

**BEFORE THE
U.S. DEPARTMENT OF TRANSPORTATION
WASHINGTON, DC**

Application of)

NORWEGIAN AIR UK LIMITED)

for an exemption under 49 U.S.C. § 40109)
and a foreign air carrier permit pursuant to)
49 U.S.C. § 41301)

Docket No. OST-2015-0261

**MOTION OF LABOR PARTIES TO DEFER ACTION ON THE
APPLICATION OF NORWEGIAN AIR UK LIMITED**

**Edward Wytkind, President
Transportation Trades Department,
AFL-CIO
815 – 16th Street NW
Washington, DC 20006
Phone: 202-628-9262
Email: edw@ttd.org**

**Russell Bailey
David M. Semanchik
Air Line Pilots Association
1625 Massachusetts Avenue NW
Washington, DC 20036
Phone: 202-797-4086
Email: Russell.Bailey@alpa.org**

**Alex Garcia, Secretary-Treasurer and
Air Transport Division Director
Transport Workers Union of America
AFL-CIO
501 3rd St. NW - 9th Floor
Washington, DC 20001
Phone: 202.719.3870
Email: agarcia@twu.org**

**Sara Nelson, President
Association of Flight Attendants-CWA
501 3rd Street NW
Washington, DC 20001
Phone: 202-434-0574
Email: snelson@afacwa.org**

**Sito Pantoja, General Vice President
International Association of Machinists
and Aerospace Workers
9000 Machinists Place
Upper Marlboro, MD 20772
Phone: 301-967-4596
Email: spantoja@iamaw.org**

Dated: June 28, 2016

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**MOTION OF LABOR PARTIES TO DEFER ACTION ON THE
APPLICATION OF NORWEGIAN AIR UK LIMITED**

The undersigned labor organizations (“Labor Parties”) hereby move the Department to defer action on the application of Norwegian Air UK Limited (“NAUK”) for an exemption and permit.

NAUK’s December 11, 2015 application for an exemption and a foreign air carrier permit cites the U.S.-EU Air Transport Agreement (“ATA”) as the basis for its requested operating authorizations. On June 23, 2016 a majority of UK voters voted “Leave the European Union” on a referendum question asking “Should the United Kingdom remain a member of the European Union or leave the European Union?” In response to this vote, the foreign ministers of the six founding members – Belgium, France, Germany, Luxembourg, Italy and the Netherlands – urged the UK to initiate the

formal exit process as soon as possible. “European Leaders Tell a Dazed Great Britain to Get Going on ‘Brexit.’” *NEW YORK TIMES*, June 25, 2016.¹

The timing of the exit process is uncertain. However, once the exit is completed, the UK will not be a Member State of the EU and thus not a party to the ATA. (*See* ATA, Article 1, ¶ 6: “‘Party’ means either the United States or the European Community and its Member States.”). Also uncertain is the regulatory regime that will apply to air service rights of UK carriers. Because the ATA has not formally come into effect, the Consolidated Air Service Agreement between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland of July 23, 1977 and other associated texts (collectively, “Bermuda II”) are suspended and could regain their effectiveness.² If Bermuda II were to become effective, it contains a designation clause that would require that substantial ownership and effective control be vested in the contracting party designating the airline or in its nationals. (*See* Bermuda II, Article 3). Given that NAUK is wholly-owned by Norwegian Air Shuttle, a citizen of Norway, NAUK would not qualify for designation.

¹ Available at <http://www.nytimes.com/2016/06/26/world/europe/brexit-eu-vote-fallout.html> (last visited June 28, 2016).

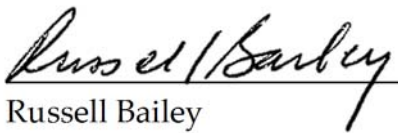
² *See* ATA, Articles 22 (¶ 1), 25, 26 and Annex 1, Section 1.v; Protocol to Amend the ATA, Articles 9 and 10.

A myriad of other negotiated outcomes are also possible, but it is unknown whether NAUK, as currently structured, would qualify under any of them to be granted operating authorizations by the United States.

CONCLUSION

For the foregoing reasons DOT should suspend processing of NAUK's application until the post-exit regulatory structure that will pertain to the grant of operating authorizations to UK air carriers is determined.

Respectfully submitted,



Russell Bailey
David M. Semanchik
Air Line Pilots Association
1625 Massachusetts Avenue NW
Washington, DC 20036
Phone: 202-797-4086
Email: Russell.Bailey@alpa.org

/s/ Edward Wytkind

Edward Wytkind, President
Transportation Trades Department,
AFL-CIO
815 – 16th Street NW
Washington, DC 20006
Phone: 202-628-9262
Email: edw@ttd.org

/s/ Alex Garcia

Alex Garcia, Secretary-Treasurer and
Air Transport Division Director
Transport Workers Union of America
AFL-CIO
501 3rd St. NW - 9th Floor
Washington, DC 20001
Phone: 202.719.3870
Email: agarcia@twu.org

/s/ Sara Nelson

Sara Nelson, President
Association of Flight Attendants-CWA
501 3rd Street NW, 10th Floor
Washington, DC 20001
Phone: 202-434-0574
Email: snelson@afacwa.org

/s/ Sito Pantoja

Sito Pantoja, General Vice President
International Association of Machinists
and Aerospace Workers
9000 Machinists Place
Upper Marlboro, MD 20772
Phone: 301-967-4596
Email: spantoja@iamaw.org

Dated: June 28, 2016

CERTIFICATE OF SERVICE

I certify that on this 28th day of June, 2016, I have caused to be served the foregoing Motion of Labor Parties by electronic mail to the addresses identified below:

romanow@pillsburylaw.com
steve.morrissey@united.com
dan.weiss@united.com
chris.walker@delta.com
robert.wirick@aa.com
howard.kass@aa.com
rpommer@atlasair.com
anita.mosner@hklaw.com
jennifer.nowak@hklaw.com
nssparks@fedex.com
cefelts@fedex.com
john.allen@faa.gov
englets@state.gov
gareth.alston@fco.gov.uk
david.batchelor@sesarju.eu
patricia.hayes@dft.gsi.gov.uk
henrik.hololei@ec.europa.eu
vegard.einan@parat.com
efisaacson@jamhoff.com
ejames@jamhoff.com
dberg@airlines.org
oherrnstadt@iamaw.org
sschembs@afanet.org

bdanaher@twu.org
robert.land@jetblue.com
EngleTS@state.gov
jweaks@swapa.org
brian.hedberg@dot.gov
mgoldman@sbgdc.com



Russell Bailey