it cannot control or predict how distribution practices will evolve once the new standard is in place. However, to appease BTC and travel agency concerns, IATA suggests that DOT expressly disclaim that its approval of Resolution 787 “constitutes an approval of any agreement among airlines regarding any method of distributing air transportation.”

### **2. Travelport Mobile Agent Launched in U.S. and Canada.**

Travelport Mobile Agent™ is now available in the United States and Canada, enabling agents using the Apollo or Worldspan GDS platforms to access and modify bookings via iPad, iPhone, iPod Touch or Android devices. The app has been downloaded more than 21,000 times across the globe since initial launch in October 2011. . . . Travelport is beefing up investment plans for Africa. East Africa expects 7% growth in GDP by 2017, making it the fastest growing regional economy in Africa. Sub-Saharan Africa saw a 4.7% increase in arrivals in 2012, compared to a global average of 4.3% and second only to Asia Pacific with 5.1%. By 2017, the number of tourists travelling to sub-Saharan Africa is expected to reach 42.6 million. . . A Travelport-commissioned PhoCusWright study of the European managed travel sector

confirms growth, though austerity measures are here long-term as corporations drive for higher levels of compliance, enforcing a reduction in premium class travel and utilizing preferred suppliers. By 2014, Europe's total travel sector is projected to reach €230 billion; for online travel management companies, bookings are expected to increase 16% in 2013 and 13% in 2014. Rail is capturing 50%+ share from air for journeys up to 3.5 hours.

## V. **ENERGY AND ENVIRONMENT**

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

Average price of aviation jet fuel, as of July 12, was \$123.5/barrel, up 4.6% on the month and up 4.5% year-on-year, reports the International Air Transport Association. Fuel price average for 2013 was \$123.9/barrel.

### 2. **A4A Advocates Jones Act Changes to Lower Fuel Costs.**

Airlines for America (A4A) is advocating for a change in the Merchant Marine Act of 1920 (the Jones Act), which supports the U.S. maritime industry by requiring that all goods transported by water between U.S. ports be carried in ships constructed in the United States, and owned and crewed by U.S. citizens and U.S. permanent residents. Allowing foreign ships to carry gasoline could increase competition and lower the cost of fuel, says A4A. "We don't need to change the entire piece of legislation but we need legislation that can benefit and reflect today's economy," said A4A. A 2010 Senate bill to repeal the Jones Act failed. Requests for waivers of the law have been granted in national emergencies, such as Hurricanes Katrina in 2005 and Sandy in 2012.

### 3. **Alaska Airlines to Purchase Biofuel From Hawai'i BioEnergy.**

Alaska Airlines agreed to purchase sustainable biofuel from Hawai'i BioEnergy, which will ramp up production within five years of regulatory approval. The feedstock for the biofuel is anticipated to be woody biomass-based and will be consistent with established sustainability criteria. In 2011, Alaska and its Horizon unit were the first domestic airlines to fly multiple passenger flights powered by a biofuel blend.

### 4. **Waste-to-Biofuels Plant Operating in Spain.**

Abengoa inaugurated a demonstration plant in Salamanca, Spain that uses Waste-to-Biofuels (W2B) technology. The plant has a capacity to treat 25,000 tons of municipal solid waste, from which it will obtain up to 1.5 million liters of bioethanol for use as fuel. During the transformation process, the organic matter is treated to produce organic fiber that is rich in cellulose and hemicellulose, which is converted into bioethanol. The bioethanol can be used as an intermediate product in producing jet fuel. Abengoa applies technology solutions for sustainability in the energy and environment sectors.

## VI. U.S. CONGRESS

### 1. Senate, House Consider Transportation Funding Bills.

An amendment to the \$44 billion House Transportation, Housing and Urban Development 2014 budget bill would appropriate \$500,000 to FAA for a study of voice systems that would warn pilots when they are flying too slowly during landing attempts, in reference to the Asiana crash at SFO. The Senate is considering a \$54 billion Transportation, Housing and Urban Development Appropriations bill.

