



## 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. Foiled Cargo Assault Prompts Global Action.**

On October 29, UK police found a printer cartridge containing explosive materials on a UPS aircraft that had landed at East Midlands Airport en route from Cologne to Chicago. A similar device located and identified in Dubai was being transported by FedEx to Chicago. Both explosive devices originated in Yemen and are believed to have been made and dispatched by Yemen-based Al Qaeda in the Arabian Peninsula, the group responsible for the attempted downing of an aircraft bound for Detroit last Christmas. Authorities said the devices were intended to detonate in mid-air. The International Air Transport Association (IATA) commended involved governments for swift, coordinated and targeted response and called on regulators worldwide to coordinate security responses, reinforcing efforts by the U.S. Department of Homeland Security (DHS) and the International Civil Aviation Organization (ICAO).

DHS Secretary Janet Napolitano announced tightened measures for cargo bound for the United States, and Transportation Security Administration (TSA) Administrator John Pistole and a team of TSA inspectors met with government security officials in Yemen to assist in enhancing Yemen's security procedures. The UK also put heightened measures in place, while it "worked with industry to devise a sustainable, proportionate, long-term security regime." The EU acknowledged emergency measures taken by member states to confront the threat, but recommended that measures be coordinated at EU level. The EU Aviation Security Committee met in Brussels in an extraordinary meeting with industry and agreed that only an integrated approach within the EU, and in a global framework can effectively protect air transport from unlawful interference.

ICAO adopted security standards that emphasize "more extensive screening of cargo, mail and other goods prior to placing them on board aircraft and better protection from unauthorized interference from the point where security controls are applied until departure of the aircraft." Also included are strengthened provisions related to deployment of security equipment, security of air traffic service providers, training programs and instructor certification systems, and cyber threats. "This latest revision to the Security Annex has been in development for some time and reflects our determination to constantly review and adapt ICAO security standards to address a rapidly evolving security situation," said ICAO Council President Roberto Kobeh Gonzalez. Recently adopted treaties criminalize the act of using civil aircraft as a weapon, and using dangerous materials to attack aircraft or other targets on

the ground. They also provide for the unlawful transport of biological, chemical and nuclear weapons, and their related material, to be punishable. Making a threat against civil aviation may also trigger criminal liability.

**2. DOT Clears Joint Ventures for U.S.-Japan Service.**

The U.S. Department of Transportation (DOT) granted approval of, and antitrust immunity for, the separate applications of Star members All Nippon Airways (ANA), Continental and United, and oneworld partners American and Japan Airlines, as a U.S.-Japan open skies agreement took effect (see Section VII). Each alliance will be pro-competitive and is likely to generate substantial public benefits to the traveling and shipping public, concluded DOT. American and Japan Airlines (JAL) will code share on nonstop daily New York Kennedy-Tokyo Haneda service, to begin January 20, and on Haneda-San Francisco service. United, Continental and ANA plan to launch their joint venture next spring.

**3. Delta Applies for Additional China Services.**

Delta submitted applications with DOT to begin five weekly Detroit-Beijing nonstops, and nonstop service between its Tokyo Narita hub and Guangzhou.

**4. Delta Authorized to Add Heathrow Service.**

DOT and the European Commission (EC) granted Delta's request to operate new daily, year-round flights between London Heathrow and Boston and Miami, effective March 27, 2011. The new routes will be operated within the scope of Delta's joint venture with Air France-KLM and Alitalia. Delta applied for rights to serve Boston and Miami from Heathrow earlier this year when a divestiture of slots was required following U.S. and EU approval of an immunized alliance between American Airlines and British Airways.

**5. DOT Seeks Details on Delta-Virgin Blue Proposal.**

After tentatively blocking, in September, a Delta-Virgin Blue Group application for antitrust immunity on trans-Pacific routes, DOT has asked the carriers to provide more information. The Australian government approved the proposed pact last December and has asked the U.S. to reconsider its position.

**6. Airbus A380 Engine Failure Prompts Safety Directives.**

The Federal Aviation Administration (FAA) and the European Aviation Safety Agency (EASA) issued safety directives aimed at preventing engine oil leaks in Airbus A380 engines made by Rolls-Royce and in Pratt & Whitney PW 4000 series engines that power certain Airbus and Boeing models. FAA in its directive cited nine separate oil-system incidents on PW 4000 engines, one of which led to an inflight engine fire. The orders followed the uncontained failure of a Rolls-Royce Trent 900 engine on a Qantas A380, thought to be caused by

an oil leak. The plane made an emergency landing in Singapore. According to the *Wall Street Journal*, “the failed engine spewed flames and a stream of parts that damaged flight controls, punctured fuel tanks, prevented the pilots from transferring fuel and cut through various hydraulic and electric lines.” Qantas grounded its fleet of six A380s for inspections, repairs and replacements, and by month’s end had begun a phased and cautious return-to-service. “Together with the engine and aircraft manufacturers and the Civil Aviation Safety Authority, Qantas is now satisfied that it can begin reintroducing A380s to its international network progressively,” said Qantas CEO Alan Joyce.

