



## WASHINGTON AVIATION SUMMARY

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The Kirstein & Young law firm specializes in representing U.S. and foreign airlines, airports, leasing companies, financial institutions and aviation-related companies before U.S. Government agencies, Congress, the courts and in commercial and financing matters.

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## **I. REGULATORY NEWS**

### **1. IATA: Business Confidence Improves.**

The International Air Transport Association (IATA) reports that industry confidence improved slightly in the first quarter. About 23% of respondents to an April survey of Chief Financial Officers and heads of cargo saw increased profitability in Q1, and the view for next 12 months was less pessimistic than in the January survey. Passenger traffic improved in Q1, with growth expected in the year ahead as economic conditions improve in the U.S. and emerging market economies remain robust. Improved business confidence and trade are generating a more optimistic outlook for cargo traffic. Yield expectations in passenger markets strengthened, with the 12-month outlook improving, and downward pressure is expected to ease on cargo yields. Input costs stayed high in Q1, with 64% of respondents indicating they experienced increased cost pressures. Given high oil prices and continued uncertainty about the situation in Iran, a significant increase in input costs is expected over the next 12 months. Employment levels are not as weak as in Q4 2011, but little improvement is seen for the year ahead.

### **2. DOT Urged to Study Consolidation.**

The Department of Transportation (DOT) was urged to study consequences of recent airline mergers, in light of US Airways' announcement that it is pursuing a merger with American Airlines. A merger could "lead to higher prices, less mid-size community service and more onerous consumer policies," said the Business Travel Coalition (BTC); while disallowing the merger could "lead to US Airways and American Airlines being squeezed out of the market, ominously leaving the U.S. with a national network-carrier duopoly." DOT should undertake a thorough assessment of promises, economic analyses and statements from recent airline merger participants provided to Congress, the Department of Justice and State Attorneys General, said BTC, and compare them with actual outcomes; the study should be accomplished well in advance of Congressional hearings on a proposed US-AA merger. BTC plans to initiate due diligence with airlines, labor groups, analysts, corporate travel managers, travel management company executives and consumer groups with respect to a US-AA merger. BTC has opposed earlier proposed mergers, but "recognizes that the industry has changed, and that policy prescriptions of the past might not be appropriate today." (See also Section X, item 1.)

**3. DOT Awards Chicago–Cancun Route to AirTran.**

DOT finalized a tentative decision to allow Southwest subsidiary AirTran to provide daily Chicago Midway to Cancun nonstops. Under the U.S.-Mexico agreement, three carriers may provide scheduled Chicago–Cancun passenger service. American and United serve Cancun from O’Hare. USA 3000 Airlines ceased U.S.-Mexico service in January. Frontier, which also competed in the DOT proceeding, may continue to fly the route from O’Hare on a charter basis.

**4. DOT Urged to Refrain From Introducing GDS Mandate.**

In a letter to Transportation Secretary Ray LaHood, nine airline associations expressed “united concern” regarding a proposed DOT mandate that airlines serving the United States distribute all content and services through global distribution systems (GDSs). International Air Transport Association (IATA), Airlines for America (A4A) and the Association of European Airlines (AEA) were among those signing the letter, which states, “Airlines should continue to have the right to utilize any distribution channel they chose as long as in doing so they meet the letter and spirit of . . . transparency. Mandating that airlines distribute all of their content through a GDS monopolist will result in significant consumer overcharges. GDS suppliers can be up to 80% more expensive than other equally transparent distribution channels . . . Furthermore, we do not believe it is appropriate for DOT to interfere in contractual relationships between airlines and GDSs, particularly at the present time when there is pending litigation in this area.”

**5. DOT Fines Frontier.**

DOT assessed a civil penalty of \$50,000 against Frontier Airlines for violating rules protecting air travelers with disabilities. The carrier failed to provide appropriate notice of limits to accommodate a quadriplegic passenger, or adequate assistance during boarding and deplaning.

**6. Senator Wants DOT to “Tweak” Fare Disclosure Rules.**

Senator Charles Schumer (D-NY) urged DOT to require airlines to fully disclose carry-on baggage fees in airfare quotes, to allow consumers to know the true cost of a flight and do comparison shopping. Current regulations, which require airlines to indicate baggage fees at point of price quote, “should be tweaked,” wrote Schumer, in a letter to DOT Secretary Ray LaHood, “to prevent consumers from being deceived by carry-on baggage fees.” Schumer’s call came in the wake of a decision by Allegiant Air to join Spirit Air in charging fees for bags stored in overhead bins. In 2010, said Schumer, he secured commitments from American, Delta, JetBlue, United and US Air not to charge for carry-on bags.