### 2. FY14 Homeland Security Funding Totals \$46.4 Billion.

Fiscal year 2014 funding of \$46.4 billion for the Department of Homeland Security approved by the Senate Appropriations Subcommittee includes \$7.34 billion for TSA, \$210 million below fiscal 2013. The bill rejects an Administration proposal to modify the passenger security fee, and provides \$25 million for the Federal Flight Deck Officer program, instead of requiring airlines to pay for this training as proposed in the budget request. It includes \$189.1 million for explosive detection technology at airports and \$105.9 million for Secure Flight. It funds \$28.8 million, \$10 million above the request, for trusted traveler programs. The bill provides \$206 million for the Office of Biometric Identity Management, and requires the TSA Administrator to certify that one in four travelers is eligible for expedited screening by end of 2013 and requires a strategy to expand eligibility to 50% by end of 2014. The bill requires TSA to provide customer service training to airport screeners. Language is included that would increase the number of countries in the Visa Waiver Program.

### 3. Legislation Introduced to Reform TSA's Acquisition Process.

Legislation to reform the TSA acquisition process was introduced in the House Homeland Security Committee. The Transportation Security Acquisition Reform Act (H.R. 2719) requires TSA to develop a multi-year technology acquisition plan within 180 days of enactment of the bill and to update the plan every two years; conduct a comprehensive cost-benefit analysis to determine if purchases are justified; establish and track baseline program requirements, such as estimated costs, schedules, milestones, identified risks and plans to mitigate those risks; use existing equipment before purchasing additional equipment and create a process for tracking inventory; and publish goals for contracting with small and disadvantaged businesses and provide an annual progress report to Congress. "TSA has repeatedly purchased and deployed equipment that was not properly tested or failed to meet performance

objectives,” said bill sponsors; and, according to the DHS Inspector General, mismanagement has left \$185 million in taxpayer-funded equipment, some unusable or outdated, locked up in warehouses. In related news, the Aviation Security Stakeholder Participation Act of 2013 (H.R. 1204) directs TSA to establish an Aviation Security Advisory Committee.

**4. Congress Urged to Block Abu Dhabi Pre-Clearance Facility.**

A hearing on Implications for U.S. Businesses and National Security of an Abu Dhabi Pre-Clearance Facility was held by the House Foreign Affairs Subcommittee on Terrorism, Nonproliferation, and Trade. Testifying were Kevin McAleenan, Acting Deputy Commissioner of U.S. Customs and Border Protection (CBP); A4A President and CEO Nicholas Calio; and ALPA President Captain Lee Moak. McAleenan said, “preclearance in Abu Dhabi will enhance U.S. security objectives and continue to build on a strategic partnership with the UAE, a key ally in the Middle East.” Calio called the Administration’s agreement with the United Arab Emirates “misguided,” since no U.S. carriers serve the Abu Dhabi airport, and urged the Committee to enforce the direction Congress has already given to DHS to end efforts to open facilities in foreign countries and instead work collaboratively with the U.S. airline, airport and travel and tourism industries to resolve lengthy wait times at U.S. airports. A “Draw the Line Here” campaign, calling on the Administration to drop its plan to provide preclearance U.S. national security services at Abu Dhabi International, was launched by A4A, ALPA, Airports Council International–North America, Consumer Travel Alliance, Global Business Travel Association and the Regional Airline Association. CBP operates facilities at nine Canadian airports, in Bermuda, Aruba and the Bahamas, and at Ireland's Shannon and Dublin airports.

**5. Hearing on Misconduct by Airport Security Personnel.**

A joint hearing held by House Subcommittees on Oversight and Management Efficiency and Transportation Security discussed TSA employee misconduct. Offenses range from sleeping on the job to failing to follow screening procedures and theft, says a report from the Government Accountability Office, which recommends that TSA establish a process for conducting reviews of violations, better record misconduct cases in a central database, and develop procedures for investigation follow-up.

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

### **1. U.S.-European Trade Talks.**

The first round of Transatlantic Trade and Investment Partnership (T-TIP) negotiations was held in Washington. Among goals, T-TIP will aim to further open European Union (EU) markets; strengthen rules-based investment; eliminate all tariffs on trade; tackle costly “behind the border” non-tariff barriers that impede flow of goods; obtain improved market access on trade in services; significantly reduce cost of differences in regulations and standards by promoting greater compatibility, transparency, and cooperation; develop rules, principles and cooperation on issues of global concern, including intellectual property and market-based disciplines addressing state-owned enterprises and discriminatory localization barriers to trade; and promote global competitiveness of small- and medium-sized enterprises. . . . A letter to the U.S. Trade Representative from 160 members of Congress conveyed strong opposition to inclusion of air transport traffic rights in the negotiations, and said foreign ownership or cabotage rules should continue to be handled by the U.S. State and Transportation Departments.