**7. FAA Adopts Fatigue Damage Rule.**

FAA finalized a rule that seeks to prevent widespread fatigue damage (WFD). It requires aircraft manufacturers and certification applicants to establish a number of flight cycles or hours a plane can operate and be free from WFD without additional fatigue inspections. Manufacturers have 18-60 months to comply, depending on aircraft type. The regulation applies to airliners with takeoff weight of 75,000 lbs. and heavier; 4,198 U.S.-registered airplanes are affected. It also applies to transport designs certificated in the future. FAA is working with the European Aviation Safety Agency and other national authorities to harmonize the rule. In related news, FAA, the National Transportation Safety Board and Boeing are investigating an inflight fuselage rupture on an American Airlines Boeing 757, en route from Miami to Boston. The hole, which grew to two feet, caused rapid cabin decompression and the crew and 154 passengers had to don oxygen masks as the plane returned to Miami, reported the *Wall Street Journal*; there were no injuries. A United B-757 exhibited cracks in the fuselage in October, and in 2009 a Southwest B-737 developed a one-foot hole on top of its fuselage at 30,000 feet.

**8. ATA Names New CEO.**

The Air Transport Association (ATA) named Nicholas Calio as its President and CEO, effective January 1, replacing James May. Calio currently leads Global Government Affairs for Citigroup and served as chief liaison to Congress in the Administrations of George W. Bush and George H. W. Bush.

**9. Airlines Call for Revisions to Proposed Pilot Rest Rule.**

ATA submitted comments in response to FAA’s proposed rule governing pilot rest, calling for significant revisions. The airlines support regulations, said ATA, but the rule is “not science-based,” would create “onerous and duplicative regulations, which do not mitigate fatigue or increase safety,” and could cost \$19.6 billion rather than government projections of \$1.25 billion. In its comments, the Regional Airline Association (RAA) supported efforts to revise current outdated rules, but said, “The RAA sponsored, independent

Fatigue Study, currently underway by Washington State University's world-renowned Sleep and Performance Research Center, should provide ground-breaking science focused on multi-segment airline operations." It was widely reported that Chesley "Sully" Sullenberger, the former US Airways pilot who safely landed Flight 1549 on the Hudson River last year, said some provisions in the proposed rules could result in less rest for pilots; pilot fatigue is an issue of public safety, he said and urged concerned people to contact Congress and FAA.

**10. Executives Indicted in Conspiracy to Fix Rates.**

An Atlanta grand jury returned an indictment against a former executive of Japan Airlines and two former executives of Nippon Cargo Airlines for participating in a conspiracy to fix and coordinate components of rates for air cargo shipments to and from the United States, the U.S. Department of Justice announced. A total of 19 airlines and 17 executives have been charged in the Justice Department's ongoing investigation into price fixing in the air transportation industry. To date, more than \$1.7 billion in criminal fines have been imposed and four executives have been sentenced to serve prison time. Charges are pending against 13 executives.

**11. Air Cargo Industry Advisory Group Formed.**

An industry advisory group will be formed by The International Air Cargo Association (TIACA), International Air Transport Association (IATA), International Federation of Freight Forwarders Associations (FIATA), and Global Shippers' Forum (GSF). Facilitated by TIACA, the group plans to present a unified voice in dealings with worldwide regulatory authorities; review current positions on issues such as security, customs reform, e-commerce, and the environment; and promote the interests of the sector.

**12. September Passenger Airline Employment Data.**

U.S. scheduled passenger airlines employed 377,676 workers in September, down 2,248 from September 2009, reports DOT. The six network airlines employed 67.7% of the total, while seven low-cost carriers employed 17% and 18 regionals employed 13.9%.

**13. FAA Clears Commercial Spacecraft Re-Entry.**

FAA issued its first license permitting reentry to earth of a privately developed spacecraft to Space Exploration Technologies (SpaceX). The Space X Dragon space capsule will launch atop their Falcon 9 rocket on December 7 and return to earth. While initially unmanned, the mission is a precursor to NASA and SpaceX efforts to eventually provide commercial trips to the International Space Station with cargo and crew. Southern California-based SpaceX was founded by PayPal co-founder and Tesla CEO Elon Musk. Separately, agents

are selling tickets for flights on Richard Branson’s Virgin Galactic; the suborbital flights will begin within the next two years from a \$200 million commercial spaceport nearing completion in New Mexico.

