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

Application of	)	
	)	**Docket No. OST-2013-0204**
NORWEGIAN AIR INTERNATIONAL LIMITED	)	
	)	
for an exemption under 49 U.S.C. § 40109 and a foreign air carrier permit pursuant to 49 U.S.C. § 41301 (US-EU Open Skies)	)	

ANSWER OF AIR LINE PILOTS ASSOCIATION TO APPLICATION OF NORWEGIAN AIR INTERNATIONAL LIMITED FOR AN EXEMPTION AND FOREIGN AIR CARRIER PERMIT

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Dated: December 17, 2013

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ANSWER OF AIR LINE PILOTS ASSOCIATION
TO APPLICATION OF NORWEGIAN AIR INTERNATIONAL LIMITED
FOR AN EXEMPTION AND FOREIGN AIR CARRIER PERMIT

Air Line Pilots Association (ALPA) opposes the application of Norwegian Air International Limited (NAI) for an exemption and a foreign air carrier permit. A self-described "foreign air carrier of Ireland," NAI is an affiliate of Norwegian Air Shuttle (NAS) -- a foreign air carrier of Norway -- that has been established expressly to evade the social laws of Norway in order to lower the wages and working conditions of its air crew. As an entity under the control of Norwegian citizens, NAI could not expect to be granted a permit but for the opportunities made available by the U.S.-European/Norway/Iceland Air Transport Agreement (ATA).[1] The ATA includes a provision that states that the opportunities created by the Agreement are not intended

[1] The U.S.–European Union Air Transport Agreement was amended in June 2011 to apply to Norway and Iceland as if they were Member States of the European Union.

to undermine labor standards or the labor-related rights and principles contained in the laws of the signatories to that agreement. Because allowing NAI, as structured, to provide foreign air transportation services to the U.S. would be at odds with certain public interest factors as set out in the aviation statutes, and with the intent of the ATA, NAI's application should be denied.

BACKGROUND

Although the skeletal application filed by NAI under the Department's Notice of February 19, 2009 relating to Application Procedures for Foreign Air Carriers of the European Union reveals very little about the corporate structure and business plans of the Applicant, it is clear, as shown below, that NAI is an affiliate of NAS, an air carrier of Norway.

NAS operates narrow body aircraft on routes within the European Common Aviation Area (ECAA) and between the ECAA and third countries.

In 2012 NAS established a wholly-owned subsidiary, Norwegian Long Haul (NLH), a foreign air carrier of Norway, which operates wide body aircraft on long haul routes. Declaration of Jack Netskar (Netskar Dec.) ¶6. NLH wet leases these aircraft to NAS, *id.* ¶8, which employs them on services to Ft. Lauderdale, New York, and Bangkok from points in Scandinavia. Exhibit (Ex.) 1. NAS has announced that it plans to serve Oakland and Los Angeles from Scandinavia, and will, in all likelihood, use 787s on these routes as well. Ex. 2. In addition, it has announced that in the summer of 2014

it will begin 787 service from London's Gatwick airport to New York, Los Angeles and Fort Lauderdale. Exs. 1 and 3.

The 787s operated by NLH for NAS are registered in Ireland. Netskar Dec. ¶9. The purpose of registering these aircraft in Ireland was to avoid the application of Norway social laws to the NLH aircrew. *Id.* ¶12; Exs. 4, 5 and 6. ALPA believes that some, maybe all, of the non-management pilots who fly NLH's 787s are employed on individual employment contracts by Global Crew Asia PTE Limited (Global Crew), a company incorporated under the laws of Singapore. Netskar Dec. ¶¶15-16 and Attachment A, preamble. The contracts are governed by Singapore law. Netskar Dec., Attachment A ¶15.8. Global Crew appears to contract them to NLH. Netskar Dec. ¶¶18-19. Although the pilots are subject to the direction and control of NLH, they are to take up any concerns they have about NLH, not with NLH itself, but with Global. Netskar Dec. ¶20 and Attachment A ¶¶ 6.2, 14. Their terms of employment are substantially inferior to those of the non-management pilots employed by NAS. Netskar Dec. ¶21. The pilots are domiciled not in Norway, but in Thailand. They appear to be prohibited from saying anything to anyone about Global, NLH or their individual employment contracts. Netskar Dec., Attachment A ¶¶11.1, 15.7.

Earlier this year the Norway government gave NAS/NLH until December 23 to obtain work permits for the NLH aircrew. Netskar Dec. ¶23; Ex. 4. In response, NAS stated that it would seek to establish an air carrier in another European country, with

Ireland, where it has already registered its 787s, being mentioned specifically as a possible site. Exs. 6, 7, 8 and 9. NAS's purpose of seeking an Irish air operator certificate is to avoid the application of Norwegian law. Netskar Dec. ¶10; Exs. 6, 7, 8, and 9.

NAI was incorporated in Ireland on March 4, 2013. Ex. 10. One of NAI's directors is Asgier Nyseth, the Chief Operating Officer of NAS. Two other directors are, Anders Tage Lennart Ceder, the Technical Director for 787 operations at NAS, and Rolf Krister Arranio, the Managing Director of NAS, Sweden. Exs. 10 and 11.

On December 2, NAI filed its application requesting an exemption and a foreign air carrier permit. Though it does not yet have an Irish Air Operator Certificate, it describes itself as a "foreign air carrier of Ireland." NAI Application at 1. The applicant's chief executive officer is Mr. Nyseth, *id*. at Ex. E, its managing director is Mr. Arranio, and its technical director is Mr. Ceder. Ex. 11.

ARGUMENT

I. APPROVAL OF NAI'S APPLICATION WOULD NOT BE IN THE PUBLIC INTEREST.

DOT may issue a permit to a person authorizing the person to engage in foreign air transportation if DOT finds, among other things, that the foreign air transportation

to be provided under the permit "will be in the public interest." 49 U.S.C. § 41302.[2] Among the policy objectives that the Secretary is to seek to achieve when determining whether proposed foreign air transportation is in the public interest is the encouragement of "fair wages and working conditions." 49 U.S.C. § 40101(a)(5). Another objective is "strengthening the competitive position of [U.S.] air carriers to at least ensure equality with foreign air carriers." 49 U.S.C. §§ 40101(a)(15) and (e)(1). Approval of NAI's application would be inconsistent with either of these objectives.

NAI is clearly under the control of NAS. Its name, its ownership, its directors, and its CEO, show that.

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[2] NAI notes that its application is filed under the Application Procedures for Foreign Air Carriers of the European Union. These procedures were designed to carry out an agreement expressed in Article 6 *bis* of the ATA under which the U.S. and the EU would recognize fitness and/or citizenship determinations made by the aeronautical authorities of the other side as if such determinations had been made by its own aeronautical authorities. In the negotiations over the Memorandum of Consultations (MOC) that accompanied the 2010 Protocol, however, the U.S. -- at the request of the Transportation Trades Department of the AFL-CIO -- proposed and the EU accepted, a proposal that stated that the reciprocal recognition procedures "are not intended to modify the conditions prescribed under the laws and regulations normally applied by the Parties to the operation of international air transportation referred to in Article 4 of the Agreement." Exs. 12 and 13 ¶5). Article 4 of the ATA, in turn provides, that one Party shall grant appropriate authorizations and permissions to airlines of the other Party provided, among other things, that "the airline is qualified to meet the conditions prescribed under the laws and regulations normally applied to the operation of international air transportation by the Party considering the application." Ex. 14. Among the normally applied -- indeed, statutorily required -- conditions for an applicant to receive a foreign air carrier permit is that approval of the application must be in the public interest. 49 U.S.C. § 41302. In other words, the ATA did not diminish DOT's authority to determine whether approval of an application for a foreign carrier permit is consistent with the public interest.

The entire purpose of the creation of first NLH, and now NAI, is for NAS to avoid having Norway social laws apply to its long-haul operations. Norway has apparently sought to have Norway social laws apply to the air crew of NLH, but NAS has said that it would seek to avoid such application by registering its 787s outside of Norway and by seeking to establish a non-Norwegian carrier with an AOC outside of Norway.

The terms and conditions of employment that apply to the aircrew of NLH are significantly inferior to those of NAS, even though NLH operates larger aircraft. The pilots are employed not by NLH under Norwegian law, but by a pilot supply company, Global Crew Asia PTE, Limited (Global Crew), a Singapore company, under individual employment contracts governed by Singapore law. The pilots are then rented to NLH, which domiciles them in Thailand. The contracts do not allow the pilots to take up employment concerns directly with NLH; rather, they must address their concerns to Global Crew.