**7. February Passenger Airline Employment Data.**

U.S. scheduled passenger airlines employed 389,901 workers in February, 2.1% more than in February 2011, reported DOT. Employment was up by 1.2% for the five network airlines, 6.4% at the seven low-cost carriers, and 0.8% for regional airlines.

**8. DOT Air Travel Consumer Report for February.**

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

	Feb. '12/'11	Jan. '11	Full Year				
			2011	2010	2009	2008	2007
On-time arrivals %	86.2 / 74.5	83.7	79.6	79.8	79.5	76	73.4
Cancellations %	1 / 4.9	1.5	1.91	1.76	1.39	1.96	2.16
Mishandled baggage*	2.64 / 3.66	3.3	3.39	3.51	3.91	5.26	7.05
<i>Consumer complaints:</i>							
Airline service	691 / 688	935	11,545	10,988	8,821	10,648	13,180
Disability-related	38 / 40	39	630	572	519	477	488
Discrimination**	4 / 10	10	127	143	131	115	99

Note: Airlines reported no tarmac delays of more than three hours on domestic flights or more than four hours on international flights in February.

\* Reports per 1,000 passengers.

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

**9. ILFC Co-Founder Sued by AIG .**

American International Group (AIG) filed a civil lawsuit against Steven Udvar-Házy, co-founder and former CEO of its ILFC unit, accusing him of theft of a business. The suit alleges he recruited ILFC executives to work at his current company, Air Lease Corp. (ALC), while still CEO of ILFC, breaching his fiduciary duty, and accuses those executives of stealing confidential information before exiting ILFC, to be used by ALC. ALC said it “will vigorously contest and defeat” the lawsuit.

## II. AIRPORTS

### 1. Delta Begins LaGuardia Terminal Expansion.

Officials broke ground for a \$160 million renovation and expansion of Delta facilities at New York LaGuardia. The project includes a 630-foot bridge linking Terminals C and D, a new Delta Sky Club in Terminal C and expanded security lanes in both terminals. Delta's new domestic hub at LaGuardia will offer service to 26 new cities by July 11; many routes will replace turboprop service with regional jets. The expansion follows an agreement with US Airways to exchange takeoff and landing rights in New York and Washington.

### 2. Final Phase of Newark Terminal B Expansion Authorized.

The Port Authority of New York & New Jersey approved the final phase of a \$350 million modernization project at Newark Liberty Terminal B; an upgrade to the international arrivals greeting area will start in May. The Port Authority plans to seek a request for information from airport operators and builders toward creating a public-private partnership to build a new Terminal A for Newark; similar plans are underway for a new Central Terminal at LaGuardia. In other news, the Port Authority plans a 90-day effort to provide cleaner restrooms and more customer-service representatives at LaGuardia, Kennedy and Newark, all of which are on Frommer's list of the world's 10 worst airport terminals.

### 3. LAX Modernization Costs Rise to \$4.1 Billion.

The cost of expanding the Tom Bradley International Terminal at Los Angeles International has increased from \$1.4 billion to almost \$2 billion, mostly because of changes to original plans, reports the *Los Angeles Times*, but the project is still within its 2009 budget of \$1.5 billion. The overall \$4.1 billion modernization program is still on schedule and within budget because of a built-in contingency fund and savings achieved on other projects. The first of current projects, including a gate to accommodate Airbus A380s, will be completed in September.

### 4. Charlotte Expansion Continues Amid USAir Merger Speculation.

Charlotte is moving ahead with expansion plans expected to run to \$1 billion, despite talk of a potential American Airlines-US Airways merger, reports the *Charlotte Observer*. US Airways operates 600 of the airport's 670 daily flights. In addition to a \$160 million parking deck under construction, planned or proposed projects over the next seven years include an eight-lane entrance

road, a fifth runway, an expanded main terminal and a freestanding international terminal.