### **2. U.S. to Endorse Taiwan’s Entry Into ICAO.**

President Obama signed into law legislation authored by House Foreign Affairs Committee Chairman Ed Royce (R-CA), which calls for the Secretary of State to endorse Taiwan’s entry into the International Civil Aviation Organization. It directs the State Department to develop and execute a strategy to secure Taiwan’s entry into ICAO’s triennial Assembly, to be held this September in Montreal, and to actively seek other ICAO member states’ support for Taiwan’s participation. “Participation in ICAO will dramatically streamline Taiwan’s ability to access air safety information and is a prerequisite to allowing real-time communications between regulatory authorities,” said Royce, who last year led a successful effort to include Taiwan in the U.S. Visa Waiver Program. China’s Foreign Ministry said the bill “seriously violated the one-China policy as well as the three China-U.S. joint communique, and the Chinese side has lodged solemn representations to the U.S. side . . . We urge the U.S. side to strictly fulfill its commitment to the Chinese side on Taiwan-related issues, handle those issues in a cautious and appropriate way, and stop interfering in China’s internal affairs.”

### **3. U.S.-China Strategic and Economic Session.**

An Aviation Energy Conservation and Emissions Reduction Initiative was among issues discussed at the Fifth Round of the U.S.-China Strategic and

Economic Dialogue, in Washington; the U.S. Trade and Development Agency intends to support the initiative through training. In other discussions, CBP and the General Administration of China Customs decided to enhance cooperation on the U.S.-China Container Security Initiative (CSI); they will discuss deployment of China Customs CSI officers at U.S. ports. As part of the CBP-China Customs Action Plan on Supply Chain Security, 200 joint validations have been completed in China. An action plan was signed to facilitate exchange of best practices, explore joint operational exercises, and strengthen customs-to-customs cooperation to identify and interdict illicit materials traveling via air and maritime cargo.

4. **U.S.-India CEO Forum.**

The U.S. Department of State hosted the U.S.-India CEO Forum, which was chaired by Ratan Tata of the Tata Group and David Cote of Honeywell. Aviation and security were among topics reviewed by participants. A public-private endeavor launched in 2005 to enhance bilateral trade and investment, the Forum gives U.S. and Indian CEOs the opportunity to discuss issues of mutual interest and submit discrete, action-oriented recommendations to both governments for consideration.

5. **Canada-China Bilateral Expanded.**

An amended air services agreement between Canada and China increased the number of flights and destinations between the two countries; enhances ability of airlines in China to offer passenger and all-cargo services to third countries, in connection with services to Canada; and provides greater flexibility and certainty with respect to code sharing with partner airlines from third countries. Air Canada added seven weekly roundtrips to Beijing from Toronto and Vancouver, bringing the total to Beijing and Shanghai to 35 per week, and said the enhanced bilateral expands opportunities to extend coverage of cities in China in cooperation with Star Alliance partners Air China and Shenzhen Airlines.

## VIII. EUROPE AND AFRICA

### 1. EU News.

The European Union air safety list was updated to allow a return of Philippine Airlines and Conviasa, registered in Venezuela, to European skies. Progress was noted in Libya but Libyan authorities agreed that Libyan airlines would not be allowed to operate in Europe until they are fully recertified to EU satisfaction. The updated list includes 278 airlines certified in 20 States. . . . Member states voted to support a draft European Commission (EC) proposal to revise EU pilot flight and duty limitations and rest requirements, which would “ensure a coherent safety regulatory system at EU level.” The proposal would reduce maximum night duties from current 11 hours 45 minutes to 11 hours, and require management of duty rosters, including night duties longer than 10 hours, using fatigue management principles. . . . The EC invites comments, due September 25, on its review of EU state aid rules on public financing of airports and start-up aid to airlines. The revised rules define maximum permissible aid depending on airport size. Among provisions, state aid for investment in airport infrastructure is allowed if there is a genuine transport need and public support is necessary to ensure accessibility of a region; and operating aid to airports would be allowed for a 10 year transitional period, and decrease during depending on financial situation of each airport.

### 2. Air France-KLM Group Management Changes.

Air France-KLM announced changes to its management team. Alexandre de Juniac is Group Chairman and CEO. Frederic Gagey succeeds him as Air France Chairman and CEO. Camiel Eurlings is KLM President and CEO. The Group posted an operating profit of €79 million in second quarter this year, compared to a €79 million a loss in same period last year. Nevertheless, said Juniac, revenues remain below target and further measures will be adopted to reduce costs. A recovery plan announced last year has resulted in wage reductions and more than 5,000 job cuts. Juniac said Air France and code share partner Etihad are discussing a more structural agreement.