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

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

	Sept. '10 / '09	Aug. '10	Full Year				
			2009	2008	2007	2006	2005
On-time arrivals %	85.1 / 86.2	81.7	79.5	76	73.4	75.4	77.4
Cancellations %	0.9 / 0.6	1	--	--	--	--	--
Mishandled baggage*	2.89 / 3.06	3.5	3.91	5.26	7.05	6.73	6.64
<i>Consumer complaints:</i>							
Airline service	755 / 603	1,200	8,819	10,648	13,180	8,325	8,741
Disability-related	41 / 28	71	517	477	488	430	511
Discrimination**	10 / 11	17	132	115	99	114	129

Note: The nation’s largest airlines reported four flights with tarmac delays of more than three hours in September, down from six in September 2009, and 12 in the May-September period, compared to 535 during same period 2009.

\* Reports per 1,000 passengers.

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

## II. AIRPORTS

### 1. JFK Terminal 4 Expansion Begins.

The \$1.2 billion project to expand Terminal 4 at John F. Kennedy International began, with officials from the Port Authority of New York and New Jersey, Delta and Schiphol Group, parent of airport operator JFKIAT, attending the groundbreaking. Phase one completion and relocation of Delta's Terminal 3 operations to Terminal 4 is anticipated in May 2013. Delta's JFK terminal project includes nine new international gates; a passenger connector between Terminals 2 and 4; expanded baggage claim and customs areas; and demolition of Terminal 3, to be completed for aircraft parking in May 2015.

### 2. DOT to Fund Design Work on O'Hare Control Tower.

DOT will provide Chicago O'Hare with \$3.4 million toward designing a control tower that will serve a planned runway. The Chicago Department of Aviation is several billion dollars short of funds to pay for the final phase of the \$15 billion O'Hare expansion project.

### 3. Dublin Opens New Terminal 2.

Dublin Airport's €600 million Terminal 2 has opened. The 75,000 square meter facility will be used by Aer Lingus, American, Continental, Delta, Etihad and US Airways and is the centerpiece of a five-year investment program to expand, improve and upgrade the airport.

### 4. Ferrovial Sells Swissport.

Ferrovial is selling global handling company Swissport to PAI Partners for €654 million, pending approval by competition authorities and final financing arrangements. Ferrovial earlier announced the sale of Naples International and will divest a minority stake in airports operator BAA.

### 5. Construction Begins on New St. Petersburg Pulkovo Terminal.

Construction broke ground on a new international passenger terminal at St. Petersburg Pulkovo, with phase one to be completed in 2013. Airport operator Fraport has a 35.5% holding in the Northern Capital Gateway consortium, which is developing the airport. Other partners include VTB Bank (50%), Cypriot investor Koltseva Holdings (7.5%) and Copelouzos Group of Greece (7%). Russia's fourth largest aviation gateway after the three Moscow airports, Pulkovo expects to serve 8.4 million passengers this year.

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

#### 1. **Pat-downs, Body Scanners Cause Uproar.**

TSA implemented new pat-down procedures at U.S. airports and told passengers “to expect an unpredictable mix of security layers that include explosives trace detection, advanced imaging technology and canine teams.” As the holiday season approached, public dissent regarding use of full body scanners and pat-downs, amplified by the press and privacy and civil rights organizations, threatened to upend airport procedures. President Obama and other Administration officials said they are looking for ways to diminish the impact of intensified security procedures on the traveling public. “We are seeking to strike the right balance between privacy and security,” said TSA Administrator John Pistole, and “will work to make the procedures as minimally invasive as possible.” DHS Secretary Janet Napolitano urged patience: “Al-Qaeda and those inspired by its ideology are determined to strike our global aviation system and are constantly adapting their tactics for doing so,” she wrote in *USA Today*. “Our best defense against such threats remains a risk-based, layered security approach that utilizes a range of measures, both seen and unseen, including law enforcement, advanced technology, intelligence, watch-list checks and international collaboration.” A CBS News poll found that 81% of responders believe the government should use full-body scanners at airports; 52% disapproved of using racial profiling as a security screening technique, while 37% said such profiling is justified. As the Thanksgiving weekend ended, airports reported few problems related to passengers unwilling to submit to new screening measures.

#### 2. **Uniformed Crew May Bypass Scanners.**

Following complaints by unions concerned about health risks from frequent body scans, TSA said pilots can bypass intense airport screening and later exempted flight attendants, as well. In related news, FAA proposed that pilot certificates include photos; comment period ends February 17, 2011; the action follows a requirement that the certificates be made of plastic and contain security features that prevent tampering, altering and counterfeiting.