**5. BAA Sells Edinburgh to GIP.**

UK airport operator BAA agreed to sell its 100% interest in Edinburgh Airport to Global Infrastructure Partners (GIP) for £807.2 million, payable in full at closing which is expected by end of May. Other contenders were JP Morgan, Carlyle Group and 3i Group. BAA earlier sold Gatwick to GIP, and after the Edinburgh sale will retain ownership of Heathrow, Stansted, Glasgow, Aberdeen and Southampton. . . . A survey conducted by the Board of Airline Representatives (BAR UK) finds that more than half of international airlines are planning to move flights away from the UK because of Heathrow capacity constraints; 86% would add flights if additional Heathrow slots were available. Survey results were released by BAA CEO Colin Matthews, who is chief among those urging the government to reverse its policy of non-expansion at Heathrow. “It is a mistake to believe that flights displaced from Heathrow will automatically fly to Stansted, Gatwick or Birmingham instead,” said Matthews; “we are handing economic growth to our competitors by turning away airlines who want to bring jobs, growth and trade to the UK.” . . . The UK Immigration Services Union forecasts that incoming passport queues “could regularly extend to three or four hours” as air traffic expands. BAR UK, which represents 84 scheduled airlines, urged the government to “invest in the technology and systems which will allow far more efficient use of available information and resources, without compromising on security.”. . . Heathrow handled 5.7 million passengers in March, 6.9% more than in March 2011, and more than 70 million over a twelve-month period for the first time. Glasgow recorded a 4.6% increase, and Aberdeen an increase of 10.2%. Stansted, Edinburgh and Southampton were down 4.7%, 2.8% and 1.7% respectively.

**6. EU Opens New Probes of Airport State Aid.**

The European Commission (EC) opened investigations into whether Ryanair received unfair advantage in arrangements with France’s Carcassonne and Nîmes airports, which were operated by local Chambers of Commerce and later taken over by Veolia Transport. Ryanair and other low-cost airlines are involved in several EC inquiries into whether airport subsidies and marketing agreements breach EU state aid rules.

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

#### **1. Parliament Approves New EU-U.S. PNR Agreement.**

The European Parliament approved a new agreement on transfer of EU air passenger personal data to U.S. authorities. The Passenger Name Record (PNR) Agreement, which replaces a provisional pact in place since 2007, and will apply for seven years, “provides stronger protection of EU citizens' right to privacy and more legal certainty for air carriers [and] fully meets the security needs” of the United States and the EU. Data of passengers travelling to the U.S. will be made anonymous six months after flight. EU citizens will be informed about use of data, and will be able to access and request correction or deletion of their data. Should data be misused, EU citizens will have the right to administrative and judicial redress in accordance with U.S. law. U.S. authorities will keep PNR data in an active database for up to five years. A significant minority of Ministers voted against enactment, due to concerns over data protection safeguards; however, a proposal to refer the agreement to the European Court of Justice was rejected ... The Association of European Airlines (AEA) urged European regulators to act on requests from other countries seeking access to European airline data as part of their counter-terrorism strategy. Airlines “cannot and will not provide this information without the necessary legal framework,” said AEA Secretary General Ulrich Schulte-Strathaus. “The EU must act soon or flights to these countries could be disrupted.” . . . Separately, AEA urged U.S. regulators to fully recognize European air cargo security standards and accelerate progress toward a mutual recognition agreement, to simplify processes for airlines and remove unnecessary duplication. Several EU states have bilateral cargo recognition agreements with the U.S. “Once we have a critical build-up of U.S. approvals, an EU-wide deal will be a simple next step,” said Schulte-Strathaus. “These audits should give the USA confirmation, if it is really needed, that European regulators take air cargo security extremely seriously.”

#### **2. TSA Expands PreCheck Program.**

PreCheck operations began at LaGuardia and Seattle and were expanded at Dallas/Fort Worth, announced the Transportation Security Administration (TSA); 13 airports now participate in the expedited screening initiative. PreCheck is available to select members of frequent flyer programs of Delta, American and Alaska who are U.S. citizens, and for members of U.S. Customs and Border Protection's (CBP) Trusted Traveler programs, including Global Entry, SENTRI and NEXUS. TSA said more than 800,000 passengers have experienced PreCheck, which allows pre-qualified passengers to keep shoes and light-weight jackets on while going through the checkpoint.

3. **TSA Testing Document Verification Technologies.**

TSA is testing new technologies designed to identify altered or fraudulent passenger identification documents and boarding passes at Washington Dulles, Houston Bush and Luis Muñoz Marín airport in Puerto Rico. Limited contracts were awarded in 2011 to BAE Systems Information Solutions, Trans-Digital Technologies and NCR Government Systems to provide pilot testing of Credential Authentication Technology–Boarding Pass Scanning Systems (CAT-BPSS), which scan a passenger’s boarding pass and photo ID, verify that names on both documents match, authenticate the boarding pass, and identify altered or fraudulent photo IDs by analyzing and comparing embedded security features.

4. **Hawley Calls for Changed TSA Strategy.**

Former TSA Administrator Kip Hawley, in media appearances, said the agency should focus on preventing catastrophic attacks and managing risks, not enforcing regulations. Among changes he would institute: no banned items, other than obvious weapons capable of fast, multiple killings; allow all liquids; eliminate baggage fees to allow security lines to move faster; and randomize security.

