



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. White House Reviews Security Procedures After Failed Terror Attempt.

Following a failed explosion onboard Northwest Flight 253, en route from Amsterdam to Detroit on Christmas Day, the White House ordered immediate reviews of the U.S. watch list system and all screening policies, technologies and procedures related to air travel. The father of the alleged terrorist earlier had warned U.S. officials in Africa about his son's extremist views, confirmed President Obama. "A systemic failure has occurred," he said. "This information was passed to a component of our intelligence community, but was not effectively distributed so as to get the suspect's name on a no-fly list." The suspect, a Nigerian national, was said to be trained and supplied by an al-Qaeda group in Yemen. The group claimed responsibility for the attempted attack, saying it was in retaliation for U.S. air strikes against them.

The U.S. Department of Justice said FBI analysis found that the substance carried in a device hidden in the suspect's undergarments was PETN, or pentaerythritol. Attorney General Eric Holder said. "We will continue to investigate this matter vigorously, and we will use all measures available to our government to ensure that anyone responsible for this attempted attack is brought to justice." Prosecutions are being handled by the U.S. Attorney's Office for the Eastern District of Michigan, with assistance from the Counterterrorism Section of the Justice Department's National Security Division. The investigation is being conducted by the FBI, U.S. Customs and Border Protection, and the Joint Terrorism Task Force.

Secretary of Homeland Security Janet Napolitano provided updates to Transportation Security Administration (TSA) measures after the incident, which included additional passenger screening and a heavier security presence at airports. Airlines received numerous precautionary measures, to be followed with discretion. Transport Canada put in place enhanced security measures for U.S.-bound passengers, prohibiting most carry-on bags.

2. IATA Predicts \$5.6 Billion Loss in 2010.

A \$5.6 billion net loss is expected for the global airline industry in 2010, said the International Air Transport Association (IATA), compared to an \$11 billion loss in 2009. IATA previously forecast a loss of \$3.8 billion in 2010. Also forecast for 2010: revenues to rise 4.9% to \$478 billion; passenger traffic to grow by 4.5%; cargo demand to grow by 7% to 37.7 million tons; average oil price of \$75 per barrel (Brent), with fuel at 26% of operating costs. Regional predictions for 2010: North American carriers losses at \$2 billion; European

losses at \$2.5 billion; Asia-Pacific losses at \$700 million. Latin American carriers to post a \$100 million profit; Middle East carriers losses at \$300 million; African carriers losses at \$100 million. Between 2000 and 2009, airlines lost \$49.1 billion. "The round of consolidation experienced since this horrible decade began is a step in the right direction," said Giovanni Bisignani, IATA Director General. "But it has been confined within political borders as a result of ownership restrictions in the archaic bilateral system. The industry cannot afford the mounting losses of the status quo. The next decade must facilitate consolidation."

3. United, ANA, Continental Apply for ATI Approval.

United, All Nippon Airways (ANA) and Continental filed an application with the U.S. Department of Transportation (DOT) for antitrust immunity for a trans-Pacific joint venture, following a U.S.-Japan open skies agreement, which is subject to ratification. The Star Alliance members said the plan would include scheduling, pricing and sales. In related news, Delta and American each has tried to secure a partnership with oneworld member Japan Airlines (JAL). American, with other oneworld members and private equity fund TPG, has offered to invest at least \$1.1 billion in the teetering Japanese carrier. Delta and other SkyTeam members are offering at least \$1 billion for JAL.

4. Justice Suggests Restrictions on oneworld Immunity.

The U.S. Department of Justice said an immunized partnership between American Airlines and British Airways would result in competitive harm on some transatlantic routes, and recommended slot divestitures or carving out certain markets from immunity approval. Routes in question include London to Boston, Chicago, Dallas, Miami and New York, and Miami-Madrid. The carriers disagreed with the recommendation and plan to respond to the findings. DOT extended to January 11 the public comment period on the joint venture application, which would cover oneworld partners, including Iberia, Finnair and Royal Jordanian. The European Commission (EC) in October said the proposed agreement may counteract European Union (EU) rules on restrictive business practices.