As it appears that NAI is to take over the operations currently being conducted by NLH, there is no reason to believe that similar terms and conditions of employment would not apply to the aircrew of NAI if it were to be granted authority to operate as an air carrier. Thus, approval of the application would not be consistent with encouraging fair wages and working conditions. 49 U.S.C. § 40101(a)(5). Nor would it strengthen the competitive position of U.S. airlines to ensure at least equality with foreign air

carriers. 49 U.S.C. §§ 40101(a)(15) and (e)(1). The EU is treated as a single entity for purposes of the ATA. However, each EU Member State (and Norway) has its social laws and its own air carrier licensing body. EU carriers are thus able to compare and select the labor laws they wish to have apply to their employees as well as the licensing regime they wish to be subject to. U.S. air carriers, on the other hand, do not have the same latitude: they all play by the same rules, wherever they are incorporated. One labor law -- the Railway Labor Act -- sets the rules for the recognition of employee representatives and bargaining between the airlines and those representatives over wages and working conditions. One set of aviation laws applies to the licensing of air carriers and those laws are administered by a single entity -- the Department of Transportation.

II. APPROVAL OF NAI'S APPLICATION WOULD BE INCONSISTENT WITH THE US-EU/NORWAY/ICELAND AIR TRANSPORT AGREEMENT.

Approval of the NAI application would also be at odds with the U.S.-European Air Transport Agreement.

Prior to being displaced by the ATA, the bilateral agreement between the U.S. and Ireland, like the bilateral agreements between the U.S. and Norway and the U.S. and its other EU partners, contained "nationality" clauses that required that substantial ownership and control of each carrier seeking to provide services under the agreement be vested in the party designating the airline, nationals of that party, or both. Ex. 15.

Thus, absent a waiver from the U.S., a Norwegian controlled airline would not have been able to operate services to the U.S. under the U.S.-Ireland bilateral.

Early in the negotiations that resulted in the ATA, the U.S. proposed that any final agreement would treat EU carriers as "European airlines" that could serve the U.S. from any point in the EU. This proposal was accepted by the EU and the ATA ultimately included an authorization provision under which the U.S. generally permits any EU airline to conduct international air transportation under the Agreement if substantial ownership and effective control is vested in a Member State or State, nationals of such a state or states, and the airline is licensed as an EU airline and has its principle place of business in the territory of the European Community. Ex. 14. Under this provision, an airline of one EU country may generally own and control an airline established in another EU country and, if it is qualified to meet the conditions normally applied to the operation of international air transportation by the relevant U.S. authorities, provide the air transport services authorized under the ATA. *Id*.

In the negotiations leading to the ATA and to the 2010 Protocol amending the ATA, airline employee representatives from both sides of the Atlantic continuously and strongly voiced their concerns about how the new freedoms that would be afforded EU airlines under the ATA and certain other requests of the EU -- *e.g.*, the exchange of cabotage rights and the elimination of ownership and control restrictions -- could be used to undermine their representation rights and the terms and conditions of

employment. In response to these concerns, during the negotiations leading up to the 2010 Protocol, the EU held two "labor forums" in order to examine these concerns in more depth.

The first forum was held in Washington, D.C. on December 3-4, 2008. The second was held in Brussels on June 22-23, 2009. At these forums, a number of European and U.S. employee representatives set forth their concerns about a number of the liberalizations that were included in the 2007 ATA and were being discussed in connection with the ongoing "Stage II" negotiations. One of their primary concerns was with the authorization clause. At the core of their concern was that while the EU had formed a common aviation area within which EU carriers could operate freely, the EU had left in place national labor laws and airline licensing authorities. In their view, this was a halfway step that had created a labor law framework in Europe that was fragmented, had resulted in a significant tilting toward management of the balance of power in labor-management relations in Europe, and provided greater possibilities for "reflagging," "social dumping," and "regulatory shopping" by EU airlines, similar to what had occurred over the last several decades in the shipping industry. The labor representatives also expressed their concern about the European Court of Justice decision in *Finnish Seamans' Union v. Viking Line ABP* (2007), which bolstered the right of an EU company to establish a subsidiary in another EU country and made it significantly more difficult for the employees of an EU transport company to challenge

the reflagging of a vessel or aircraft in a country other than the home country of the vessel or aircraft's owner. They explained that this concern had been heightened by the creation by British Airways (BA) of a French subsidiary -- Open Skies Airlines -- that would offer flights between France and the U.S. There, the BA pilots had sought to have the Open Skies pilots covered by their contract with BA but their request had been rebuffed by BA. The pilots had initially sued BA claiming that their contract should apply to the Open Skies pilots but in light of the potential applicability of the *Viking* case, felt compelled to dismiss the suit.[3]

The last session of the second forum was dedicated to discussing how labor's concerns ought to be addressed in the ATA. The labor representatives uniformly emphasized that the Agreement needed to deal with the representational and bargaining legal certainty challenges posed by transnational airlines. At the end of that session, the Commission announced that "as part of developing these and other ideas for possible inclusion of a second stage agreement," the Commission would appoint an independent "*explorateur*" to develop a report on the issues. Ex. 17 ¶34.

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[3] *See* EU-US Aviation Forum on Liberalization and Labour, Executive Summary, Ex. 16; EU-US Second Aviation Forum on Liberalization and Labour, Ex. 17; Presentation of Captain John Prater, President, Air Line Pilots Association, Ex. 18; Presentation of Captain Rick Brennan, Professional Affairs Consultant, International Federation of Air Line Pilots Associations, Ex.19; Presentation of Professor Peter Turnbull, University of Cardiff, Ex. 20; Presentation of Captain George Quick, Vice President, Int'l Organization of Masters, Mates and Pilots, Ex. 21.

The individual appointed to the *explorateur* position was Claude Chêne, a former Director of Air Transport at the Commission. Mr. Chêne proceeded to meet with a broad cross-section of stakeholders in the EU and the U.S. and submitted to the Commission a report entitled "Transatlantic Trans-National Airline Companies: Taking Account of Social Issues." Ex. 22. Mr. Chêne noted that at the conclusion of the second Labor Forum there was a widely held consensus among the EU and U.S. delegations that a second stage agreement should seek to include a social dimension. Ex. 22 ¶6. He wrote:

> In the context of the first stage agreement, the concern most commonly voiced by labour representatives is that the greater commercial freedoms that have been provided by the first stage EU-US agreement have not been matched by a regulatory framework providing equivalent protection for employees. Thus, airline companies have been granted the possibility of basing some or all of their operations in a foreign market (For example, the right for Community carriers to operate from *any* Member State to the US . . .) yet similar possibilities for labour groups to mirror the organizational structures of these trans-national airline companies (through, for example, the establishment of union groupings covering subsidiaries based in multiple jurisdictions) have been precluded by restrictions in place in the national laws on both sides of the Atlantic.

Id. ¶12 (footnote omitted).

Mr. Chêne went on to note that harmonization of European labor law was "not a workable solution in the context of the EU-U.S. agreement, even if such an approach is, in the abstract, personally attractive." *Id*. ¶30. There were, he concluded, substantial political obstacles to harmonizing European labor laws in order to provide a more coherent regulatory framework that would promote more effective employee

representation at transnational carriers. In particular, he noted the EU Member States "have been keen to ensure that the power of the European Community is expressly limited in the area of social harmonization." *Id*. ¶25.

The limited proposals offered by Mr. Chêne to address the labor-management challenges raised by trans-national airlines were ultimately rejected by unions on both sides of the Atlantic. Exs. 23 and 24. They also were not pursued by the EU and U.S. negotiators. Rather, the negotiators took into account Mr. Chêne's findings as they worked to fashion language that broadly expressed the notion that the Agreement is not intended to facilitate the undermining of labor standards. Indeed, business arrangements that undercut national labor standards were to be discouraged. The language they agreed upon is now Article 17 *bis* of the ATA:

> 1. The Parties recognise that the importance of the social dimension of the Agreement and the benefits that arise when open markets are accompanied by high labor standards. The opportunities created by the Agreement are not intended to undermine labour standards or the labour-related rights and principles contained in the Parties' respective laws.
>
> 2. The principles in paragraph 1 shall guide the Parties as they implement the Agreement, including regular consideration by the Joint Committee, pursuant to Article 18, of the social effects of the Agreement and the development of appropriate responses to concerns found to be legitimate.

Ex. 17.

Approval of NAI would be directly at odds with intent of the social clause. NAS could not establish a subsidiary airline in Ireland and have it conduct commercial air transport services to the U.S. but for the opportunity to do so created by the authorization clause in the ATA and the sole expressed purpose of the attempt to establish NAI as a separate airline from NAS is to "undermine labour standards [and] the labour-related rights and principles contained in the Parties' respective laws." To grant NAI's application would be an act completely inconsistent with recognizing the benefits that arise when open markets are accompanied by high labor standards. Rather it would assist in eroding those benefits. The application should be denied.

III. IF DOT DOES NOT DENY NAI'S APPLICATION OUTRIGHT, IT SHOULD DEFER ACTION ON IT UNTIL IT RECEIVES ADDITIONAL INFORMATION FROM NAI, THE COMMISSION, IRELAND AND NORWAY.