5. **Middle East States Agree on Aviation Security Strategy.**

Middle East states agreed on collective action to improve passenger and cargo security throughout the region, at a meeting in Bahrain. Participants underscored the need to work more closely together in response to threats and incidents, and stressed that the International Civil Aviation Organization (ICAO) must continue to address, as a matter of priority, threats to the global air cargo system by enhancing supply chain security. A global high-level security conference will be held at ICAO headquarters in September.

6. **Bill Would Ban Expedited Screening for First-Class, Elite Fliers.**

See Section VI, item 4.

## IV. E-COMMERCE AND TECHNOLOGY

### 1. ARC: Q1 Ticket Sales by U.S. Travel Agents Rise 6.57%.

Consolidated dollar value of airline tickets sold by U.S.-based travel agencies increased 6.57% in first quarter 2012, compared to same period 2011, and 18% over same period 2010. ARC reports January through March 2012 ticket sales totaled \$23.3 billion, compared to \$21.9 billion in Q1 2011, and \$19.8 billion in Q1 2010. Results do not include sales of tickets purchased directly from airlines. Figures include taxes and fees.

### 2. Amadeus-Expedia Multi-Year Agreement in North America.

A multi-year content and technology agreement for North America provides Expedia with Amadeus' fare search technologies and access to global travel supplier content through the Amadeus system. Amadeus has provided services to Expedia since 2005.

### 3. Amadeus to Support Southwest's International Service.

Southwest signed on for Amadeus' Altea reservations solution to support international service that will transition to Southwest via subsidiary AirTran. The contract provides an option for Southwest to convert its domestic business to Amadeus in the future.

### 4. Honeywell, Inmarsat to Deliver Global Inflight Connectivity.

Under a new agreement, Honeywell will develop, produce and distribute onboard hardware that will enable passengers to connect to Inmarsat's Global Xpress network, via their electronic devices, and engage in inflight activities anywhere, from real-time social media, to video conferencing and multi-media presentation development. Global Xpress will launch in 2013.

### 5. Skycast Portable IFE Device to Debut on WestJet.

Canadian low-cost carrier WestJet in June will be the first airline to offer Skycast Solutions' portable inflight entertainment device, which features a proprietary clip that frees the seatback tray and provides optimal viewing angles. TrayVu Slim incorporates an Android tablet, touch screen functionality, WI-FI compatibility and point of sale credit card reader. It weighs less than two pounds, which allows airlines to maximize quantities on board, offers an airline-specific user interface and comes with complimentary headphones. WestJet will introduce the new tablet technology, with pre-loaded content, on Boeing 737 Next Generation aircraft.

**6. Inflight VoD for Planes Not Equipped with Connectivity.**

Regardless of whether planes are broadband-equipped, commercial airlines can offer Row 44's new wireless video-on-demand (VoD) service, which includes movies and television episodes, via passengers' Wi-Fi enabled devices. Airlines can also use the service to offer real-time inventory for bookable destination services in cities worldwide. The offering is a subset of Row 44's In-Flight Broadband Entertainment Platform that can be scaled up to include connectivity and other broadband services.

**7. DOT Urged to Refrain From Introducing GDS Mandate.**

See Section I, item 4.

**8. Senator Wants DOT to "Tweak" Fare Disclosure Rules.**

See Section I, item 6.

## V. ENERGY AND ENVIRONMENT

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

The average price of aviation jet fuel, as of April 20, was \$134.7/barrel, down 2.6% on the month and down 3.9% year-on-year, reports the International Air Transport Association. Fuel price average for 2012 was \$135.1/barrel.

### 2. EU ETS Update.

The EU Emissions Trading Scheme (ETS) has impeded the process of finding a global approach to curbing climate change, said FAA Assistant Administrator for Policy, International Affairs and Environment Julie Oettinger in an address to attendees at the U.S. Chamber of Commerce 11th Annual Aviation Summit. Oettinger said the United States is concerned about the way EU ETS was designed, about the way it has been applied and that it violates international law. . . . France urged the European Commission to find a solution acceptable to all sides, following China's suspension of Airbus orders. India joined China in banning its airlines from submitting to ETS and more than 20 countries, including the United States and Russia, oppose the levy. . . . China intends to use some revenue from a passenger tax to cut carbon emissions in the aviation sector. Whether the Chinese plan can count as an equivalent measure to EU ETS has yet to be determined, said EU Climate Commissioner Connie Hedegaard.