5. DOT Issues Tarmac Delay Rule.

U.S. airlines that permit an aircraft to remain on the tarmac for more than three hours without deplaning passengers will be subject to a maximum fine of \$27,500 per passenger, according to new DOT rules. Exceptions will be made for safety or security or if air traffic control advises that returning to the terminal would disrupt airport operations. Carriers are required to provide adequate food and drinking water within two hours of the tarmac delay, maintain operable lavatories and provide medical attention as needed. The rules prohibit airlines from scheduling chronically delayed flights and require that a

designated airline employee monitor effects of delays and cancellations and respond to consumer complaints. The Air Transport Association of America (ATA) said airlines will comply, even though the rules will lead to more cancelled flights and greater passenger inconvenience.

6. Delta, Northwest Receive Single Operating Certificate.

Delta and Northwest received Federal Aviation Administration (FAA) authorization to operate as a single carrier, the final step in the merger process that began in 2008. Delta plans to operate Northwest-coded flights until the two reservations systems are consolidated, expected to be completed in first quarter 2010.

7. FAA Holds Expert Review of November FTI Outage.

FAA assembled an independent panel to examine the November 19 outage of the FAA Telecommunications Infrastructure (FTI), which resulted in hundreds of flight delays. The group will survey FTI architecture and recommend immediate or future changes to improve reliability. System management will be reviewed to ensure stringent protocols and safeguards are in place.

8. NTSB Northwest Flight 188 Overflight.

The National Transportation Safety Board (NTSB) released documents from the investigation of Northwest Flight 188, which flew beyond its destination airport by more than 100 miles on October 23. Findings correspond to early statements by the pilots that they were engrossed in their laptops and discussing scheduling. Numerous communication and technology problems contributed to the 77-minute radio silence, which ended when a flight attendant contacted the cockpit. There were no injuries to the 144 passengers and crew. NTSB said a determination of probable cause will be released later. The pilots were suspended by Northwest parent Delta and their licenses were revoked by FAA.

9. Third Quarter Ancillary Fees Reach \$2 Billion.

At least \$2 billion in ancillary fees were collected by 26 carriers in third quarter 2009, up 36.4% from Q3 2008, said DOT. Ancillary fees constituted 6.9% of total revenue and included \$740 million in baggage fees, \$614 million from reservation change fees, and \$601 million from other fees such as pet transportation and frequent flyer award program mileage sales. Revenue from seating assignments and on-board sales of food, drink, pillows, blankets, entertainment, or any other ancillary items are reported in a different category with other items. Delta collected \$447.5 million, or \$24 per passenger in third quarter ancillary fees, the most of any carrier. Network carriers as a group posted their first operating profit margin since September 2007, while the low-

cost and regional groups continued to report profits. The regional carrier's profit margin of 8.3% was its largest since Q4 2006.

10. October Passenger Airline Employment Down 3.7%.

U.S. scheduled passenger airlines employed 379,800 workers in October 2009, 3.7% fewer than in October 2008. This was the 16th consecutive decrease for the same month of the previous year, reported DOT, and the lowest total for any month since 1993. The seven network airlines employed 259,000 in October, 68.2% of the passenger airline total, while low-cost carriers employed 16.4% and regional carriers employed 13.7%.

11. DOT Air Travel Consumer Report for October.

Based on data filed by 19 of the largest U.S. airlines.

	Oct. '09 / '08	Sept. '09	Full Year					
			2008	2007	2006	2005	2004	2003
On-time arrivals %	77.3 / 86	86.2	76	73.4	75.4	77.4	78.1	82
Mishandled baggage*	3.48/3.55	3.01	5.26	7.05	6.73	6.64	4.91	4.19
<i>Consumer complaints:</i>								
Airline service	896 / 629	604	10,643	13,180	8,325	8,741	7,452	5,983
Disability-related	52 / 41	28	474	488	430	511	521	375
Discrimination**	10 / 10	11	115	99	114	129	118	85

Notes: There were no tarmac delays of four hours or more in October, but tarmac delays of three hours increased slightly over September. The elevated number of service complaints is attributed primarily to an erroneous offer by British Airways of \$40 U.S.-India fares; the carrier agreed to compensate consumers for expenses incurred due to the mistake.

* Reports per 1,000 passengers.

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

II. AIRPORTS

1. Delta Signs Seven-Year Lease Extension at Atlanta.

Delta signed a seven-year lease extension at its primary hub, Hartsfield-Jackson Atlanta International Airport. The agreement calls for Delta to back bonds needed to complete the \$1.3 billion international terminal. The current 30-year lease ends in September.