### 3. Alitalia Presents New Strategic Plan.

A strategic plan meant to achieve a break-even operating margin for Alitalia in 2014, a balanced budget in 2015 and a profit in 2016 was rolled out by new CEO Gabriele Del Torchio. Among plan components, Alitalia will increase international and intercontinental services from Rome Fiumicino, Milan Linate and Milan Malpensa. Six long-haul aircraft will be added to the fleet, and 10 Airbus A330s will be reconfigured. San Francisco from Rome is among new

routes being considered. Air One will be re-branded, with two fares and service levels and a short- and medium-haul network serving point-to-point connections from Catania, Palermo, Venice and Pisa.

**4. Finnair to Join British Airways-JAL Joint Business.**

Finnair will join British Airways and Japan Airlines (JAL) in their joint business on flights between Europe and Japan. Subject to regulatory approvals, the three airlines will cooperate commercially by sharing revenue and coordinating flight schedules and fares.

**5. Delta Launches Seattle-London Heathrow Service.**

In anticipation of receiving antitrust immunity later this year for its joint venture with Virgin Atlantic, Delta will begin daily Boeing 767-300ER nonstops from Seattle-Tacoma to London Heathrow on March 29, 2014. The carriers have launched reciprocal code sharing across 108 routes to 66 destinations in North America and the UK. With the new Seattle service, Delta will operate 10 daily nonstops to Heathrow from six U.S. cities.

**6. Aer Lingus Transatlantic Expansion.**

Aer Lingus will expand transatlantic service in 2014, with five new weekly year-round Airbus A330 San Francisco-Dublin and beyond flights. From Shannon, year-round Boston and New York frequencies will increase. Direct Toronto-Dublin and beyond service will begin.

**7. Ryanair Offers to Sell Aer Lingus Stake.**

Ryanair offered to sell its 29% share of Aer Lingus to any EU airline that makes an offer and obtains acceptances from 50.1% of Aer Lingus shareholders. The offer is meant to dispel “unfounded and invented” UK Competition Commission concerns that the shareholding may prevent Aer Lingus from being acquired by another EU airline. . . . Ryanair Deputy CEO Michael Cawley will step down at the end of March 2014 to pursue other business interests. Ryanair Chairman David Bonderman invited Cawley to join the Board as a non-executive Director at that time.

**8. Flybe Names Saad Hammad as CEO.**

Saad Hammad was named CEO of Flybe, as of August 1. The former executive at easyJet and Air Berlin succeeds Jim French, who will become non-executive Chairman.

**9. EADS Renamed Airbus.**

EADS announced it “will enhance integration and cohesion by renaming the Group and its Divisions using the globally recognized Airbus brand.” Three divisions are Airbus, responsible for commercial aircraft activities; Airbus Defence & Space; and Airbus Helicopters, comprising commercial and military helicopter activities. Implementation is planned to start January 1, 2014 and be completed in second half 2014.

**10. JetBlue, South African Airways Announce Bilateral Code Share.**

JetBlue and South African Airways (SAA) announced a bilateral code share agreement, in which JetBlue will place its code on SAA-operated flights between the U.S. and both Johannesburg and Dakar and on connecting flights beyond Johannesburg. SAA flies nonstop each day between New York Kennedy and Johannesburg and daily between Washington Dulles and Johannesburg via Dakar. SAA since 2011 has placed its code on JetBlue-operated flights from its U.S. gateways to U.S. destinations. The new agreement is pending regulatory approvals.

**11. First International Routes for fastjet.**

African low-cost fastjet acquired necessary permissions to operate internationally and will begin Tanzania-South Africa and Dar es Salaam-Johannesburg Airbus A319 services in September. In other news, easyJet founder Sir Stelios Haji-Ioannou has increased his holding in fastjet; easyGroup Holdings is owner and licensor of the fastjet brand.

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

### **1. ANA to Launch Low-Cost Carrier.**

ANA will establish a new low-cost carrier, to fly A320-200s to domestic and overseas resort routes from Tokyo Narita and Nagoya, beginning end of December 2013; planned President is Tomonori Ishii. In June, ANA dissolved budget carrier AirAsia Japan, its joint venture with Malaysia's AirAsia. In other news, ANA Holdings will acquire Miami-based Pan Am International Flight Academy, which began as a division of Pan Am World Airways. ANA and Japan Airlines reported losses for three months ended June, due to the weaker yen and the grounding of the Boeing 787.