### 3. Frankfurt Night Flight Ban Upheld.

Germany's highest administrative court upheld an 11 p.m. to 5 a.m. ban on flights at Frankfurt, due to noise considerations, and said the local Hesse state government, which had authorized 17 night flights, must make a new decision. International Air Cargo Association "condemned" the court decision and said "restricting freighter movements would reduce future investment by companies at Frankfurt airport and could lead to job losses." Lufthansa will provide further evidence of the need for night flights, said CEO Christoph Franz, and "will continue to invest here in future and participate in the sector's growth. For larger investments, however, we will have to take the new developments into consideration when drawing comparisons with other hubs in the Lufthansa airline group."

### 4. Biofuel Developments.

Boeing will create a research and technology center in San Paulo, Brazil to develop technology related to sustainable aviation biofuels, advanced air traffic management and advanced metals and bio-materials. Boeing Research

& Technology-Brazil will collaborate with Brazilian organizations. . . . The first transpacific biofuel flight took place in April, with delivery of a Boeing 787 Dreamliner to All Nippon Airways (ANA). The ANA flight from Everett, Washington to Tokyo Haneda used biofuel made mainly from used cooking oil. . . . Porter Airlines conducted the first biofuel-powered revenue flight in Canada, concluding a test program launched in 2010. A 50/50 blend of biofuel and Jet A1 fuel was used in one Pratt and Whitney PW150A engine of the Bombardier Q400 turboprop, in a flight from Toronto City to Ottawa. The biofuel was derived from the oilseed crops, Camelina sativa (49%) and Brassica carinata (1%). The other engine was powered by Jet A1 fuel. . . . Australia's first flights powered by sustainable fuel were operated by Qantas between Sydney and Adelaide. The Airbus A330 used a 50/50 blend derived from recycled cooking oil and conventional jet fuel. A Melbourne-Hobart roundtrip was flown by Qantas subsidiary Jetstar powered by the same fuel type. Qantas will begin a feasibility study in May on the potential for an Australian sustainable aviation fuel industry, backed by government funding; Shell will provide technical support.

**5. Bill Proposed to Reduce Bird Strikes in New York.**

See Section VI, item 5.

## VI. U.S. CONGRESS

### 1. Senate Appropriations Approves FY 2013 Transportation Funding.

The Senate Appropriations Committee approved the Fiscal Year 2013 Transportation Appropriations bill, which includes \$3.35 billion for capital investments at U.S. airports, equal to the FY 2012 enacted level; and \$956 million for NextGen, \$21 million more than FY 2012.

### 2. Bill Would Extend Pilot Rest Requirements to Cargo Ops.

A bill introduced in the House by Chip Cravaack (R-MN) and Tim Bishop (D-NY) directs the Secretary of Transportation to apply recently enacted flight duty and rest requirements for passenger airlines equally to all-cargo carriers. The rule, which requires eight hours of rest between shifts, is scheduled to go into effect January 14, 2014. Pilot unions support the proposed Safe Skies Act of 2012, saying it will achieve the originally intended “one level of safety” for all airline operations. Airlines for America rejected the proposal, saying “the FAA flight-time limitations and rest-requirements rulemaking was a thorough undertaking successfully built on a foundation of existing safety measures, fatigue mitigations and diverse airline operating environments.”

### 3. House Hearing on Aviation Safety.

The House Aviation Subcommittee held a hearing to review FAA safety oversight, with a focus on increased operational errors and near misses, pilot fatigue and training requirements, safety management systems, oversight of repair stations, and terminal area safety, and on FAA responses to the Airline Safety and FAA Extension Act of 2010, which followed the 2009 Colgan Air crash that killed 50 people. Testimony from the DOT Office of the Inspector General (OIG) and the Government Accountability Office (GAO) indicated that FAA needs to improve safety data collection and ensure that data are accurate, comprehensive and effectively analyzed to better identify baselines and safety trends. The OIG found no evidence to support FAA’s assertion that safety reporting programs are the primary contributor to the rise in operational errors. Airlines for America called for “a disciplined approach to future safety regulatory changes” to build on increased accessibility to available operational data. “We operate at a higher level of safety because we have become much better at identifying and managing risk and the demonstrated effectiveness of our safety systems, which gives us the confidence to undertake change, when warranted,” said A4A.

4. **Bill Would Ban Expedited Screening for First-Class, Elite Fliers.**

Legislation that would eliminate preferred security lines for airlines' elite and first-class travelers was introduced in the Senate by Ben Nelson (D-NE). "Allowing a select few to cut in front of those who are waiting patiently, just in order to provide a perk, has nothing to do with safety," said Nelson. "All passengers pay the same fee in their airline tickets to cover the cost of the TSA screenings regardless of ticket class." The Air Passenger Fairness Act of 2012 would not affect TSA PreCheck, which allows expedited screening for pre-cleared travelers, nor would it prevent an airline or airport operator from setting up express lines for disabled passengers.