2. Court Ruling Denies Church Challenge to O'Hare Construction.

An Illinois court denied a challenge to Chicago's acquisition of a church cemetery, which is blocking construction of a runway. The Chicago Department of Aviation said it has developed a cemetery relocation plan and family assistance program in consideration for the deceased and their relatives and will pay necessary and reasonable costs associated with the process.

3. New Orleans Begins \$755 Million Airport Renovation.

The \$755 million modernization plan for Louis Armstrong International, halted in the aftermath of Hurricane Katrina, is underway, reports the *Times-Picayune*. Of 16 planned projects, the airport has begun design or construction on 10 and is set to begin others, including a \$40 million concourse expansion. After a 40% drop in passenger traffic after Katrina, the airport now offers 123 daily nonstops and projects a return to the pre-storm level of 9.7 million passengers by 2016.

4. DFW to Receive \$2.3 Million Grant.

Dallas-Fort Worth International (DFW) will receive a \$2.3 million grant from American Recovery and Reinvestment Act (ARRA) funds to rehabilitate a 13,400 foot runway. Under ARRA, \$1.1 billion has been made available to U.S. airports, said DOT.

5. California Airports Council Formed.

California's 30 commercial airports have formed the California Airports Council (CAC) to lobby federal, state and local policymakers on such issues as moving an increase to the Passenger Facility Charge (PFC) through Congress and passage of the FAA reauthorization bill. Ensuring that California's airports are ready to meet the growing demand for trade and tourism is a critical goal. "With a single daily international flight to California from Asia, the state can expect to realize an additional \$5 million to \$7 million in state and local tax revenues and the creation of more than 1,000 new jobs," says CAC. John Martin, Executive Director of San Francisco International Airport, was named CAC President.

6. Gatwick Acquired by GIP for £1.51 Billion.

Gatwick Airport was sold by BAA Airports Ltd. to Global Infrastructure Partners (GIP) for £1.51 billion. Private equity fund GIP is jointly controlled by General Electric and Credit Suisse, which owns a 75% stake in London City Airport, but the EC cleared the transaction, finding it raised no competition concerns since London City is mainly a niche airport focusing on short-haul flights for business passengers, while Gatwick is a large airport serving predominantly leisure passengers. The UK Competition Commission in March 2009 ordered BAA, which controls several UK airports, to sell Gatwick, Stansted and either Glasgow or Edinburgh airports. Now the UK Competition Appeal Tribunal, "with the greatest reluctance," has upheld a BAA claim that a member of the panel that recommended BAA sell the airports should have recused himself because of a conflict of interest. The court ordered further hearings to review the issue. BAA is a unit of Spain's Grupo Ferrovial.

7. Fraport to Stagger Frankfurt Fee Increases.

Fraport agreed to stagger a 12.5% rise in fees at Frankfurt over the next two years. The fee series will only become effective if aviation partners reach consensus by February 19, 2010, on development of airport charges between 2012 and 2015, based on different traffic scenarios. If no consensus is reached, the partners may cancel the agreement, resulting in a one-time rise in airport charges of 8.4%, effective April 1, 2010. Fraport is investing about €1 billion annually in modernization and expansion of airside facilities.

III. **SECURITY AND DATA PRIVACY**

1. **Whole Body Imaging Revisited.**

The failed Christmas Day attack on Flight 253 (See Section I, item 1) brought new attention to Whole Body Imaging (WBI), machines that can reveal weapons or explosives hidden under clothing. Deployment has been stalled in the United States and other countries by privacy advocates. Former Homeland Security Secretary Michael Chertoff called for rapid installation of WBI, saying in a *New York Times* interview that terrorists appear to have exploited the natural inhibition of screeners to conduct overly intrusive searches. “This plot is an example of something we've known could exist in theory, and in order to be able to detect it, you've got to find some way of detecting things in parts of the body that aren't easy to get at,” he said. “It's either pat-downs or imaging, or otherwise hoping that bad guys haven't figured it out, and I guess bad guys have figured it out.” Backers of WBI contend the operation of the machines adequately protect privacy. New software projects a stylized image rather than a picture on a computer screen. 40 WBI machines are currently being tested by TSA at 19 U.S. airports. In related news, the Netherlands announced that it will use WBI for all flights to the U.S.