### **2. Virgin-Air New Zealand Trans-Tasman Alliance Reauthorized.**

The Australian Competition and Consumer Commission granted a conditional three-year authorization for Virgin Australia and Air New Zealand to continue their trans-Tasman alliance, without which, said ACCC, "Virgin Australia's trans-Tasman operations would be more limited than its key competitors and Air New Zealand is likely to be at some competitive disadvantage to the Qantas-Jetstar/Emirates alliance due to its weaker sales presence and more limited access to the domestic market in Australia." The carriers are required to maintain capacity on certain routes.

### **3. Virgin Australia, Delta Expand Code Share to Mexico.**

Virgin Australia and Delta will expand their partnership to include destinations in Mexico, including Mexico City, Cancun, Guadalajara, San Jose Del Cabo, Puerto Vallarta and Cozumel. Virgin Australia recently received regulatory approval allowing it to code share on flights into Mexico as part of its alliance with Delta. Virgin Australia and Delta fly from Sydney, Melbourne and Brisbane to Los Angeles.

### **4. Korean Air, Alaska Airlines Expand Code Share.**

Korean Air and Alaska Airlines expanded their code share with 17 new routes, 11 destinations beyond Seattle, five from Honolulu and one from Los Angeles.

### **5. Hawaiian, China Airlines Sign Code Share Agreement.**

Hawaiian Airlines launched three weekly nonstops to Taipei and signed a new code share agreement with China Airlines, to take effect later this year. Hawaiian will place its code on China Airlines flights from Taipei to Honolulu, Bangkok, Kuala Lumpur and Singapore; and from Brisbane and Sydney to Auckland. China Airlines will place its code on Hawaiian Taipei-Honolulu

services and on flights from Honolulu to Las Vegas, Phoenix, Portland, Sacramento, San Diego, San Jose and Seattle; and all inter-island flights. The airlines also completed an interline agreement for destinations in Asia such as Okinawa, Manila, Ho Chi Minh City, Hong Kong, and Jakarta. A reciprocal frequent flyer partnership is coming.

**6. Malaysia, American Expand Code Share.**

Through a code share arrangement with oneworld partner American Airlines, Malaysia Airlines is offering service between Kuala Lumpur and U.S. cities, including Atlanta, Boston, Washington, Houston, Minneapolis, Portland, Seattle, San Francisco, Las Vegas and San Diego via its Los Angeles, New York, Chicago, Dallas and Miami gateways. The code share will be extended to include Singapore and Bangkok via Kuala Lumpur. The carriers code share on 136 weekly flights to five American cities through Europe.

**7. India Approves Etihad Stake in Jet Airways.**

India's Foreign Investment Promotion Board gave conditional approval for Etihad Airways to buy a 24% stake in Jet Airways (India). This is the first such transaction since restrictions on foreign ownership were eased last September. Under a revised plan, Etihad will hold two seats on the Jet Board and appoint a Vice Chairman; an earlier plan to shift revenue management to Etihad was dropped. A bilateral aviation accord between India and United Arab Emirates awaits approval. . . . In other news, the Indian government plans to charge a passenger fee to help fund a new regulator for civil aviation, which will have full operational and financial autonomy. The current Directorate General of Civil Aviation (DGCA) is severely understaffed due to union demands and ICAO has been critical of the shortage. . . . India approved plans to develop a 70-100 seat, medium range passenger aircraft.

**8. Finnair to Join British Airways-JAL Joint Business.**

See Section VIII, item 4.