5. **Bill Proposed to Reduce Bird Strikes in New York.**

Legislation that would allow removal of Canada geese from the Jamaica Bay Wildlife Refuge, in order to reduce the number of bird strikes on planes, was proposed by Kirsten Gillibrand (D-NY), a member of the Senate Agriculture Committee. LaGuardia and Kennedy airports saw increases in bird strikes of 28% and 53%, respectively, between 2009 and 2011. The bill "would cut bureaucratic red tape" between the U.S. Department of Agriculture (USDA) and National Park Service (NPS), requiring USDA to act within 90 days of a determination by the FAA Administrator that Canada geese residing on NPS lands within five miles of a commercial airport pose a threat to flight safety. It would also require USDA, in consultation with the Department of the Interior and FAA, to remove geese by the end of the subsequent molting period. USDA would be required to issue a final decision on the supplemental environmental impact statement for the bird hazard reduction program at Kennedy no later than June 1, 2012 and complete removal of the geese by August 1, 2012; NPS has cited need for completion of this study before allowing USDA workers to remove birds from the refuge area.

6. **Senator Wants DOT to "Tweak" Fare Disclosure Rules.**

See Section I, item 6.

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

### **1. U.S., Brazil Agree to Aviation Partnership.**

The U.S.–Brazil Aviation Partnership was launched during the visit of President Dilma Rousseff to the United States. The public-private partnership enhances bilateral cooperation in areas such as airport expansion, airspace management, safety and security, to support Brazil's aviation infrastructure development priorities and connect U.S. companies to growing business opportunities in the sector; initially, six companies will participate. In June, USTDA will host a delegation of Brazilian aviation officials on a reverse trade mission to the United States to familiarize them with U.S. technologies, best practices and regulatory approaches for airport modernization. In October, USTDA will host a Latin American Aviation Summit in Miami to introduce U.S. aviation company representatives to aviation officials from countries across Latin America. Brazil will host the 2014 FIFA World Cup and the 2016 Olympic and Paralympics Games. The Memorandum of Understanding establishing the Aviation Partnership was signed by Secretary of State Hillary Clinton, Director of the U.S. Trade and Development Agency (USTDA) Leocadia Zak, TSA Administrator John Pistole, and FAA Acting Administrator Michael Huerta. Minister of External Relations Antonio Patriota signed on behalf of Brazil.

President Barack Obama and President Rousseff “noted the convergence of positions” regarding of EU ETS “and emphasized that issues related to international civil aviation emissions should be resolved multilaterally.” They reviewed implementation of measures that facilitate the flow of tourists and business executives between the two countries, and committed to work closely together to achieve visa-free travel for U.S. and Brazilian citizens. The Obama Administration has ordered accelerated visa processing in Brazil and intends to open new consulates in Belo Horizonte and Porto Alegre.

## **VIII. EUROPE AND AFRICA**

### **1. JetBlue-LOT Interline Partnership.**

A JetBlue-LOT Polish Airlines interline partnership will allow seamless bookings through New York Kennedy and Warsaw Chopin. LOT has ordered up to eight Boeing 787 Dreamliners, with deliveries to begin this year.

### **2. FedEx to Acquire Polish Shipping Company Opek.**

FedEx agreed to acquire Polish courier Opek, in a transaction expected to close this summer. The acquisition will give FedEx Express “access to a nationwide domestic ground network with an estimated \$70 million in annual revenue and 12.5 million shipments annually.” FedEx Express earlier acquired UK domestic express company ANC Holdings and Flying Cargo Hungary, and this year has opened 26 stations across France, Germany, Italy, the Netherlands, Northern Ireland and Sweden.

### **3. IAG Completes Purchase of bmi From Lufthansa.**

International Airlines Group (IAG) completed purchase of bmi from Lufthansa. Lufthansa said gross purchase price was €207 million, with deductions expected for not selling bmi regional and bmibaby prior to transaction; bmi’s underfunded pension plan will be transferred to the UK Pension Protection Fund, with shortfall offset by a Lufthansa contribution to a supplementary pension scheme. IAG said bmi mainline will be integrated into British Airways and consultation has begun with staff and trade unions. . . . IAG CEO Willie Walsh said striking pilots at the Group’s Iberia unit will have no future if they do not accept lower pay and creation of low-cost Iberia Express; he intends to get rid of their “frankly outrageous” contracts. Walsh told a conference in Barcelona he expects more airline bankruptcies this year and significant consolidation moves.