2. **TSA Inadvertently Posts Operations Document on Internet.**

An airport screening procedures manual was posted on a government procurement Web site by a contract employee of the Transportation Security Administration (TSA). TSA supervisors were also involved. TSA removed the “outdated, unclassified” material from the Web site, initiated a full review, determined that systems were secure and screening protocols were not compromised, and placed involved individuals on administrative leave.

3. **DHS IG Audits Air Cargo Security in Ground Transportation.**

According to the Department of Homeland Security (DHS) Inspector General, 30% of 6,767 cargo inspections revealed violations during the nine-month period ending June 2008. Auditors found that 23% of drivers transporting air cargo did not satisfy required training and testing requirements. TSA estimates that 12 million pounds of cargo is loaded onto passenger aircraft every day. To strengthen air cargo security, TSA recently introduced the voluntary Certified Cargo Screening Program, which relies on vetted, validated and certified cargo screening facilities to screen cargo prior to tendering it for transport on passenger aircraft. DHS is mandated to establish a system to screen all cargo transported on passenger aircraft by August 2010.

4. **TSA Trains VIPR Teams at Denver.**

TSA completed a three-day exercise at Denver International to train special teams in the use of nuclear and radiological detection equipment, reports the *Denver Post*. The Visible Intermodal Prevention and Response (VIPR) teams include air marshals, TSA inspectors, explosives-detection canine teams, bomb appraisal officers, explosive security specialists and behavior detection officers. The equipment used included a mini device that can be worn on a belt, a hand-held radioactive isotope identification device that can be directed by an agent at a potential radiological source, and a radiation detection backpack. The team used the equipment openly at stationary positions to screen passengers at one terminal entrance. TSA has used VIPR teams since 2005 “to protect surface transportation, provide deterrent and detection capabilities, and introduce an element of unpredictability to disrupt potential terrorist planning activities.”

5. **Registered Traveler to Restart in January.**

FLO Corporation intends to restart Registered Traveler (RT) operations in January, reports *USA Today*, and has signed an agreement with biometric firm Cogent Systems to attract customers at Cogent's U.S. network of over 1,000 enrollment locations. TSA concluded a two-year RT pilot at 19 airports in 2008, and the program became a market-driven venture offered by the private sector in partnership with airports and airlines. Verified Identity Pass (VIP), dominant operator of the RT program, ceased operations this summer and filed for Chapter 11 bankruptcy protection in December.

6. **REAL ID Deadline Delayed to May.**

The deadline for states to implement REAL ID was extended to May 10, 2011. DHS Secretary Janet Napolitano said 46 of 56 states and territories failed to meet the December 31, 2009 “material compliance” deadline for the secure drivers' licenses, which would be the only licenses accepted as identification for boarding commercial aircraft. DHS announced the availability of \$48 million to states for the Drivers License Security Grant Program, “to help prevent terrorism, reduce fraud, and improve the reliability and accuracy of personal identification documents.” Use of biometric driver's licenses was a 9/11 Commission recommendation.

IV. E-COMMERCE AND TECHNOLOGY

1. oneworld Enlists DocuSign for Electronic Contracts.

The oneworld alliance reached an agreement with electronic signature company DocuSign that enables corporate customers to complete contracts electronically. Traditional sales agreements are drawn up on paper, signed by customer agents and sent to each participating alliance member airline for signatures, with postal costs reaching up to \$1,000. DocuSign was already being used by oneworld member American Airlines for sales contracts.

2. Farelogix Testing Distribution Tool.

Farelogix is releasing a new agency booking platform that displays customized à la carte fees based on the customer's profile and travel history, via a direct connection to reservations systems of participating airlines. Farelogix says the SPRK platform offers full support for flight merchandising, optional services, inclusive of shopping, document (EMD) issuance, and an extended profile management system.

3. Group Advocates Inflight Cell Phone Use.

The Inflight Passenger Communications Coalition has been formed to end the federal ban on passengers' inflight use of cell phones. The coalition of electronics manufacturers, phone service providers and consumer groups says airline passengers in 72 other countries have that right. The House bill to reauthorize FAA contains a provision that would prohibit such usage, with sponsors saying passengers should be protected from others' noisy conversations; a survey of 3,000 frequent fliers found that 88% said the calls would be "a source of great irritation," reports *USA Today*.