#### 3. **Pilots Urge Risk-Based Approach to Air Cargo Security.**

Following the attempt to blow up FedEx and UPS planes, Air Line Pilots Association renewed a call for a risk-based air cargo screening policy, rather than a ‘one-size-fits-all’ approach, and for enhancements that will bring all-cargo flight operations up to passenger airline standards. ALPA is pressing for “One Level of Safety and Security” for passenger and cargo flight operations. For example, all-cargo aircraft, unlike passenger aircraft, are not required to

be equipped with cockpit doors, although all-cargo airlines routinely transport passengers traveling with cargo. In addition, all-cargo flight crews are not required to receive the same security training as mandated for passenger airline pilots. Enhanced perimeter security for all airport areas where cargo flights operate and increased background vetting of individuals with unescorted access to cargo and cargo aircraft are also needed.

**4. EPIC Urges Court to Suspend Airport Body Scanner Program.**

The Electronic Privacy Information Center (EPIC) filed the opening brief in a case against the DHS-administered full body scanner program. EPIC was joined in the lawsuit by a security expert, a human rights activist and Nadhira Al-Khalili, who is legal counsel for the Center for American-Islamic Relations. The petitioners argue that the program violates several federal laws and the Constitutional right to privacy and have asked the federal court of appeals in Washington, DC to suspend the program, which “violates the federal Privacy Act, the Religious Freedom Restoration Act, the Video Voyeurism Prevention Act, and the Administrative Procedures Act.” EPIC also asserts that the program violates the Fourth Amendment, “as the body scanners are highly invasive and are applied to all air travelers without any particular suspicion.” DHS has filed a motion to exclude Al-Khalili from the lawsuit. EPIC also filed a Freedom of Information Act lawsuit against DHS, seeking records concerning radiation emissions and exposure associated with airport full body scanners.

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

### 1. **American Seeks to Part Ways With Orbitz.**

As it moves to limit access to fares and fees through its Direct Connect technology, American Airlines said it would cease providing Orbitz with content on December 1. Travelport, which owns a 48% stake in Orbitz and the Galileo and Worldspan reservation systems, won a temporary restraining order and a court hearing is scheduled for early December. In related news, US Airways said it plans to broaden distribution of ancillary services next year, through use of global distribution systems and direct connections with corporate travel agencies and online agencies.

### 2. **Google Offers Free Inflight Wi-Fi.**

Google is offering free Gogo inflight Wi-Fi via its Chrome browser during the 2010 holiday period to passengers on domestic flights operated by Delta, AirTran and Virgin America.

### 3. **Leisure Travelers Return to Brick-and-Mortar Agents.**

Frustration with Web sites that fail to simplify an increasingly complicated travel process or meet specific needs is leading leisure travelers to turn to traditional travel agents for their vacation needs, reports *USA Today*. A Forrester Research study found that in the first three months of this year, 28% of leisure travelers in the U.S. who booked trips online would be interested in using a traditional travel agent, compared to 23% in 2008, and the number of leisure travelers who used the Web to plan and book vacations dropped to 46% last year, down from 53% in 2007. Nevertheless, online booking of leisure travel in the U.S. is projected to rise from \$80 billion this year to \$86.6 billion in 2011 and to \$110.7 billion by 2014.

### 4. **Site Helps Passengers File Transparent Claims.**

A complaint resolution Internet site, [www.PeopleClaim.com](http://www.PeopleClaim.com), warned that passengers pulled out of security lines for pat-downs or body scans can lose personal possessions left at the carry-on checkpoint to nimble-fingered thieves. "The choice between naked scanner images and what travelers call groping may be only the beginning of your worries," says CEO Mark Deutch. Theft claims opened on the site provide transparency in tracking progress on complaints to TSA and can be copied to regulators, watchdogs and the media.

## V. **ENERGY AND ENVIRONMENT**

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

The average price of aviation jet fuel, as of November 12, was \$100.2/barrel, up 3.1% on the month and 19.5% year-on-year, reports the International Air Transport Association. Fuel price average year-to-date was \$89.5/barrel.

### 2. **Sea-Tac Receives \$18.3 Million VALE Grant.**

Seattle-Tacoma will receive an \$18.3 million Voluntary Airport Low Emissions FAA grant to fund construction of a project that will allow aircraft to hook up to pre-conditioned air provided at each gate. This allows planes to shut down auxiliary power units, which emit CO<sub>2</sub> gases and use fuel. The air would be piped into aircraft from an airport utility plant. The \$33 million project is expected to reduce emissions by 50,000 metric tons of CO<sub>2</sub>, and save airlines up to five million gallons of fuel and \$10 million in fuel costs per year.

### 3. **Lufthansa to Use Bio-Synthetic Kerosene on Commercial Flights.**

Lufthansa will launch the world's first passenger flight using biofuel in April. An Airbus A321 used on daily Hamburg-Frankfurt flights will be powered with a bio-synthetic kerosene in the six-month test.