### **4. British Airways to Pay £58.5 Million in Fuel Surcharge Decision.**

A £121.5 million fine imposed on British Airways in 2007 by the UK Office of Fair Trading (OFT) for fixing fuel surcharges between August 2004 and January 2006 has been cut to £58.5 million. The fine was reassessed because the airline’s cooperation “was greater than had been anticipated at the time of the original agreement,” said OFT, and other factors. Virgin Atlantic, which coordinated the surcharge pricing with British Airways, originally brought the matter to OFT attention and was not fined.

5. **EC Updates Banned Airline List.**

Venezuela's Conviasa was added to the European Commission's list of carriers banned from operating in the European Union due to safety concerns; Venezuelan carriers Estelar Latinoamerica and Aerotuy remain subject to increased monitoring. Libyan air carriers were not included on the list, but are subject to close monitoring and excluded from flying into the EU until at least November 22, 2012. The Commission "recognized efforts of the safety oversight authorities of Albania, Aruba, Indonesia, Libya, Pakistan and Russia to reform the civil aviation system [and] is ready to provide active support for these reforms in cooperation with ICAO, EU Member States and the European Aviation Safety Agency."

6. **EU Rule Guarantees Protection for Airline Crews.**

Low-cost airline crews will be subject to social security rules of the country in which they normally start and end a duty period, and where the operator is not responsible for accommodation of the crew member, under new rules on coordination of social security systems adopted by the European Parliament. "Legal loopholes in European legislation have in the past allowed a few low-cost airlines to apply social security systems that are deemed to be the least onerous, irrespective of the crew member's home base," said the EU.

7. **BAA Sells Edinburgh to GIP.**

See Section II, item 5.

8. **EU Opens New Probes of Airport State Aid.**

See Section II, item 6.

9. **Parliament Approves New EU-U.S. PNR Agreement.**

See Section III, item 1.

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

### **1. JetBlue Announces Code Shares with JAL, Emirates.**

JetBlue and Japan Airlines (JAL) expanded their interline partnership to offer code share flights between their networks in Tokyo and New York Kennedy and Boston Logan. JAL introduced Boeing 787 Dreamliner Boston-Tokyo service; the first non-stop service between New England and Asia is a transpacific joint business route with oneworld partner American Airlines. . . . JetBlue signed a one-way code share agreement with Dubai-based Emirates for JetBlue-operated connections between New York Kennedy and numerous U.S. destinations; they have been interline partners since 2010.

### **2. Jetstar Japan to Start Services in July.**

Narita-based Jetstar Japan, a partnership of Qantas Group, JAL and Mitsubishi, received operating certification and began selling tickets for domestic flights to begin on July 3. "This approval means we're on track to start flying five months ahead of schedule," said CEO Miyuki Suzuki, "making it easier for people in Tokyo, Okinawa, Osaka, Sapporo and Fukuoka to connect." The low-cost carrier took delivery of its first of an initial fleet of three Airbus A320s, with plans to acquire 24 within three years.

### **3. China Shuffles Passenger Fees; Contends With Delays.**

China replaced an airport construction passenger fee, used by the Civil Aviation Administration of China (CAAC), with a civil aviation fee collected by the Ministry of Finance for various uses. . . . CAAC is investigating incidents in which passengers, angry over long flight delays, rushed into flight control areas of Shanghai Pudong and Guangzhou Baiyun. Local authorities were ordered to improve services for delayed passengers.

### **4. India Allows Overseas Borrowing for Airlines.**

India will allow the airline sector to borrow up to \$1 billion from foreign sources for a period of one year to meet working capital needs, said Finance Minister Pranab Mukherjee, with a ceiling of \$300 million per airline. Reserve Bank of India may ease average maturity of overseas borrowing above \$20 million from five to three years for the sector. The government has allowed airlines to directly import jet fuel as end users to avoid the state value added tax of up to 33%. Floundering private airlines like Kingfisher are still awaiting word on whether the government will allow foreign investment . . . A turnaround plan for Air India was approved by the government, which agreed to provide \$1.3 billion this year, including an earlier infusion, with a total of \$6 billion phased in

by 2020, as the national carrier meets specific goals. Civil Aviation Minister Ajit Singh said a committee of officers and the aviation ministry will monitor progress. Engineering and ground handling services will be spun off into wholly-owned subsidiaries providing services to other airlines; 7,000 employees will be transferred to the new Air India Engineering and 12,000 to Air India Transport. Banks will restructure \$3.6 billion of the airlines' \$13.4 billion in debt. Air India plans to take delivery of 27 Boeing Dreamliners, sell them to leasing companies to raise cash, and lease them back. . . . Singh said the government cannot interfere with the Airports Economic Regulatory Authority's decision to raise user development charges at New Delhi Airport for the next two years from May 15. Operator GMR Infrastructure said passenger fees will rise to \$5.5 for domestic flights and \$11 for international. Airline fees for parking and landing will also rise.