4. Kayak Upgrades iPhone Application.

Kayak has added the ability to search for first and business class fares on the iPhone. Existing search capability for flights, hotel rooms and cars is still free; Kayak First Class costs \$4. The new application also includes a trip management tool, an upgraded user interface and improved search.

V. ENERGY AND ENVIRONMENT

1. Fuel Bill for Global Airline Industry.

The price of aviation jet fuel, as of December 18, was \$82.6/barrel, down 5.2% for the month and up 38.3% year-on-year, reports the International Air Transport Association. Fuel price average year-to-date was \$70.6/barrel.

2. Aviation Emissions Absent in Copenhagen Accord.

Aviation emissions were not addressed specifically in the Copenhagen Accord reached at the UN Climate Change Conference, a reflection, said IATA, “of the proactive measures the industry has taken to set challenging targets for itself, together with an aggressive strategy to achieve them.” The industry has pledged to improve fuel efficiency on average by 1.5% a year to 2020, to stabilize carbon emissions from 2020 with carbon-neutral growth, and to a net reduction in carbon emissions of 50% by 2050 compared to 2005. IATA urged governments to avoid creating a patchwork of national and regional solutions and to ensure aviation’s emissions are dealt with through a global sectoral approach. The International Civil Aviation Organization (ICAO), a UN body, said “total CO2 emissions from the aviation sector account for approximately 2% of global emissions from human activity, about 60% of which is related to international air travel. The projected growth in public demand for air transport could exceed our capability to limit the impact of air travel on climate change unless we continue our progressive course of action in developing and implementing bold and effective solutions.”

3. EPA Finding Omits Aviation.

The U.S. Environmental Protection Agency (EPA) declared that greenhouse gases (GHGs) threaten public health and GHG emissions from on-road vehicles contribute to that threat. There was no mention of aviation emissions in EPA’s final findings, which respond to a 2007 U.S. Supreme Court decision that GHGs fit within the Clean Air Act definition of air pollutants. The EPA findings do not impose any emission reduction requirements; comprehensive climate legislation is pending in Congress.

4. U.S. Airlines Challenge EU Emissions Trading Scheme.

The Air Transport Association, along with American, United and Continental, mounted a legal challenge, in a London court, to EU climate change regulations. The EU scheme, which goes into effect in 2012, will require carriers that exceed specified caps on carbon emissions to purchase credits. ATA said the lawsuit preserves the rights of member airlines to challenge implementation of the EU emissions limits.

5. Airlines Sign on for Alternative Fuel Deployment.

Airlines have signed memoranda of understanding (MOUs) with AltAir Fuels and Rentech for a future supply of environmentally friendly aviation fuel. The AltAir project would produce about 75 million gallons per year of jet fuel and diesel fuel derived from camelina oils or comparable feedstock, refined at a new plant to be located at the Tesoro refinery in Anacortes, Wash. The Rentech project in Adams County, Miss., would produce about 250 million gallons per year of synthetic jet fuel derived principally from coal or petroleum coke, with resultant carbon dioxide sequestered and the carbon footprint potentially further reduced by integrating biomass as a feedstock. Discussions with additional alternative-fuel producers and the U.S. military about other projects are underway, said the Air Transport Association, when making the announcement. Airlines involved in both MOUs are Air Canada, American, Atlas Air, Delta, FedEx, JetBlue, Lufthansa, Mexicana, Polar Air Cargo, United, UPS and US Airways. Alaska and Hawaiian signed the MOU with AltAir, and AirTran signed the MOU with Rentech.

6. A Schmaltzy Idea.

With a \$2.5 million grant from the U.S. Department of Energy, Elevance Renewable Sciences will design a biorefinery to develop use of renewable plant and animal oils, such as poultry fat, as a means to replace petroleum-based chemicals used in products such as jet fuel. Bolingbrook, Ill.-based Elevance uses a Nobel Prize winning technology called olefin metathesis to create waxes, functional oils, anti-microbials, lubricants, additives and other chemicals.