### 4. **FedEx Solar-Powered Hub at Cologne Bonn Airport.**

FedEx Express's newly opened Central and Eastern Europe hub at Cologne Bonn Airport is the largest of five FedEx solar power installations worldwide, with an area of 16,000 square meters, producing about 800,000 kilowatt hours per year. Together the solar-powered facilities will reduce annual carbon dioxide emissions by a projected 3,918 metric tons.

### 5. **Tyson Foods Producing Biofuels From Animal Fat.**

Tyson Foods and Syntroleum are producing diesel and jet fuel from chicken fat and food grease. The Louisiana plant has been making jet fuel for the Air Force Research Laboratory.

### 6. **Eco-Tax Spreads in Europe.**

The state of Rhineland-Palatinate, home to Frankfurt-Hahn airport, announced it would legally challenge the federal government's new ecological air travel tax; Ryanair said it will reduce services there beginning next summer because of the tax. A similar tax will be introduced in Austria in March.

## VI. U.S. CONGRESS

### 1. Oberstar Loses Re-Election Bid.

James Oberstar (D-MINN.), a 35-year House of Representatives veteran, lost a re-election bid to former Northwest pilot Chip Cravaack. John Mica (FLA.), Republican leader of the House Transportation and Infrastructure Committee, is expected to replace Oberstar as Chairman. Mica said his primary focus will be improving employment and expanding economic opportunities, speeding up the process by which infrastructure projects are approved, and freeing up infrastructure funding that's been sitting idle. "Among my top legislative priorities," he said, will be passing "a long-overdue Federal Aviation Administration reauthorization."

### 2. Mica Urges Airports to Opt Out of All-TSA Screening.

Amid the uproar over new screening procedures, Congressman Mica wrote to the busiest U.S. airports, urging them to consider exercising their option to convert from TSA screeners to a certified private screening program, as provided in the 2001 law that established the TSA. Since its creation, TSA "has ballooned into a massive, unwieldy bureaucracy of 67,000 employees," he wrote; and it is "inappropriate and inefficient for TSA to serve as the administrator, quality assurance regulator, operator and auditor of its own activities."

### 3. Pistole Testifies Before Senate Committees.

In testimony before the Senate Commerce, Science and Transportation Committee, TSA Administrator John Pistole said intensified passenger screening procedures at airports are necessary to reduce the threat of terror attacks and will not be changed; "the stakes are high, and we must prevail," he said. In a Senate Homeland Security Committee hearing on cargo security, Pistole outlined efforts being made globally to secure cargo planes and said DHS is seeking to obtain air cargo manifests earlier in the shipping process.

### 4. Bill Would Require Screening of All Cargo On All-Cargo Aircraft.

The Air Cargo Security Act was introduced in the House by Edward Markey (D-MA) and in the Senate by Bob Casey (D-PA), following the attempt by terrorists to ship explosives on cargo planes. The legislation would require screening of 100% of cargo carried on all-cargo aircraft and expands Markey's 2007 law, which requires screening of all cargo transported on domestic passenger planes and international passenger planes entering the United States. The new law would direct the Secretary of Homeland Security to: develop a system to screen all cargo transported on all-cargo aircraft within

three years, with half of the cargo screened within 18 months; establish a system for regular inspection of shipping facilities for shipments of air cargo transported on all-cargo planes to ensure that appropriate security controls, systems, and protocols are observed; and enter into arrangements with foreign countries to ensure that inspections are conducted regularly at shipping facilities for cargo transported by air to the United States. All-cargo airline pilots support the bill, while cargo and other businesses are concerned about any slow-down in moving cargo. “It is time for the shipping industry and the business community to accept the reality that more needs to be done to secure cargo planes so that they cannot be turned into delivery systems for bombs targeting our country,” Markey said.

**5. GAO Asked for Assessment of Cargo Security.**

The Government Accountability Office (GAO) was asked to assess the progress and challenges of screening and securing U.S.-bound cargo, by Rep. Bennie G. Thompson (D-MS), Chair of the Committee on Homeland Security, and Rep. Sheila Jackson-Lee (D-TX), Chair of the Committee’s Transportation Security and Infrastructure Protection Subcommittee.

**6. American Traveler Dignity Act Introduced.**

The American Traveler Dignity Act, which would “protect Americans from harm and humiliation when they choose to travel,” was introduced by Rep. Ron Paul (R-TEX.). The bill establishes that airport security screeners are not immune from U.S. laws related to physical contact with another person, making images of another person, or causing physical harm through use of radiation-emitting machinery. “The solution to the need for security at U.S. airports is not a government bureaucracy [but] to allow the private sector, preferably the airlines themselves, to provide for the security of their property,” said Paul.