As mentioned above, NAI has filed a skeletal application. For example, it provides no information on the nature of the applicant's organization, its relationship to NAS and NHL, the type of equipment it intends to employ, its proposed service schedule, its officers and directors, or its ownership structure. This barebones approach is indeed permitted by the Department's "Application Procedures for Foreign Air Carriers of the European Union" (Procedures). But, as shown above in footnote 2, these procedures do not diminish DOT's authority to take whatever steps are

necessary -- including obtaining additional information -- to determine whether approval of an application for a foreign air carrier permit is consistent with the public interest.

If the Department does not deny NAI's application immediately, the public interest questions raised by the application deserve a deeper look before final action is taken. DOT should require the applicant (including its airline affiliates), and the appropriate government authorities, to provide additional information relevant to whether approval of the application would be in the public interest. This would include information about the purposes of the creation of NAI, who the flight crew (pilots and flight attendants) of NAI and NLH are and what wages and working conditions apply or will apply to them, the position of the governments of Norway and Ireland and the European Commission with respect to the terms and conditions of the NLH and NAI's flight crew, and the positions of the governments of Norway, Ireland and the European Commission with respect to the labor laws that govern the operations of NLH and NAI. A proposed information request is attached.

CONCLUSION

For the foregoing reason, DOT should deny the application of NAI or, if it does not deny the application at this time, seek additional information from NAI and its corporate affiliates, and the governments of Norway and Ireland.

Respectfully submitted,

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December 17, 2013

CERTIFICATE OF SERVICE

I certify that I have, on this 17th day of December, 2013, served the foregoing Answer, including Attachment and Exhibits, and the Declaration of Jack Netskar by causing a copy to be sent by electronic mail to the addresses identified below:

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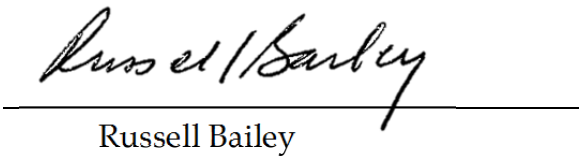

Russell Bailey

ATTACHMENT TO ANSWER

Questions for Norwegian Air International (NAI) and its airline affiliates Norwegian Air Shuttle (NAS) and Norwegian Long Haul (NLH)

1. What is the corporate relationship between NAI and NAS?

2. Does NAS or any entity that it controls hold any stock in NAI? If so, how much of each class of NAI stock does NAS own and what percentage of each class does NAS own? How much NAI stock is owned by any entity that NAS controls and what percentage of each class of NAI stock is owned by any entity that NAS controls?

3. What is the relationship between NAS and any other stockholder of NAI?

4. Does any current or past employee, officer or director of NAS, NLH or their corporate affiliates sit on the board of directors of NAI? If so, please identify that person.

5. Does any current or past employee, officer or director of NAS, NLH or their corporate affiliates hold a management position at NAI? If so, please identify that person.

6. What are the terms and conditions that apply to the employment of non-management air crew (pilots and flight attendants) who work for NLH? Please provide any contracts or other documents that describe those terms and conditions.

7. Who are the NLH air crew employed by?

8. What country's or countries' laws apply to the employment contract of NLH's non-management air crew?

9. Where are NLH's non-management air crew domiciled?

10. Please provide any contract or other agreement between NAS, NLH or any entity affiliated with NAS on the one hand, and Global Crew Singapore Pte Limited on the other, that sets out the conditions under which pilots employed by Global Crew will be supplied to NAS, NLH or any airline affiliated with NAS.

11. Do the terms of employment for NLH's flight crew differ from those of NAS's flight crew who are based in Norway?

12. If the terms of employment differ, in which aspects do they differ?

13. Are NLH's non-management air crew able to select a bargaining representative to negotiate terms and conditions of employment with NLH? If so, what are the laws that govern the selection of a bargaining representative for the NLH air crew and the negotiation of their terms and conditions of employment?

14. What is the corporate relationship between NAI and NLH?

15. Was the purpose of establishing NLH to avoid the application of Norwegian law to the terms and conditions of employment of the air crew who would be working on board the 787s that would be providing air transport services in the NAS name?

16. If the purpose of establishing NLH was something other than avoiding the application of Norwegian law to the terms and conditions of the air crew who would be working on board the 787s that would be providing air transportation services in the NAS name, what was it?

17. How many of the 787s operated by NLH are registered in Ireland?

18. Was the purpose of registering the NLH-operated aircraft in Ireland to avoid the application of Norwegian law to the terms and conditions of employment for NLH's air crew?

19. If the purpose of registering NLH-operated aircraft in Ireland was something other than avoidance of the application of Norwegian law to the terms and conditions of employment for NLH's air crew, what was it?

20. Is the purpose of seeking to establish NAI as an Irish airline something other than to avoid the application of Norwegian law to the terms and conditions of employment for NLH's and/or NAI's air crew?

21. If the purpose of seeking to establish NAI as an Irish airline is something other than to avoid the application of Norwegian law to the terms and conditions of employment for NLH's and/or NAI's air crew, what is it?

22. What are the terms and conditions that are anticipated to apply to the employment of non-management air crew (pilots and flight attendants) who would work on board NAI's aircraft?

23. On what routes does NLH operate scheduled passenger services now? On what routes do NLH or NAI expect to operate scheduled services in the next 8 months?

24. Does either NLH or NAI expect to operate any scheduled services directly between Ireland and the U.S.? Between Ireland and any point outside the EU, including Norway? Between Ireland and any point in the EU?

25. Will NLH continue to operate as a separate airline if NAI succeeds in receiving air transportation authority from Ireland and the U.S. and commences operations? If so, what operations will NLH conduct and for how long will it conduct them? Is the plan to have NAI replace NLH as the entity that conducts 787 operations on behalf of NAS?

Questions for Norway, Ireland and the European Commission

1. Does Norwegian law require all flight crew who operate aircraft that are on the operating certificate of a Norwegian air carrier to be employed under Norwegian social laws? If there are exceptions, what are they? Does the fact that the aircraft may be registered in a country other than Norway make a difference? Does the fact that the aircrew may be domiciled outside of Norway make a difference? What is Norway's view of which country's social laws apply to the aircrew (pilots and flight attendants) who work on board the Irish-registered 787s operated by NLH?

2. Has Norway made efforts to bring NLH's aircrew under the coverage of Norwegian social law? If so, how has NLH responded to these efforts?

3. What is Ireland's view on whether Ireland's social laws apply to the aircrew who work on board the Irish-registered 787s operated by NLH? Does Ireland require that the terms and conditions of employment of aircrew working on board Irish-registered aircraft be covered by Irish social laws? Has Ireland made any efforts to bring NLH's aircrew under Irish social law? If so, how has NLH responded to these efforts?

4. Does Ireland require that Irish social laws apply to the establishment of terms and conditions for the aircrew of airlines that hold Irish AOCs? If not, what are the exceptions? What are the rules in such a case?

INDEX TO DOCUMENTS FILED IN SUPPORT OF ALPA's ANSWER

	DESCRIPTION
	Declaration of Jack Netskar
	Attachment A to Declaration of Jack Netskar - Global Crew Asia PTE., Limited "Employment Agreement for Assignment to Norwegian Longhaul Singapore PTE., Limited"
	Attachment B to Declaration of Jack Netskar - Norwegian Airline Pilots Association Letter re Use of Thailand Nationality Cabin Crew on Irish Registered Aircraft, October 8, 2013
	Attachment C to Declaration of Jack Netskar - Letter from Office of the Minister for Jobs, Enterprise and Innovation to Norwegian Airline Pilots Association, October 23, 2013
EXHIBIT	
1	Centre for Aviation Article, "Norwegian Air Shuttle: Asia's longhaul LCC model comes to the N Atlantic," October 29, 2013
2	USA Today Article, "Norwegian Air uses Dreamliners to fuel big U.S. expansion," September 2, 2013
3	Buying Business Travel Article, "Norwegian to launch flight from Gatwick to US," October 17, 2013
4	News English Article, "More challenges at Norwegian Air," November 28, 2013
5	Irish Times Article, "Norwegian airline in talks over Irish base," August 8, 2013
6	Report from HSBC Analyst Andrew Lobbenberg - "Norwegian seeks Irish AOC," August 8, 2013

EXHIBIT	DESCRIPTION
7	Pro News, Article, "Norwegian considers basing long-haul division in Ireland," August 8, 2013
8	*the* Foreigner Article, Norwegian News in English, "Air authorities powerless over Norwegian move," April 29, 2013
9	Article from www.rte.ie, "Budget airline may register aircraft in Ireland to avoid Norwegian labour law," April 25, 2013
10	Norwegian Air International Limited Registration Information
11	Norwegian Air International Limited Annual Return, October 23, 2013
12	Transportation Trades Department, AFL-CIO, letter to U.S. Departments of State and Transportation re "U.S.-EU air service negotiations: reciprocal recognition of fitness and citizenship determinations," January 11, 2010
13	U.S.-EU Memorandum of Consultations, March 2010
14	Air Transport Agreement between the United States of America and the European Community and Its Member States (excerpts)
15	Consolidated Air Transport Agreement between the Government of the United States of America and the Government of Ireland (excerpts)
16	EU-US Aviation Forum on Liberalisation and Labour, December 3-4, 2008
17	EU-US Second Aviation Forum on Liberalisation and Labour, June 22-23, 2009
18	U.S.-EU Union Labour Forum - Statement of Captain John Prater, President, Air Line Pilots Association, December 3, 2008