**5. San Miguel Takes Stake in Philippine Airlines.**

Manila-based conglomerate San Miguel Corp. acquired stakes of up to 49% in Philippine Airlines (PAL) and low-cost Air Philippines from Lucio Tan, for \$500 million. San Miguel President Ramon Ang succeeded Jaime Bautista as President of PAL. Tan and San Miguel together will provide \$1 billion to help purchase at least 100 new planes. They hope to join a global alliance, but long-haul expansion plans hinge on improved safety standards; PAL is on the EU blacklist and has a Category 2 rating from FAA.

**6. Middle East States Agree on Aviation Security Strategy.**

See Section III, item 5.

## **X. AMERICAS**

### **1. US Airways Moves to Take Over American.**

As American Airlines maintained its intention to emerge from bankruptcy as a standalone carrier, US Airways began a potential hostile takeover bid, disclosing in a Form 8K filed with the Securities and Exchange Commission that it had gained support of three unions representing American employees. Allied Pilots Association (APA), Association of Professional Flight Attendants (APFA) and Transport Workers Union (TWU) confirmed their support of a US Airways-American Airlines merger, and said they agreed to terms that would govern collective bargaining agreements for their members at the merged airline. According to APA, the combined carrier would be branded American Airlines and based in Fort Worth. American said it has the right to create its plan of reorganization at least until September 28 and is pursuing “vital modifications to our collective bargaining agreements . . . We believe statements of non-binding support from union leaders for alternative proposals are no coincidence given the timing of this process.”

In federal bankruptcy court, American said it could save \$1.25 billion over the next six years if it eliminates 13,000 union jobs, freezes or terminates pension plans, curbs health benefits and changes work rules. The company said its business plan, which includes cutting costs, more flexible work rules for flying regional jets and expanding domestic code sharing, will generate \$1 billion of incremental revenues annually, after losses of nearly \$1.1 billion last year, \$1.7 billion in first quarter this year, and \$12 billion since 2001. Unions will present their case in mid-May and a ruling is expected in June.

### **2. Pinnacle Files for Chapter 11; Menke Replaced.**

Pinnacle Airlines Corp. and subsidiaries Pinnacle and Colgan Air filed for Chapter 11 relief in the U.S. Bankruptcy Court for the Southern District of New York, and received debtor-in-possession financing from Delta in the amount of \$74.3 million, of which \$44.3 million will repay a secured promissory note held by Delta, and the remaining \$30 million will help ensure sufficient liquidity to meet operational and restructuring needs. Restructuring objectives include revised operating agreements with Delta, winding down operations with United, completing the wind-down of essential air service with US Airways, and ensuring appropriate fleet, staffing levels and network to operate profitably on an ongoing basis. CEO Sean Menke will be replaced on June 1 by COO John Spanjers, former President of Mesaba.

**3. Allegiant Expands Services.**

Allegiant will begin nonstops to Honolulu from Fresno and Las Vegas in June, and announced it will establish a new base of operations at Punta Gorda Airport in Southwest Florida, in June, with nonstops to Niagara Falls, Fort Wayne, Peoria and South Bend.

**4. Air Canada Pilots Return to Negotiations.**

Air Canada and the Air Canada Pilots Association agreed to resume negotiations with the assistance of a federal arbitrator. If no agreement is reached following a ten-day negotiating period, a 90-day final-offer selection arbitration process legislated by the government will begin. . . . In other news, Transportation Safety Board of Canada found that significant sleep inertia contributed to an occurrence in which the first officer of an Air Canada Boeing 767 on a Toronto-Zurich overnight flight started a sudden descent after perceiving a collision course with an oncoming aircraft over the North Atlantic. The captain regained control and returned to cruising altitude.

**5. WestJet Replaces Jazz for Thomas Cook Charter Flights.**

WestJet agreed to fly charter flights for Thomas Cook Canada for the 2012-2013 winter season, when the leisure travel firm discontinued its five-year contract with Jazz Aviation after just two years. WestJet said it will be the only airline providing capacity for Thomas Cook's tour operator arm in Canada.

**6. DOT Awards Chicago–Cancun Route to AirTran.**

See Section I, item 3.

**7. U.S., Brazil Agree to Aviation Partnership.**

See Section VII, item 1.

**8. JetBlue-LOT Interline Partnership.**

See Section VIII, item 1.

**9. FedEx to Acquire Polish Shipping Company Opek.**

See Section VIII, item 2.

**10. JetBlue Announces Code Shares with JAL, Emirates.**

See Section IX, item 1.