## VII. BILATERAL AND STATE DEPARTMENT NEWS

### 1. U.S.-Japan Open Skies Agreement Takes Effect.

The U.S.-Japan open skies agreement took effect, ending restrictions on which U.S. and Japanese airlines can service each other's airports, removing restrictions on aircraft size, capacity and pricing, and opening all destinations in both countries for service. The new agreement will improve scheduling, services and prices for passenger and cargo aviation between the United States and Japan, said officials. Japan is the fourth largest international passenger gateway to the United States, and the third largest cargo gateway, while the United States is the largest passenger and cargo gateway to Japan.

### 2. U.S.-Colombia Agree to Open Skies.

The United States and Colombia agreed to liberalize passenger and cargo services for airlines of both countries. In advance of full open skies, to take effect at the end of 2012, significant liberalization will take effect. When terms of the agreement are applied, restrictions on all-cargo flights will be lifted immediately, and carriers can begin to phase in additional passenger flights.

### 3. EC, DOT Publish Joint Report on Transatlantic Alliances.

The European Commission and the U.S. Department of Transportation published a report on the role of alliances in the market for transatlantic air services. The joint research project examines regulatory approaches applied by each agency to address competitive issues.

### 4. UAE-Canada Dispute Heightens.

In retaliation for Canada's denial of additional air access rights for Emirati airlines, United Arab Emirates denied Canada access to a military air base used for its mission in Afghanistan, and reversed its visa waiver rules for Canadians. Air Canada opposes increased flights for Emirates, and said its government's actions "are in the interests of Canadian commerce, Canadian jobs and encouraging growth in the Canadian economy."

## **VIII. EUROPE AND AFRICA**

### **1. EC Fines 11 Cargo Carriers €799 Million.**

The EC fined 11 air cargo carriers more than €799 million for operating a worldwide cartel, which affected cargo services within the European Economic area. The price fixing occurred over a six-year period, from December 1999 to February 2006. The largest fines were received by Air France (€183 million), KLM (€127 million) and British Airways (€104 million). Other airlines cited are Air Canada, Cathay Pacific, Cargolux, Japan Airlines, LAN Chile, Martinair, SAS, Singapore and Qantas. Lufthansa was the first airline to provide information about the cartel and with its Swiss subsidiary received full immunity from fines. The French government said the fines were “totally disproportionate” to losses suffered by freight users.

### **2. EC Updates EU List of Banned Air Carriers.**

In an update to its list of banned air carriers, the EC included all air carriers certified in Afghanistan, because of the country's failure to set up a proper safety regime; Mauritania Airways, due to persisting deficiencies in operations and maintenance; and new carriers certified in Kyrgyzstan and Gabon, due to insufficient ability of authorities to discharge safety oversight responsibilities. Nine Kazakh operators were removed from the list, since they are no longer involved in commercial air transport, and operating restrictions were modified for one Ghanaian operator.

### **3. ELFAA: State Aid Breaches Cannot Be Allowed to Continue.**

In a letter to the EC, the European Low Fares Airline Association (ELFAA) called for “an urgent and full investigation into unfair and illegal state aid infringements in the airline sector.” Citing a recent decision by Spain's Cabinet to authorize the public infrastructures corporation to take a €20 million stake in Spanair, ELFAA chief John Hanlon said, “This continuing use of taxpayers' money to bail out ailing airlines places an unfair burden on competitors and is an irresponsible use of government funds, particularly in these times of fiscal austerity.” ELFAA members include Barcelona-based Vueling, and Blue Air, easyJet, Flybe, Jet2.com, Norwegian, Ryanair, SverigeFlyg, transavia.com, and Wizz Air.

### **4. BA, Iberia Shareholders Back Merger**

Shareholders of both British Airways and Iberia voted in favor of a merger. The companies will become International Consolidated Airlines Group in January, with British Airways CEO Willie Walsh at the helm, and will maintain separate identities.

5. **Delta to Expand Service to Africa.**

Delta will begin flights between Atlanta and Luanda, Angola, via Dakar, Senegal, on January 20; Luanda will become Delta's eighth African destination.

6. **United to Begin Service to Lagos.**

United will begin Boeing 767 service between Washington Dulles and Lagos, Nigeria, via Accra, Ghana, on December 12.

7. **Branson Begins Strategic Review of Virgin Atlantic.**

Virgin Group founder Sir Richard Branson hired Deutsche Bank to examine strategic options for Virgin Atlantic, reported the *Daily Telegraph*. The study will assess how Branson can maximize value from the airline, leading to speculation that he will consider selling his 51% share; Singapore Airlines holds the remaining 49% stake.