EXHIBIT	DESCRIPTION
19	U.S.-EU Union Labour Forum - Presentation of Rick Brennan, International Federation of Air Line Pilots' Associations, December 3-4, 2008
20	U.S.-EU Union Labour Forum - Presentation of Peter Turnbull, Cardiff University, UK, December 3-4, 2008 (excerpts)
21	EU-US Second Aviation Forum - Presentation of George A. Quick, Vice President, International Organization of Masters, Mates and Pilots, June 22-23, 2009
22	Report by Claude Chêne, Special Advisor to the European Commission re "Transatlantic Trans-National Airline Companies: Taking Account of Social Issues," November 9, 2009
23	European Cockpit Association and Air Line Pilots Association, letter to European Commission and U.S. Department of State re Claude Chêne Report, December 10, 2009
24	Transportation Trades Department, AFL-CIO, letter to Departments of State and Transportation re Claude Chêne Report, January 11, 2010

Declaration of Jack Netskar

1. My name is Jack Netskar. I am the International Director of the Norwegian Air Line Pilots Association (Norsk Flygerforbund). I have held that position since 2012. Prior to that I was Chairman of the Board at Scandinavian Airlines Pilot Association (NSF). I began my work with NSF in 2001.

2. Norsk Flygerforbund (NF) is an umbrella organization representing the majority of pilots in Norway, including members from Norwegian Air Shuttle. The organization provides its member associations with industrial, flight safety and economic information. It participates in the negotiation of collective bargaining agreements, and has the signatory right on the agreements for most of its members. In addition, NF provides analyses regarding industry trends, including the development of business arrangements between Europe and other competitive issues related to international markets. NF also takes part in analyses of international airline business plans and development through European Cockpit Association (ECA) and IFALPA.

3. During my career at NF/NSF I have been engaged in analyzing the development of the business plans generated by both legacy carriers and so called low cost carriers. Most of these airlines workforce are members of ECA/IFALPA. My position as International Director requires me to stay attuned to economic and industry trends around the globe.

4. NF is a labor organization representing more than 1,700 pilots employed by 11 airlines in Norway. Among the air carriers and helicopter companies whose pilots NF represents are those employed by SAS, Wideroe , Norwegian Air Shuttle, CHC Helicopter, Ryanair and other carriers that have international operations.

5. NF has for several years advocated that the Norwegian government should carry out an aviation policy that ensures that pilots are able to secure their work by being directly employed by the airline they fly for and thereby securing their social security and other rights that comes with the employment in a Norwegian company. Further we have emphasized the importance of contributing to a level playing field for the best Norwegian companies and their workers.

6. Norwegian Air Shuttle (NAS) started as a commuter company for the Norwegian airline Braathens. This company went out of business when it was acquired by SAS and merged into its operation in 2006. From this point NAS changed

strategy by going into the short haul market with Boeing 737s. The company has more than 200 narrow body aircraft on order. In 2010 the company started publicly to talk about adding long haul production to the operation and later decided to penetrate the long haul market from Scandinavia and placed orders for B787 Dreamliner for this operation. Later the company and the pilot union in NAS agreed on a long haul appendix in their collective labor agreement (CLA).

7. In January 2012 NAS established a wholly—owned subsidiary, Norwegian Long Haul, AS (NLH), a Norwegian air carrier.

8. NLH currently operates 787 aircraft in scheduled service on a wet lease basis for NAS. Some of the NLH flights operated for NAS are to points in the United States.

9. The 787s operated by NLH are registered in Ireland.

10. NAS has stated that NLH was established for the purpose of having lower wages and working conditions for air crew (pilots and flight attendants) who would work on board the NLH aircraft that would be operated on behalf of Norwegian Air Shuttle.

11. Non-management pilots and flight attendants who were flying NAS aircraft would not fly the aircraft that would be operated by NLH. In particular, the NAS pilots whose terms and conditions of employment were set by a collective bargaining agreement with NAS would not have an opportunity to bid on the flying done by NLH.

12. NAS has also stated that the NLH 787s were registered in Ireland so that Norwegian law would not apply to the establishment of the wages and working conditions that apply to the air crew who work on board those aircraft.

13. The unions that represent the NAS pilots and flight attendants have repeatedly asked NAS to have the 787s being operated by NLH to be staffed by pilots and flight attendants who fly for NAS. NAS has strongly refused these requests. Establishing NLH as a subsidiary and the use of contract pilots as described below led to the fact that the long haul appendix in the NAS pilots' CLA, for all practical purposes, was eliminated and long haul flying opportunities disappeared.

14. During negotiations over a collective agreement in October this year, all the NAS pilots were transferred to a subsidiary of NAS named Norwegian Air Norway. This company is purely a staff agency company established to staff the NAS operation. Such resource companies have been established in all countries where NAS has established crew bases (Norway, Sweden, Denmark, Finland, England, and Spain), purely to undermine the workers' rights and for NAS to be able to have the different resource companies compete against one another. NAS has determined that NLH will still have crew who are employed on Asian contracts.

15. Rather than employ NAS pilots and flight attendants to work on board NLH aircraft, NAS is using on those aircraft, pilots and flight attendants who are working on time-limited individual contracts.

16. Attached hereto is an example of the type of contract that I believe is being used to set the employment conditions for non-management pilots who are being used to staff NLH's aircraft (Contract).

17. Under the Contract the pilot is employed by Global Crew Asia Pte Limited (Global). The Contract states that Global is a Singapore company. It further states that the Contract "shall be governed by and construed in accordance with the laws of Singapore."

18. The Contract states that the "Client" of Global is the "airline Norwegian Longhaul Singapore Pte. Limited" (NLH Singapore). I believe that NLH Singapore is an entity owned and/or controlled by NLH or NAS. I also believe that NLH Singapore is not a certificate holding airline and that the pilots working under the contract are working on board NLH aircraft.

19. Under the Contract the pilot's duties include "providing pilot services to the Employer's Client." (Contract, Schedule 1.)

20. Although under the Contract, the pilot will "be directed by the Client, with respect to operational matters, hours of work, rest periods and rostering," the pilot is not to take up any employment disputes directly with the NLH, but is to take them up with Global. (Contact and Schedule 1.)

21. The terms and conditions of employment under the Contract are significantly inferior to those that apply to the NAS pilots.

22. There is no collective representation for the pilots who are working on board the aircraft being operated by NLH for NAS.

23. The Norwegian government had given NAS/NLH until December 23 to bring the pilots working onboard NLH aircraft under the Norwegian laws that apply to terms and conditions of employment for workers at Norwegian companies. On December 13, the Norwegian government gave NAS/NLH a three month extension.

24. In order to ensure that its aircrew is not covered by Norwegian law, NAS has sought to obtain an Irish Air Carrier Certificate and to establish an Irish airline. The name of the company seeking the Irish AOC is Norwegian Air International Limited, the applicant in this proceeding. NAI was incorporated in Ireland in March of this year and is seeking an Irish AOC. If it succeeds in commencing business as an air carrier, we believe it will perform the 787 flying now done by NLH on behalf of NAS. We also believe it will also perform future 787 flying for NAS.

25. I believe that NAS/NLH/NAI intends to use the pilots currently employed by Global or other pilots who are employed under similar contracts. The NAS pilots have asked that any 787 flying done by NAI be done by NAS pilots under their collective agreement. NAS has refused this request.

26. On October 8 I wrote to the Irish Minister for Jobs, Enterprise and Administration the attached letter. On October 23 I received the attached reply. This letter was followed up by a reminder letter. I have heard nothing subsequently in reply to the letter.

27. I declare under the penalty of perjury under the laws of the United States, that the foregoing is true and correct to the best of my belief.

Executed in Oslo, Norway on December 16, 2013.

Jack Netskar

ATTACHMENT A
TO NETSKAR DECLARATION

GLOBAL CREW ASIA PTE., LIMITED

- and -

(Pilot Name)

EMPLOYMENT AGREEMENT FOR ASSIGNMENT TO

NORWEGIAN LONGHAUL SINGAPORE PTE., LIMITED

CONFIDENTIAL

AGREEMENT dated 2012

BETWEEN:

(1) **GLOBAL CREW ASIA PTE LIMITED** a company incorporated under the laws of the Republic of Singapore and having its registered office at 10 Anson Road 35-06A International Plaza, Singapore 079903 ("**EMPLOYER**"); and

(2) (Pilot) of (Address) ("**Employee**").

1. INTERPRETATION

1.1 Definitions

In this Agreement, unless the context otherwise requires:

"Aircraft" means the current passenger aircraft operated by the Client.