7. UK Aviation Growth Limits Recommended.

A UK Committee on Climate Change report calls for aviation policy to be based on the assumption that demand growth between now and 2050 cannot exceed 60%, if the UK is to meet its target that aviation emissions in 2050 must not exceed 2005 levels. Fuel efficiency and operational improvements could result in a 30% reduction in carbon emissions per seat kilometer and sustainable biofuels could account for 10% of aviation fuel use in 2050. But, on a “business as usual” path, demand would grow over 200% by 2050. Options for reducing demand could include a higher carbon price, capacity constraints, high-speed rail and video-conferencing.

VI. U.S. CONGRESS

1. FAA Funding Extended Through March.

Congress approved a bill that extends funding for FAA through March. H.R. 4217 provides \$2 billion in contract authority for the Airport Improvement Program (AIP); authorizes appropriations for FAA operations, facilities and equipment, and research, engineering, and development programs; and extends aviation excise taxes needed to support the Airport and Airway Trust Fund, which expired December 31, 2009.

2. Committee Pushes FAA to Address Pilot Fatigue.

After learning that new FAA rules on pilot fatigue will be delayed beyond the January 1 promised date, ranking members of the Senate Commerce Committee wrote to Administrator Randy Babbitt that the issue must be addressed. “Current FAA guidelines on flight time and duty limitations were set back in the 1940s,” said the letter. “We expect the FAA to consider this issue a priority and to keep on a timeline that will update the regulations without more delay.” Babbitt said FAA is reviewing recommendations for a science-based approach to fatigue management. “This is an extremely sensitive and complex area and, given the short time frame the [aviation rulemaking committee] was given, consensus was not reached on all of the issues . . . There is some more analysis that is underway and I am committed to getting this done right—and we will get it done . . . we will continue to push to get our proposed rule on the street as soon as possible.”

3. Airline Workers Call for Bankruptcy Reform.

A House Judiciary panel heard testimony from airline workers regarding U.S. bankruptcy laws that enable airlines to dismantle labor agreements, leaving employees with reduced pay and benefits and new work rules. “Companies should no longer be able to use the bankruptcy code to eliminate decades of collective bargaining gains when there is no justifiable reason other than corporate greed,” said the International Association of Machinists and Aerospace Workers (IAM). “Recent court rulings should be overturned to allow airline workers the right to engage in self help if the bankruptcy court terminates their collective bargaining agreement.” Also testifying was Captain Sulley Sullenberger, the US Airways pilot who successfully landed an airliner in the Hudson River. His pay was cut 40% after US Airways bankruptcy proceedings in 2002 and 2004. Commercial pilots' salaries have fallen to the levels of the late 1980s and early 1990s, he said, and working conditions in the industry challenge even the most seasoned pilot.

4. **TWU Campaigns Against Offshore Maintenance.**

In its campaign to urge Congress to prohibit airlines from using offshore maintenance stations, the Transport Workers Union (TWU) presented bogus boarding passes to members of Congress as they departed Washington for the holidays. The passes asked: Where was the aircraft you're flying today last overhauled? Was it repaired by licensed aircraft mechanics? Did FAA inspectors oversee the repair work? Did Federal inspectors have adequate access to the maintenance facility? What was the level of security in the maintenance facility? Did the workers in those maintenance facilities pass drug tests, pass background checks and were they capable of reading the instructions and maintenance reports in English? The Senate FAA reauthorization bill would require foreign repair stations to be FAA-certified and their workers to comply with requirements mandated at U.S. facilities.

5. **Senator Proposes Clear Airfares Act.**

Sen. Robert Menendez (D-NJ) introduced legislation that would require airlines or third-party Web sites to clearly and conspicuously disclose any fees, charges or surcharges, including holiday fees, that consumers can clearly view before having to input their name and credit card information. This would include disclosure of possible fees that would be applied after the ticket is purchased. Consumers currently must click to peripheral Web pages and wade through often confusing text to understand whether or not their airfare includes surcharges and what taxes and fees may have been added, he said. The Clear Airfares Act updates earlier airfare transparency legislation.

VII. BILATERAL AND STATE DEPARTMENT NEWS

1. U.S.-Japan Open Skies Agreement.

The United States and Japan reached agreement on the text of an open skies agreement, after decades of negotiations including five rounds since May 2009. The agreement, reached in Washington, allows U.S. and Japanese carriers to select routes and destinations for passenger and cargo services without limits on frequencies, removes restrictions on capacity and pricing, and provides unlimited opportunities for cooperative marketing arrangements, including code sharing. The agreement also provides opportunities for growth of U.S. carrier operations at Tokyo Narita and ensures fair competition regarding new opportunities at Tokyo Haneda. The pact propelled U.S. and Japanese airlines to begin forging alliances.