8. **SAS Executive Change.**

Scandinavian Airlines said Rickard Gustafson will become SAS Group President and CEO as of February 1, rather than the previously announced March 2011. He is replacing Mats Jansson, who left his position on October 1. Deputy CEO John Dueholm is acting President and CEO.

9. **Alliance News.**

See Section X, item 7.

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

### **1. Asia Pacific Airlines October Traffic Results.**

Airlines based in the Asia Pacific region carried 15.9 million international passengers in October, up 11.8% over same month last year, reports the Association of Asia Pacific Airlines (AAPA), with robust demand for both business and leisure travel, particularly on Asian regional routes. International revenue passenger kilometers grew 8.2%, and 5.4% growth in available seat capacity resulted in load factor of 79.5%. Cargo traffic was up 16.6%; average load factor was 71.1%, based on 14.8% growth in offered freight capacity. “For the first ten months of the year, we have seen 14.2% growth in the number of international passengers carried by Asian airlines, whilst the sharp rebound in global trade led to a 28.5% jump in our international air cargo traffic,” said Andrew Herdman, AAPA Director General.

### **2. Boeing: China’s Passenger Numbers to Triple by 2020.**

Chinese airlines are expected to add 4,330 aircraft worth \$480 billion by 2029, said Boeing, up from a forecast last year of 3,770 planes worth \$400 billion; passenger numbers should more than triple and airline fleets will double by 2020. Asian air cargo market growth will continue to lead all global traffic routes, as domestic Chinese and intra-Asian markets grow 9.2% and 7.9% per year, respectively.

### **3. China Southern Becomes Full Member of SkyTeam Cargo Alliance.**

China Southern became a full member of the eight-member SkyTeam Cargo Alliance. The first Chinese carrier to join a global air cargo alliance, China Southern will adopt SkyTeam Cargo unified service standards, such as simplified handling procedures and enhanced ground service.

### **4. JAL Restructuring Plan Approved.**

Japan Airlines won approval for a restructuring plan under which debts of more than \$6.3 billion dollars would be waived. JAL went bankrupt in January and state-backed Enterprise Turnaround Initiative Corp. (ETIC) led the restructuring. . . . British Airways CEO Willie Walsh invited JAL to move its Heathrow operations to Terminal 5 and said he’d like to form a venture with JAL. . . . And JAL expanded its code share partnership with Qantas unit Jetstar to include Jetstar-operated flights linking Tokyo Narita and Osaka Kansai with Queensland Australia.

5. **JetBlue Partners With Emirates.**

JetBlue and Emirates announced an interline agreement via New York Kennedy, where Emirates offers two daily nonstops to its Dubai hub.

6. **Turkish Adds U.S. Destinations.**

Turkish Airlines launched four-times-weekly Istanbul-Washington Dulles service, which will increase to daily next summer, and announced plans for future additional U.S. destinations. The carrier has created a Comfort Class, which “combines the affordability of economy class and the comfort of business class,” to be available on flights to Los Angeles in first half 2011 and New York in the second half.

7. **American, Kingfisher to Code Share.**

American Airlines and India's Kingfisher Airlines will enter into a code share and frequent flyer relationship in 2011, subject to regulatory approvals. The initial phase will allow American to place its code on Kingfisher's domestic network beyond Delhi, and on Kingfisher flights from London Heathrow to both Delhi and Mumbai. Kingfisher will place its code on American-operated daily Delhi-Chicago nonstops and selected U.S.-Heathrow flights. Kingfisher is a member-elect of oneworld.

8. **Indonesia Volcano Causes Flight Cancellations.**

Air Force One carrying U.S. President Barack Obama was among flights affected by a volcano in central Java, in which hundreds were killed or are still missing. Dozens of Jakarta flights were delayed or canceled, due to ash clouds spewing from Mount Merapi.

9. **EC Fines 11 Cargo Carriers €799 Million.**

See Section VIII, item 1.

10. **EC Updates EU List of Banned Air Carriers.**

See Section VIII, item 2.

11. **Alliance News.**

See Section X, item 7.

12. **Emirates SkyCargo Launches Service to Brazil.**

See Section X, item 11.

## X. AMERICAS

### 1. Tilton Sums Up State of U.S. Industry.

U.S. airline profits should reach \$4 billion this year, said Glenn Tilton, Chairman of United Continental Holdings, in remarks to the Aero Club of Washington, but “only time and the sum of our efforts will determine whether profitability can be sustained.” Tilton said airlines must clean up their balance sheets and called for increased cross-border investment and unfettered access to global markets. Tilton is Chairman of the Air Transport Association.