"Base" means Bangkok or such other location specified by Employer on **2 months'** notice.

"Client" means the Employer's client airline Norwegian Longhaul Singapore Pte., Limited based in Singapore.

"Commencement Date" means the date when the Employee reports to Client to start Ground Course, Type Rating or Difference Training, whichever comes first.

"Extended Outstation Layover" means **4** or more consecutive days off at an outstation other than Base.

"EUR" means the legal currency of the Eurozone of the European Union.

"Operational Duty" means from the time the Crew Member reports for duty until the end of such duty according to EU/ OPS Subpart Q and includes any of the following;

(i) flight duty as part of an operating flight crew; or
(ii) deadheading/positioning; or
(iv) standby duty; or
(v) simulator flight duty; or
(vi) proficiency, training or recurrency required by the Client.

"Qualifications" means the qualifications set out in **Item 3** of **Schedule 1**.

"Taxes" means any tax, duty, withholding, deduction, impost, contribution, levy or charge (including any social security charges or contributions) in respect of the payments, salary remuneration and benefits provided to the Employee under this Agreement.

1.2 **Headings**: Clause and other headings are for ease of reference only and shall not be deemed to form any part of the context or to affect the interpretation of this Agreement.

1.3 **Clauses**: References to Clauses are references to Clauses of this Agreement.

1.4 **Plural and Singular**: Words importing the singular number shall include the plural and vice versa.

1.5 **Name**

1.6 **Schedules:** This Agreement includes the Schedules to it.

2. EMPLOYMENT

2.1 The Employee is employed by the Employer in the capacity specified in **Item 1** of **Schedule 1.**

2.2 The Employee's employment is subject to the Employee meeting the requirements of **Item 3** of **Schedule 1**.

3. DUTIES

3.1 The Employee will perform the duties specified in **Item 2** of **Schedule 1** and such other duties as may from time to time be assigned to the Employee and shall comply with all reasonable directions, procedure and policies of the Employer.

3.2 When providing pilot services to the Client, the Employee shall be subject to the authority, direction and control of the Client and the Employee shall comply with the Client's directions, instructions rules, regulations, policies and operating procedures and such other rules and regulations applicable to the Employee's duties.

3.3 The Employee shall act in good faith, with all due care, perform the duties with skill and diligence and shall use best endeavours to promote and protect the interests of Employer and the Client, shall devote the whole of the Employee's time, attention and abilities during the performance of duties and at such other times as the Employer (or the Client) may require for the performance of such duties.

3.4 For the purposes of the duties to be undertaken by the Employee the Employer shall provide or procure that the Employee is provided with the items set out in **Schedule 2.**

4. TERM

4.1 Employment will commence on the Commencement Date and will, unless extended by written agreement between the parties, terminate automatically **36 months** from the Commencement Date, subject to earlier termination in accordance with this Agreement. The Employee's employment may be renewed for a further term subject to the mutual agreement of both parties.

5. PLACE AND HOURS OF WORK

5.1 The Employee will provide services to the Client at such locations and times as the Client or the Employer may direct from time to time and as may be reasonably required by the Employer in order for the Employee to properly perform their duties.

5.2 The Employee will be rostered up to the maximum duty time allowed by the relevant CAA and for a minimum of **8 days** free of duty in any full calendar month (prorated for any part month).

5.3 The Employee may request Extended Outstation Layover and where granted by the Client the Employee accepts that the EOL includes weekly rest days.

5.4 The Employee's salary at **Clause 6.1** below fully compensates the Employee for all hours worked.

6. REMUNERATION

6.1 Employer shall for the period from the Commencement Date until the termination of this Agreement pay the Employee the monthly payments as follows:

(a) Salary of [Type Rating Instructor (TRI) EUR 11,000 /Captain EUR 9,000/ Relief Captain EUR 7,000/ First Officer EUR 5,000];*(delete as applicable)*

(b) EUR 1,000 for per diems to cover work related expenses; and

such payment to be prorated for any employment commencing or terminating part way through a month.

(c): Where the Employee performs the duties set out below, the Employer will pay the Employee as follows;

(i) Line Training Captain duties, EUR 20 per block hour of line instruction;
(ii) Check Captain duties, EUR 40 per block hour of line checks;
(iii) Simulator Instructor duties, EUR 40 per simulator hour; and

The payments under this **Clause 6.1.(c)** will be included in the monthly payment to the Employee in the month following the month in which such duties were performed.

6.2 The payments specified in **Clause 6.1** above are before Taxes and shall be paid in arrears. The above stated payments are the total remuneration payable to the Employee inclusive of all benefits and no overtime rates or additional payments will apply.

6.3 Payment shall be sent from Employer's bank account to an account to be nominated by the Employee for each month of completed service, no later than the **28th day** of the month of service,(less any bank transfer charges payments to more than one bank account. Where the **28th day** falls on a weekend or public or bank holiday, payment shall be sent on the next working day.

7. TAXES

7.1 The Employee shall be responsible for all Taxes (including income tax liability,) relating to the Employee or to this Agreement, and shall:

(i) file all tax returns and pay any required Taxes as they fall due in any applicable jurisdiction;

(ii) provide the Employer with documentation evidencing the Employee´s payment of Taxes set out under **Clause 7.1 (i)** above;

(iii) if the Employee is a Norwegian citizen and/or resident for tax purposes report the Employee´s income to the Norwegian tax authorities and provide satisfactory evidence of payment of Taxes in Norway

(iv) indemnify the Employer and/or the Client in respect of any failure to comply with any applicable tax laws.

7.2 Notwithstanding the Employee's obligations in **Clause 7.1** above the Employer shall be entitled to withhold any outstanding Taxes owed by the Employee or required to be deducted under the laws of Singapore (if any) or any other jurisdiction, including following termination of this Agreement.

8. LEAVE, STATUTORY HOLIDAYS AND TIME OFF

8.1 **Annual leave**

Employee is entitled to paid annual leave as follows:

(i) the Employee's entitlement shall accrue on a pro-rata basis at the rate of **2 days** during each month of their employment from the first day of their employment;

(ii) annual leave may, with the agreement of the Employer, be taken in advance, but this is conditional on the leave taken in advance by the Employee being deducted from his leave balance once it accrues or the value of such leave being deducted from any monies paid to the Employee hereunder;

(iii) the time for taking annual leave may be agreed between the Employer, the Client and Employee, but failing agreement the Employer may, after consultation with the Employee, and having taken into account work requirements and the opportunities for rest and recreation available to the Employee, provide at least **14 days'** notice to the Employee directing them to take annual leave commencing on a particular date;

(iv) the Employee agrees that the Employer may pay him for annual leave in the pay that relates to the period during which the leave is taken;

(v) the Employee acknowledges and agrees that the leave provision in this **Clause 8.1** above is inclusive of applicable public holidays and no additional payment will be made in this respect.

8.2 **Payment for Work on a Day Off**
If the Employee agrees to work on a rostered day off the Employer will pay the Employee at the rate of 1/10 x the monthly salary specified at **Clause 6.1 (a)** for each day worked.

8.3 **Unpaid Leave**
Unpaid leave shall be granted at the sole discretion of the Employer.

8.4 **Sick Leave**
The Employee is entitled to a maximum of **30 days** of paid sick leave per calendar year (pro-rated for any part year). The Employee must notify the Employer and/or the Employee's immediate supervisor as soon as practicable if unable to work for medical reasons. Such notice shall be given within the **first four (4) hours** of the working day.

8.5 If the Employee has been absent from work for at least **5** consecutive days because of illness, the employee shall provide a medical certificate.

8.6 The Employer shall be entitled to require the Employee to undergo a medical examination by a registered medical practitioner nominated by the Employer. In assessing the Employee's fitness for work, the Employer shall take into account any report provided as a result of that examination, and any other medical report provided by the Employee within a reasonable time-frame.

8.5 **Compassionate Leave**

(i) Leave with pay up to a maximum of three days may be granted by the Employer for compassionate reasons. If compassionate leave is required in excess of three days, the Employer may consider granting an additional days' leave.

(ii) "Compassionate reasons" is defined as the critical illness or death of a parent, child, spouse, sister, brother, grandparent or parent-in-law. "Critical illness" is defined as illness of a nature warranting the patient to being classified by the relevant hospital as dangerously or critically ill.

8.6 **Maternity Leave**
Leave shall be granted by the Employer in accordance with the laws of Singapore.