2. Iceland, Norway Added to EU-U.S. Pact.

The EU moved to allow Iceland and Norway to join the existing EU-U.S. agreement. The EU and Canada signed an agreement that allows EU airlines to operate direct flights to Canada from anywhere in Europe; removes all restrictions on routes, prices and weekly frequencies; and sets the stage for airline investment from both sides. The EU also signed agreements with countries of the West African Economic and Monetary Union, which include Burkina Faso, Guinea-Bissau, Ivory Coast, Mali, Niger, Senegal and Togo, providing legal certainty to bilateral air services between member states of both the EU and the African organization.

3. U.S.-India Aviation Partnership Summit.

In remarks at the U.S.-India Aviation Partnership Summit, U.S. Deputy Secretary of Commerce Dennis Hightower noted that India's civil aviation and civil aviation infrastructure procurements are expected to average \$6 billion to \$7 billion in 2010 and airlines in India plan to add more than 300 aircraft, roughly valued at \$35 billion. India's Civil Aviation Secretary Madhavan Nambiar said the sector has the potential to absorb up to \$120 billion of investment by 2020, including infrastructure, air traffic control, general aviation, aerospace and maintenance, repair and overhaul.

VIII. EUROPE AND AFRICA

1. New EC Transport Chief Named.

Estonian Siim Kallas will be named EC Transport Vice President, following January European Parliament hearings. Kallas currently is EC Vice President of Administration, Audit and Anti-fraud. He participated in the restoration of Estonian statehood and served as Estonia's Prime Minister, Minister of Finance, Minister of Foreign Affairs and President of the Central Bank. Joaquín Almunia was named Competition Vice President and José Manuel Barroso will continue as EC President. Terms run until October 31, 2014.

2. Harrison to Leave easyJet.

Andy Harrison has resigned as CEO of easyJet, effective June 30, 2010. Michael Rake was named Group Chairman, effective January 1, 2010. Interim Chairman David Michels, who recently replaced Colin Chandler, will resume the role of Senior Independent Director. Harrison was known to clash with easyJet founder Stelios Haji-Ioannou.

3. US Airways to Offer Charlotte-Rome Nonstops.

US Airways begins daily, year-round Airbus A330-300 nonstops to Rome from Charlotte, North Carolina, on May 13, 2010.

4. Swiss to Serve San Francisco From June.

Swiss will begin six-times-weekly service between Zurich and San Francisco in June, and will increase frequencies to Delhi, Mumbai, Sao Paulo and Montreal.

5. Delta, Nigerian Eagle Consider Code Sharing.

Delta and Nigerian Eagle signed a memorandum of understanding to explore cooperation between North America and Nigeria, including code sharing on Delta-operated services between Abuja and New York Kennedy via Dakar, Senegal, subject to government approvals, and frequent flyer program reciprocity. Formerly Virgin Nigeria Airways, Nigerian Eagle is a Nigerian-registered carrier, wholly owned by private investors, serving domestic and regional routes, with its base at Lagos Murtala Mohammed Airport.

IX. ASIA/PACIFIC AND MIDDLE EAST

1. AAPA November 2009 Traffic Results.

Members of the Association of Asia Pacific Airlines (AAPA) carried 11.1 million international passengers in November, 4.5% more than in November 2008; revenue passenger kilometers grew 3.5%. With available seat capacity cut by 3.1%, average load factor rose 4.9% to 76.3%. Freight ton kilometers rose 12%, compared to depressed levels of November 2008; load factor rose 8.2% to 71.1%.

2. JAL Plan Includes Bankruptcy Option.

As the Enterprise Turnaround Initiative Corp. of Japan determined whether to support Japan Airlines (JAL) with loans and investment, bankruptcy reportedly was put forth as an option. After the government said it would not guarantee funding to JAL, Development Bank of Japan reportedly agreed to increase the amount of its unsecured loans to the carrier. JAL, with some \$15 billion in debt, hopes to revise its pension system and has received competing investment offers of over \$1 billion each from Delta and American Airlines.