### 2. Delta Workers Reject Union Representation.

Employees voting in representation elections as a result of Delta's merger with Northwest have rejected representation. These include flight attendants, baggage handlers, airport customer service and cargo warehouse workers. The Association of Flight Attendants said it would submit interference charges against Delta management for “illegal and unfair methods to sway the vote.” The International Association of Machinists is investigating “allegations of widespread illegal election interference” by Delta. Reservation and gate agents are voting in an election ending December 7. Delta’s pilots are unionized. Nonunionized Delta and unionized Northwest workers have been working under separate contracts until the representation issue is resolved. Delta said Northwest workers will be fully integrated “as soon as we are able to align pay, benefits, work rules and produce a single seniority list.”

### 3. American, JetBlue Expand Relationship.

American and JetBlue launched a reciprocal frequent flyer agreement in select markets, and also expanded an earlier announced pact to facilitate connecting flight between the two carriers to include 15 of American's international destinations departing New York Kennedy and Boston Logan, and 26 JetBlue domestic markets.

### 4. US Airways to Add 500 Crew Members.

US Airways will hire 420 flight attendants and 80 pilots next year, in anticipation of planned retirements and attrition. The positions will be offered first to employees on furlough and then through new hiring. The carrier plans to keep domestic capacity flat in 2011, while international capacity will increase by 8%.

### 5. Virgin America Reports First Net Profit.

San Francisco-based Virgin America announced new service to Dallas, Los Cabos and Cancun. The three-year-old, low-cost carrier earned its first

quarterly net profit, \$7.5 million in the July-through-September period, compared with a loss of \$5.9 million a year ago. CEO David Cush said the company will increase its fleet of 28 Airbus A320s to 47 next year, and hopes to add service to Chicago and Newark.

**6. Gulfstream International Files for Bankruptcy Protection.**

Gulfstream International Group filed for voluntary financial restructuring under Chapter 11 of the U.S. Bankruptcy Code in order to restructure its debt and secure long-term financing, and said “flights and passengers are unaffected.” The company operates more than 150 daily flights to 18 destinations in Florida and the Bahamas and six destinations from Cleveland under the Essential Air Service Program.

**7. Alliance News.**

Star Alliance accepted Avianca-TACA and Copa as future members, with integration expected by mid-2012; Avianca will end its code share agreement with Delta. Copa has hubs in Panama City and Bogota; Avianca-TACA hubs are in Bogota, San Salvador, Lima and San Jose. Brazil’s TAM became a Star member in May. . . . Shanghai Airlines withdrew from Star, as it plans to join SkyTeam by 2012 with parent China Eastern, as will China Airlines and Garuda Indonesia; China Southern and Vietnam Airlines are also SkyTeam members. And Aerolineas Argentinas will become SkyTeam's first South American member in 2012. . . . Russian domestic carrier S7 became part of oneworld; its subsidiary Globus became a oneworld affiliate.

**8. Mexicana Expected to Resume Flights.**

Mexicana is expected to resume operations, without domestic carriers Click and Link. A restructuring plan brought by private equity firm PC Capital is underway. The 89-year-old filed for bankruptcy protection and ceased flight operations in August.

**9. TAM, US Airways Begin Code Share Flights.**

Star partners US Airways and TAM signed a code share agreement covering certain domestic flights in the United States departing from Miami, New York and Orlando; and in Brazil from Rio de Janeiro.

**10. Brazil Cracks Down on Delays, Cancellations.**

Brazil’s civil aviation agency, ANAC, conducted an internal audit of TAM to determine why delays and cancellations exceed the industry average, and temporarily halted sales of domestic tickets. TAM said it “has been hiring people on a constant basis [and its] priority is to operate in full safety and observe the Air Worker Protection Law, with its working hour limits, monthly hours and time off.”

11. **LAN Acquires AIRES.**

LAN acquired Colombian airline AIRES for \$12 million in cash, and assumed net liabilities of \$100 million. LAN CEO Ignacio Cueto said AIRES will satisfy foreign ownership and control requirements of each country where it operates and replicate LAN's low cost model operating in domestic markets of Argentina, Chile, Ecuador and Peru.

12. **Emirates SkyCargo Launches Service to Brazil.**

Emirates SkyCargo launched weekly Boeing 747-400F services between Dubai and Sao Paulo. Emirates has been operating passenger/cargo service to São Paulo since 2007; exports from the UAE to Brazil have increased by 79% in the last two years.

13. **EC Fines 11 Cargo Carriers €799 Million.**

See Section VIII, item 1.

14. **EC Updates EU List of Banned Air Carriers.**

See Section VIII, item 2.

15. **JetBlue Partners With Emirates.**

See Section IX, item 5.

16. **Turkish Adds U.S. Destinations.**

See Section IX, item 6.

17. **American, Kingfisher to Code Share.**

See Section IX, item 7.