9. TERMINATION

9.1 The Employer may terminate this Agreement, by giving not less than **30 days'** written notice; or, at Employer's discretion paying the Employee one month's salary in lieu of such notice; and

9.2 The Employee may after **6 months** terminate this Agreement, by giving not less than **90 days'** notice;

9.3 Employer may terminate this Agreement by immediate notice if:

(a) the Employee fails or ceases to hold any of the Qualifications;

(b) the Employee commits a breach of the terms of this Agreement, serious misconduct, disobedience or neglect of duty. Without limitation, the following events shall be serious misconduct for the purposes of this Clause:

(i) the Employee wilfully neglects the interests of the Client or Employer or damages the Client's property through negligence; or

(ii) the Employee is continuously absent from work for more than **2 days** without approval or without reasonable excuse; or

(iii) the Employee consumes alcohol in contravention of the Client's in-house rules applicable to its Employees or any applicable rules of any relevant aviation supervisory authority as the same may be amended from time to time; or

(iv) the Employee fails or refuses to comply with any reasonable or lawful direction of the Employer or the Client or with any in-house rules or policies of the Client applicable to the provision of the Services; or

(v) the Employee engages in conduct on or off duty which is prejudicial to the interest, good name or reputation of the Client or Employer; or

(vi) the Employee is dishonest or commits theft including theft of the Client's property; or

(vii) the Employee engages in smuggling or illicit trading of any kind; or

(viii) the Employee ceases to hold, (for any period of time), any one of the permits or travel documents, (including visas), necessary to provide the Services; or

(ix) the Employee engages in harassment of a work colleague or customer.

9.4 If the Employee terminates this Agreement prior to completion of the term specified in **Clause 4.1** and fails to provide **90 days'** notice the Employee agrees to pay to Employer the equivalent of up to one month's salary entitlement as specified in **Clause 6** above;

9.5 On termination all sums owing to the Employer under this Agreement shall be immediately payable by the Employee. The Employer may deduct any outstanding debts, overpayments, or money owed to it by Employee from final pay or holiday pay.

10. RETRENCHMENT

10.1 In circumstances where:

(a) The Employer's agreement with the Client for the provision of services of flight personnel is terminated, suspended or otherwise comes to an end; or

(b) Client terminates its agreement with the Employer with respect to Employee; or

(c) Client has a liquidator or receiver appointed in respect of the Client; or

(d) if the Client:

(i) is the subject of a winding up petition; or

(ii) passes a winding up resolution; or

(iii) fails to maintain any licences required by law or any competent regulatory authority; or
(iv) ceases to carry on business or meet its financial obligations; or

(e) The Employee's role is made redundant or retrenched,

then the Employer shall be entitled to terminate this Agreement by giving **30 days'** written notice to the Employee and Employee shall not be entitled to any additional payment or payment or compensation for redundancy or retrenchment.

11. OTHER EMPLOYMENT OBLIGATIONS

11.1 The Employee shall not, whether during the currency of this Agreement or after its termination for whatever reason, use, disclose or distribute to any person or entity, otherwise than as necessary for the proper performance of their duties and responsibilities under this Agreement, or as required by law, any confidential information, messages, data or trade secrets acquired by the Employee in the course of performing their services under this Agreement. This includes, but is not limited to, information about the Employer's or the Client's business.

11.2 All work produced for the Employer by the Employee under this Agreement or otherwise and the right to the copyright and all other intellectual property in all such work are the sole property of the Employer.

11.3 The Employee agrees that there are no contracts, restrictions or other matters which would interfere with their ability to discharge their obligations under this Agreement. If, while performing their duties and responsibilities under this Agreement, the Employee becomes aware of any potential or actual conflict between their interests and those of the Employer, then the Employee shall immediately inform the Employer. Where the Employer forms the view that such a conflict does or could exist, it may direct the Employee to take action(s) to resolve that conflict, and the Employee shall comply with that instruction. When acting in their capacity as Employee, the Employee shall not, either directly or indirectly, receive or accept for their own benefit or the benefit of any person or entity other than the Employer any gratuity, emolument, or payment of any kind from any person having or intending to have any business with the Employer.

11.4 During the term of this Agreement, the Employee shall not, without the prior written approval of the Employer, whether paid or unpaid, be directly or indirectly engaged in any other employment.

11.5 The Employee shall comply with all company rules, policies and directions, as notified by the Employer from time to time. The Employer is entitled to amend, cancel or introduce such rules, policies and directions, as it considers necessary.

11.6 The Employee agrees that for a period of **6 months** following the termination of their employment for whatever reason, they shall not, either personally, or as an employee, consultant or agent for any other entity or employer, seek to solicit or engage or employ any employee of the Employer. The Employee agrees with these provisions and receives consideration in the total remuneration package.

12. RETURN OF PROPERTY ON TERMINATION

The Employee shall, on termination of this Agreement, return to the Client and/or the Employer all manuals, items of uniform, identity card and any other items of property issued to the Employee by or on behalf of the Client.

13. HEALTH AND SAFETY

The Employer shall comply with all applicable health and safety legislation.

The Employee shall comply with all applicable health and safety laws and regulations in any jurisdiction in which the Employee performs duties and with all directions and instructions from the Employer and/or the Client regarding health and safety; and

Familiarise him/herself with and comply with any health and safety documentation issued by the Employer and/or the Client and provided to the Employee including without limitation as contained in the Client's standard operating procedures rule or regulations and any employee hand book and shall also take all reasonable steps to ensure that in the performance of their employment they do not undermine their own health and safety or the health and safety of any other person.

14. EMPLOYMENT DISPUTES

If the Employee considers that there is a problem, including any problem with the Client, the problem should be raised as soon as possible with the Employer. This can be done in writing or verbally. The parties use reasonable efforts will then try to establish the facts of the problem and discuss possible solutions.

15. OTHER CONTRACTUAL CLAUSES

15.1 **Variation of Agreement**
The parties may vary this Agreement, provided that no variation shall be effective or binding on either party unless it is in writing and signed by both parties.

15.2 **Assignment and Transfer**
The Employee must personally perform the duties and responsibilities under this Agreement and no subcontracting or assignment by the Employee is permissible.

The employer reserves the right to transfer the employees to another party on the same or substantially materially similar terms and conditions of employment as set out the Agreement. The Employees acknowledges and agrees that the Employees rights and obligations will continue as they were with the transferring party.

15.3 **Waiver**
No failure to exercise, or delay in the exercise of, any right or remedy either party may have under or in connection with this Agreement shall operate as a waiver thereof nor shall any single or partial exercise of any such right or remedy prevent any further or other exercise thereof of any other such right or remedy.

15.4 **Severability**
In the event any provision (or part thereof) of this Agreement is viewed as unenforceable by any authority or court with jurisdiction to consider such clauses, the offending provision (or part thereof) shall be deemed severed from this Agreement without affecting the validity of the remainder of this Agreement, which will be applied as modified by the authority or the court, or in the event it is not modified by the authority or court, the remainder of this clause and Agreement shall continue to be enforceable by the parties.

15.5 **Deductions from Salary/Wages**
Where requested by the Employee, the Employer may agree to deduct from their salary/wages any agreed amount and pay the amount to the organisation specified by the Employee. The Employer shall also be entitled to deduct from any salary payment payable upon termination of employment any overpayment made to the Employee for leave taken in advance.

15.6 **Employee Acknowledgment**
Employee acknowledges that:

i) they have been advised of their right to take independent advice on the terms of this Agreement;
ii) they have been provided with a reasonable opportunity to take that advice;
iii) they have read these terms of employment and understand these terms and their implications;
iv) they agree to be bound by these terms of employment and the Employer's and the Client's policies and procedures as implemented by the Employer from time to time; and
v) the Employee has disclosed and will continue to disclose all information about the Employee that would ensure the Employer can make a determination about the Employee's suitability for employment by the Employer.

15.7 **Media Communications**
The Employee shall not provide, publish or disclose information in any form, or speak on behalf of the Employer or the Client on any matter relating to the business activities Employer or the Client, or to this Agreement or the work to be undertaken by the Employee under this Agreement. All requests for information or interviews or for the disclosure of information shall be referred by the Employee to the Employer.

15.8 **Governing Law and Dispute Resolution**
This Agreement shall be governed by and construed in accordance with the laws of Singapore. In relation to any legal action or proceedings arising out of or in connection with this Agreement the parties hereby irrevocably submit to the non-exclusive jurisdiction of the courts of the Republic of Singapore.

SIGNED as an Agreement

for)
GLOBAL CREW ASIA LIMITED) .....
by:)

Date: .....

Address for Notices: info@globalcrewasia.com

by)
(.....)) .....
the Employee:)

Date: .....

Address for Notices:
Fax for Notices:
Email for Notices:

Contact Person in case of an Emergency:
Name:.....
Phone:
Fax:

SCHEDULE 1

1. **Position**; B787 [TRI/ PIC/RCA/FO] Pilot

2. **Employee's Duties**

(a) Providing pilot services to the Employers Client, the Employee shall pilot such domestic and international flights using the Aircraft as the Client may require.

(b) The Employee shall, in providing pilot services to the Client and in particular while on Operational Duty, be directed by the Client, with respect to operational matters, hours of work, rest periods and rostering.

(c) The Employee shall be rostered by the Client up to the maximum time allowed by the relevant CAA. Scheduling will be based on the Client's operational parameters as may be approved by the relevant CAA and the Client's operation manuals

(d) It is the Employee's responsibility to ensure that he is contactable at all times, by having a mobile phone service, or other suitable messaging or communications devices. The Employee will provide the Employer and the Client with the Employee's current contact phone numbers.