3. ACCC Approves Virgin Blue-Delta Joint Venture.

The Australian Competition and Consumer Commission (ACCC) authorized a Virgin Blue-Delta joint venture, for flights between Australia and the United States. The carriers earlier received U.S. approval for code sharing and, contingent upon receiving U.S. antitrust immunity approval, will implement code sharing on January 18 on Delta-operated flights between Los Angeles and Cincinnati, New York Kennedy, Orlando and Salt Lake City; and on February 15 on Virgin Blue-operated flights between Sydney and Brisbane and Melbourne. Separately, V Australia launched twice-weekly service from Melbourne to Los Angeles

4. Qantas Ownership Caps Relaxed.

The Australian government will retain a 49% restriction on foreign investment in Australia's international airlines, but remove secondary restrictions, only for Qantas, that prevent overseas individuals and foreign airlines from holding more than 25% and 35% ownership. The move will increase Qantas' ability to compete for capital and form strategic partnerships in an increasingly globalized industry, said the government. Plans to build a second major airport for Sydney were dropped, with a new site to be sought.

X. AMERICAS

1. Air Fare Rates Show Modest Q3 Increase.

“Travelers appear to be moving back to the front of the plane,” reports American Express Business Travel Monitor, North America. The release of third quarter data and analysis finds a slight increase in usage of business class tickets for international travel, up 1% from last quarter, to 37%. Average international and domestic airfares paid increased 2% quarter-over-quarter. Q3 year-over-year average international airfare paid was \$1,638; domestic was \$215.

2. Republic Moving More Jobs to Indianapolis.

In the continuing shakeout following Republic’s acquisition of Frontier, 140 Denver-based operations positions will be relocated to Indianapolis by second quarter 2010. Up to 300 full-time positions will be added in Indianapolis—Republic is eligible to receive \$4 million in economic incentives from Indiana through the end of 2019, based on actual number of new jobs created. “Denver will remain by far Republic Airways’ largest employment center and hub, with a continued workforce of more than 3,500 employees,” said the company.

3. ExpressJet CEO James Ream Moves to American.

ExpressJet President and CEO James Ream becomes American Airlines’ Senior Vice President of Maintenance & Engineering, as of January 1, succeeding retiring Carmine Romano. Ream worked for American between 1987 and 1995 in various positions, before moving to Continental as Finance Vice President. ExpressJet Board member T. Patrick Kelly will serve as interim CEO of ExpressJet.

4. AirTran to Open Crew Base at Milwaukee Hub.

[AirTran] Orlando-based AirTran said it will open both a pilot and flight attendant base at its Milwaukee hub in April, and estimated its total Milwaukee payroll to be more than \$11.5 million per year.

5. Libano Barroso to Head TAM.

Libano Miranda Barroso was named to head TAM. He has served as interim President since the departure of David Barioni Neto in October, and has held executive positions with the company since 2004. In other news, TAM and LAN Argentina are expanding their code share agreement for flights between Brazil and Argentina. And, TAM will pay \$7.3 million to acquire control of

Pantanal, a bankrupt regional that serves six cities from Sao Paulo's domestic airport, Congonhas.

6. Equipment News.

Boeing began a flight test program for the long-delayed 787, with first delivery scheduled for fourth quarter 2010, and said 55 customers worldwide have ordered 840 Dreamliners. . . . The U.S. Aerospace Industries Association reported total aerospace sales in 2009 of \$214 billion, a record for the sixth straight year; military aircraft lead while civil aircraft, missiles and the space sectors also posted increases. "A game changer such as the Boeing 787 airliner, as well as pent up demand for environmentally-friendly and fuel efficient aircraft will reinvigorate the aerospace industry and drive demand for years to come," said AIA President and CEO Marion Blakey. . . . Executives of Airbus parent EADS were cleared by French regulators of insider trading and market abuse, related to share price and continuing delays in deliveries of the A380 superjumbo in 2006.

7. Delta, Northwest Receive Single Operating Certificate.

See Section I, item 6.

8. US Airways to Offer Charlotte-Rome Nonstops.

See Section VIII, item 3.

9. Swiss to Serve San Francisco From June.

See Section VIII, item 4.

10. Delta, Nigerian Eagle Consider Code Sharing.

See Section VIII, item 5

11. ACCC Approves Virgin Blue-Delta Joint Venture.

See Section IX, item 3.