## **X. AMERICAS**

### **1. American Bankruptcy, Merger News.**

American Airlines parent AMR reported consolidated and mainline passenger revenue of \$5.6 billion and \$4.9 billion, respectively, for second quarter ended June 30, the highest passenger revenue for the second quarter in company history. Net profit of \$357 million, excluding reorganization and special items, showed a \$262 million improvement year-over-year. AMR closed on a \$1.05 billion term loan in second quarter and a \$1 billion revolving credit facility that will be available upon emergence from restructuring. AMR also completed a private offering of \$120 million of enhanced equipment trust certificates and received gross proceeds of \$216 million from the remarketing of tax-exempt bonds related to its Tulsa maintenance base. American took delivery of 42 new Boeing 737-800s and 777-300ERs over the past 12 months; 59 new mainline aircraft will be delivered over full year 2013. . . . In merger news, US Airways shareholders approved the agreement with American. Concessions were offered to EU antitrust regulators to win approval. The U.S. Justice Department is reviewing antitrust issues, joined by attorneys general of 19 states. A lawsuit against US Airways was filed by 38 plaintiffs in federal court in California, seeking to block the merger as it would hurt consumers and drive up ticket prices; American was not named because it is operating under bankruptcy protection. A new management team culled from both airlines was named. Among changes, American Airlines Cargo President Kenji Hashimoto will become Senior Vice President, Regional Carriers, responsible for subsidiaries American Eagle, PSA and Piedmont and affiliates operating as Eagle and US Airways Express. Pedro Fabregas becomes President of American Eagle, replacing Dan Garton. Steve Farrow and Keith Houk will remain as Presidents of Piedmont and PSA, respectively. Meanwhile, union leaders for Eagle pilots said they will not consider a contract offered in June that would allow the airline to establish lower rates of pay and benefits for newly hired pilots. The merger is expected to close in third quarter, conditioned on regulatory approvals, expiration of statutory waiting periods, other customary closing conditions, and confirmation and consummation of the AMR bankruptcy plan.

### **2. Republic Finds Potential Buyer for Frontier.**

Republic Airways reached a nonbinding pact to sell its Frontier unit, but did not identify the buyer. CEO Bryan Bedford said if a binding agreement is reached, a closing could come late in third quarter. Republic bought Frontier out of bankruptcy protection in 2009, out-bidding Southwest, and announced plans

to sell the Denver-based airline in 2011. It is reported that the negotiations are with Indigo Partners.

**3. Indigo to Liquidate Interest in Spirit.**

Private equity firm Indigo Partners is liquidating its stake in Spirit Airlines. Indigo founder Bill Franke is stepping down as Chairman of Spirit and John Wilson will resign from the Spirit Board at the August 7, 2013 Board meeting. Spirit has announced that upon Mr. Franke's resignation the Board intends to elect H. McIntyre Gardner, a director since 2010, as Chairman. . . . In other news, Spirit is relocating its Phoenix-Mesa Gateway operations to Phoenix Sky Harbor, where flights to Dallas/Fort Worth will begin on October 24 and to Chicago O'Hare and Denver on November 7.

**4. Alaska, Aeromexico Partner.**

Alaska Airlines and Aeromexico expanded their code share and marketing partnership to include reciprocal frequent flier miles. In other news, Alaska Airlines' pilots approved a new five-year contract that increases pay by nearly 20% over the life of the agreement. Flight attendants at Alaska subsidiary Horizon Air approved a new five-year contract that includes pay increases, quality of life improvements and more flexible scheduling. And, Alaska Air Group will initiate a quarterly cash dividend on August 22, to shareholders of record as of August 6.

**5. FedEx Agrees to \$21.5 Million Settlement in Overcharging Suit.**

FedEx agreed to pay \$21.5 million to settle a lawsuit over claims that it billed deliveries to businesses and governments at higher residential rates. The settlement covers a class of 200,000 customers.

**6. GOL Code Shares With Delta, Alitalia.**

Delta-operated flights between Sao Paulo Guarulhos and New York and Detroit are now available for purchase on GOL sales channels, in an expansion of the carriers' code share agreement. . . . In other news, GOL requested authorization from Italian and Brazilian governments to implement code sharing with Alitalia. Initially, the agreement will allow Alitalia, with more than 14 weekly flights from Rome to Sao Paulo and Rio de Janeiro, to include its codes on GOL flights to Brazilian destinations.

**7. Delta Launches Seattle-London Heathrow Service.**

See Section VIII, item 5.

**8. Aer Lingus Transatlantic Expansion.**

See Section VIII, item 6.

9. **JetBlue, South African Airways Announce Bilateral Code Share.**  
See Section IX, item 10.
10. **Virgin Australia, Delta Expand Code Share to Mexico.**  
See Section IX, item 3.
11. **Korean Air, Alaska Airlines Expand Code Share.**  
See Section IX, item 4.
12. **Hawaiian, China Airlines Sign Code Share Agreement.**  
See Section IX, item 5.
13. **Malaysia, American Expand Code Share.**  
See Section IX, item 6.