(e) Comply with the Client's AOC holder's operational manual part A and B;

(f) Provide evidence of valid licence to the Client on request;

(g) Ensure that at all times the Employee is fit to fly;

(h) Abide by the laws of any state in which the employee is required to perform duties.

(i) Notwithstanding **Clause 2. (b)** and **(c)** above the Employee shall be responsible for monitoring the Employees own flight time limitations in accordance with the relevant CAA regulations. The Employee shall not carry out simulator duties or fly for hire or reward for any other party. The Employee shall provide flight time details (including all deadheading, positioning or passengering time) to the Client or the Employer on request.

(j) Undertake training as the Client or Employer may require, and in accordance with **Schedule 3** to this Agreement.

(k) Where the Employee is appointed to provide Training Captain, Check Captain, or Simulator Instructor services to the Client, the employee will carry out duties relating to such services as the Client may require.

3. **Qualifications**

The Employee must at all times during the term of this Agreement:

(a) Meet all current requirements of the relevant Civil Aviation Authority and the International Civil Aviation Organisation to fly the Aircraft as an international and domestic air transport Employee.

(b) Meet all licensing and medical examination requirements as specified by the relevant Civil Aviation Authority to fly the Aircraft, including being the holder of relevant aircraft type rating and appropriate licence, with experience and hours to the satisfaction of the Client and Employer.

(c) Meet the standard required by the Client and Employer for all simulator checks including recurrency training and checks, as required by the Client. For the purposes of this Agreement:

(i) Written tests are considered failed if the Employee is unable to reach required score after **2** attempts.

(ii) Simulator training is considered failed if the Employee is unable to reach required standard after one extra session is given in addition to syllabus. This applies to initial Type Rating/Conversion Training.

(iii) Fail on OPC/PC: if one failure is recorded an extra training session in simulator will be given before new check. The second OPC/PC will be performed by a different examiner if required by Employee. Failure of second OPC/PC check is considered final.

(iv) Failure of Line Check: After failure of line check **2** sectors of line training will be given before new line check. The new line check will be given by a different examiner if required by the candidate. Failure of second line check is considered failure final. Additional training/checking beyond these rules can only be granted by Client's DFO.

(d) Obtain and maintain all visas or other entry documentation, valid passport, visa, or employment permits required to perform the Employee's duties. The reasonable cost of requisite visa/employment permit shall be reimbursed on production of receipts by the Employee.

(e) Pass any medical examination or other test required by the Employer or the Client at any time during the Employee's employment.

(f) Be familiar with and adhere to the rules and regulations that generally apply to the relevant position of the Crew Member in an airport area, and the standards, rules and regulations that generally apply to the Crew Member in relation to the Specified Services.

SCHEDULE 2

Employer will provide or procure that the Employee is provided with the following,

1. **Insurance**
   Employer will provide suitable medical insurance and personal accident and illness insurance for the term of this Agreement. Cover notes evidencing this insurance will be provided to any Employee by Employer on request.

2. **Uniforms and Identification**
   Employees will be provided with uniforms by the Employer, including any identification that it requires the Employee to have. The Employee shall take all actions necessary to adhere to the Client's policy with regard to uniforms and identification and regalia.

3. **Travel:**
   The Client shall make ID travel benefits available to the Employee and his qualifying family members, including ID travel, according to the current policies. From the start of the Employee's assignment, ID tickets will be granted to and from Base subject to availability on Norwegian Longhaul ASA and Norwegian Airshuttle flights.

4. **Ground Transportation:**
   During training and Operational Duty, the Client shall provide ground transportation at layover stations. Any other transportation such as to and from Base shall be the responsibility of the Employee.

5. **Accommodation at layover stations:**

   The Client shall provide and pay for;

   (a) Single room accommodation at Base during a period from the Employee's first assignment and for up to **30 days** thereafter. For subsequent duty the Employee will be responsible for accommodation.

   (b) When traveling back to Europe for consecutive days off the Employee will be provided hotel accommodation for one night when arriving to Europe and one night before leaving back to Base.

   (c) Single room accommodation at layover stations other than Base;

   (d) For the Employee on Extended Outstation Layover in Europe, single room accommodation the night before at Base operational duty starts, and the night such duty ends.

6. **Medical Facilities**

   The Client shall use best efforts to assist in the provision of contact with medical facilities should the need arise.

7. **Phone allowance**
   (i) TRI/PICs: EUR 100/month from the date line flying starts.

   (ii) Relief Captains and FO's: EUR 50/month from the date line flying starts.

SCHEDULE 3

Training

(a) The Employee shall undertake all flight simulator training and checks, medical examinations, and training courses as and when required by the Client to maintain his licence and his own proficiency.

(b) Where the Employee has undertaken training to B787 type at the Employer's or the Client's cost and this Agreement is terminated (excluding termination by the Employer without cause) prior to completion of the term the Employee shall immediately repay Employer the training costs in accordance with **Clause (c)** below. The Employee agrees to provide a satisfactory bank guarantee in favour of the Employer, or a cash bond, to the requisite value specified by the Employer in respect of such training costs prior to commencing duties.

(c) For termination occurring between;

	Pilots current on B737, B757, B767 or B747 when starting the B787 type rating course	Pilots current on any other aircraft type or not being current on B737, B757, B767 or B747 when starting the B787 type rating course
0-12 months	€30,000	€40,000
13-24 months	€20,000	€27,000
25-36 months	€10,000	€13,000
After 36 months	Nil	Nil

ATTACHMENT B
TO NETSKAR DECLARATION

NORSK
FLYGERFORBUND
- Norwegian Airline Pilots Association -

Your ref.: Our ref.:
/JN Lysaker, 8th of Oct 2013

USE OF THAILAND NATIONALITY CABIN CREW ON IRISH REGISTERED AIRCRAFT

Norsk Flygerforbund (Norwegian airline pilots association) has observed the development of new business strategies in the airline industry. We have great concerns both in the area of flight safety and European workers rights, watching the latest developments in certain airlines.

Norwegian Air Shuttle, a Norwegian based airline, has recently started long haul operations from Scandinavia to Bangkok, Thailand and New York, USA. The number of destinations will increase as the company receives more airplanes in the coming months.

The company applied for an exemption from Norwegian legislation to use cabin crew from Thailand last year. This was rejected by the Norwegian government, which clearly stated that Thai aircrew needed a Norwegian work permit to be able to work on a Norwegian registered aircraft. Norwegian air shuttle circumvented the Norwegian legislation of using the Thai staff by registering the aircraft in Ireland.

This development poses a significant threat to the current and future job security of existing employees in the European aviation industry.

From what we understand, the Irish legislation on work permits does not allow a company to freely use any staff from around the globe as they like. The company will have to apply for an Irish work permit on behalf of the employees, to be able to employ them on an Irish registered aircraft.

If our understanding of Irish legislation is correct, we request information from the Irish authorities whether work permits for Thai nationality staff has been applied for by Norwegian Air Shuttle, and if so, are the applications approved by Irish authorities.

We understand that Norwegian Air Shuttle are in negotiations with the Irish Aviation Authority to register as an airline in Ireland. This raises concerns as to the advantages of registering in Ireland, compared to registering in other EU member states.

Norsk Flygerforbund is concerned that there should be a level playing field, and consider Norwegian Air Shuttle's way of outsourcing qualified jobs from Europe to Asia as a threat to the entire branch.

Norsk Flygerforbund is looking forward to receiving information on whether Thai or other none EU staff have been granted work permits in Ireland.

Kind Regards

Jack Netskar
International Director/Norwegian ALPA

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N-1366 Lysaker, Norway

Telefon: (+47) 67 10 26 10
Telefax: (+47) 67 10 26 20
E-post: nf@flyger.no

Bankgiro: 7038.05.14492
Org.nr.: NO 974 431 459
www.flyger.no

Medlem av: The International Federation of Air Line Pilot's Association og ECA

ATTACHMENT C
TO NETSKAR DECLARATION

Oifig an Aire Post, Fiontar agus Nuálaíochta
Office of the Minister for Jobs, Enterprise and Innovation

Our Ref: **131446/MIN**

23 October, 2013

Mr. Jack Netskar
International Director/Norwegian ALPA
Norsk Flygerforbund
Oksenoystien 2
N-1366 Lysaker
Norway

Dear Mr. Netskar,

I wish to acknowledge receipt of your recent letter to the Minister for Jobs, Enterprise and Innovation, Mr Richard Bruton T.D., regarding the use of Thailand Nationality Cabin Crew on Irish registered aircraft.

The Minister has noted the comments made, but as this issue falls within the remit of Ms. Joan Burton T.D., Minster for Social Protection, he has asked that your correspondence be forwarded to her Office for attention and direct reply to you.

Yours sincerely,

(p.p.)
JOHN MAHER
PRIVATE SECRETARY

Sráid Chill Dara, Baile Átha Cliath 2, Éire • Kildare Street, Dublin 2, Ireland
T: + 353 1 631 2172 / 1890 220 222 • F: + 353 1 631 2815 • www.djei.ie • minister@djei.ie

EXHIBIT 1

CAPA
CENTRE FOR AVIATION

Norwegian Air Shuttle: Asia's longhaul LCC model comes to the N Atlantic (but watch falling profits)

29th October, 2013 [http://centreforaviation.com/analysis/download/135816]

Norwegian Air Shuttle reported a fall in 3Q2013 net profit, affected by Boeing 787 disruptions and weaker demand as a result of the good northern European summer weather. Nevertheless, Norwegian continues to build for the future and announced its first UK-US trans-Atlantic routes on 17-Oct-2013.

In Jul-2014, Norwegian will launch three long-haul routes from London Gatwick to Los Angeles, New York and Fort Lauderdale, in addition to the trans-Atlantic routes operated from its Scandinavian bases. The airline is already using 787-8s on its Bangkok service.

This will be the first modern attempt to introduce the successful Asian long-haul LCC model to the North Atlantic from the UK, a concept that Ryanair's Michael O'Leary has often floated in the past. Earlier this month Qantas subsidiary Jetstar took delivery of the first of a fleet of 787-8s that it will be using on long-haul routes in Asia. SIA subsidiary Scoot will receive 787-8/9s from late 2014 and AirAsia X will use A350-900s from 2018.

Norwegian's 3Q2013 profits fall

Norwegian Air Shuttle reported a 31% year on year drop in net profit for 3Q2013 to NOK436 million (EUR53.65 million). The result was adversely affected by wet-lease costs for replacement long-haul aircraft following Boeing 787 problems and low summer bookings as a result of unusually warm weather. In spite of the weaker third quarter, the cumulative result for the first nine months of 2013 was 19% above last year, at NOK516 million (EUR63.49 million).

Norwegian Air Shuttle financial highlights 3Q2013

(Amounts in NOK million)	Q3 2013	Q3 2012	Change	YTD 2013	YTD 2012	Change	Full Year 2012
Operating revenue	4,877.8	4,224.0	15 %	11,793.8	9,753.8	21 %	12,859.0
EBITDAR	1,169.1	1,097.7	7 %	2,485.0	1,525.4	63 %	1,821.8
EBITDAR excl other losses/(gains)	1,168.8	1,270.8	-8 %	2,039.6	1,712.7	19 %	2,150.3
EBITDA	777.5	822.4	-5 %	1,540.2	735.4	109 %	788.7
EBITDA excl other losses/(gains)	767.0	1,001.5	-23 %	1,094.8	922.7	19 %	1,117.4
EBIT	637.7	707.6	-10 %	1,152.9	455.3	153 %	483.6
EBT	603.5	872.9	-31 %	720.4	600.2	20 %	623.2
Net profit/ loss (-)	436.9	628.0	-31 %	516.5	433.0	19 %	456.6

Source: Norwegian Air Shuttle

Strong capacity growth continues, but load factor slips and RASK falls

Norwegian's rapid capacity growth continued, with 3Q2013 ASKs up by 31%. Load factor fell by 1ppt to 81%, while the nine month load factor figure was stable at 79%. This is still a solid load factor, especially given the relentless pace of capacity growth, but it is lower than the Association of European Airlines' (AEA) nine month figure of around 81%. Moreover, Norwegian's load factor has been on something of a downward trend in recent years: it was more than 84% in 3Q2011 and over 85% in 3Q2007.

Norwegian Air Shuttle traffic and operating data 3Q2013

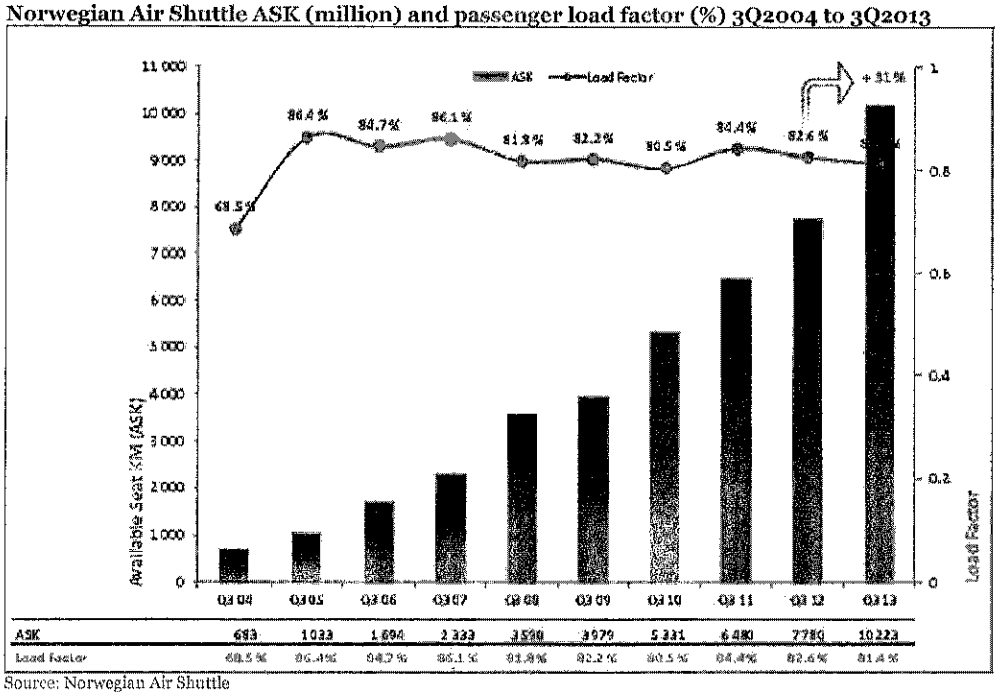
(Ratios in NOK)	Q3 2013	Q3 2012	Change	YTD 2013	YTD 2012	Change	Full Year 2012
Yield	0.51	0.58	-12 %	0.52	0.55	-7 %	0.55
Unit Revenue	0.41	0.48	-13 %	0.41	0.44	-7 %	0.43
Unit Cost	0.40	0.41	-3 %	0.43	0.46	-6 %	0.45
Unit Cost ex fuel	0.27	0.28	-3 %	0.29	0.31	-6 %	0.31
Ancillary Revenue/Sched. PAX	90	86	5 %	86	83	4 %	82
Internet bookings	81 %	80 %	1 pp	80 %	78 %	2 pp	80 %
ASK (million)	10,223	7,780	31 %	26,142	19,403	30 %	25,920
RPK (million)	8,319	6,408	30 %	19,737	15,332	29 %	20,353
Passengers (million)	6.02	5.19	16 %	15.46	13.31	16 %	17.69
Load Factor	81 %	82 %	-1 pp	79 %	79 %	0 pp	79 %
Average sector length (km)	1,280	1,138	11 %	1,168	1,050	10 %	1,046
Fuel consumption (metric tonnes)	221,468	168,572	31 %	540,754	426,301	27 %	569,197
CO_2 per RPK	84	83	2 %	83	89	-6 %	88

Source: Norwegian Air Shuttle

Passenger numbers increased by 16% year on year in 3Q2013 and average sector length grew by 11%. The high rate of capacity growth appears to have weighed on unit revenue, which fell 13% in the quarter, an acceleration of the 3% decline seen in 1H2013. This is partly due to longer average sector length, although this grew at a similar rate in 1H2013.

The weakness in RASK also reflects increased competition in Norwegian's leisure markets and the warm summer weather, which affected late bookings.

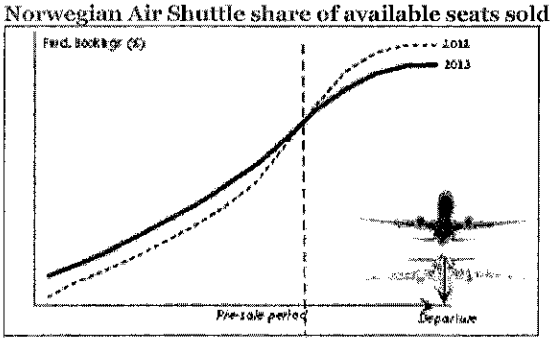
Norwegian Air Shuttle ASK (million) and passenger load factor (%) 3Q2004 to 3Q2013



	Q3 04	Q3 05	Q3 06	Q3 07	Q3 08	Q3 09	Q3 10	Q3 11	Q3 12	Q3 13
ASK	693	1 033	1 694	2 333	3 590	3 979	5 331	6 480	7 780	10 223
Load Factor	68.5 %	86.4%	84.7 %	86.1 %	81.8%	82.2 %	80.5 %	84.4%	82.6 %	81.4 %

Source: Norwegian Air Shuttle

Norwegian Air Shuttle share of available seats sold on typical leisure routes from the Nordics*

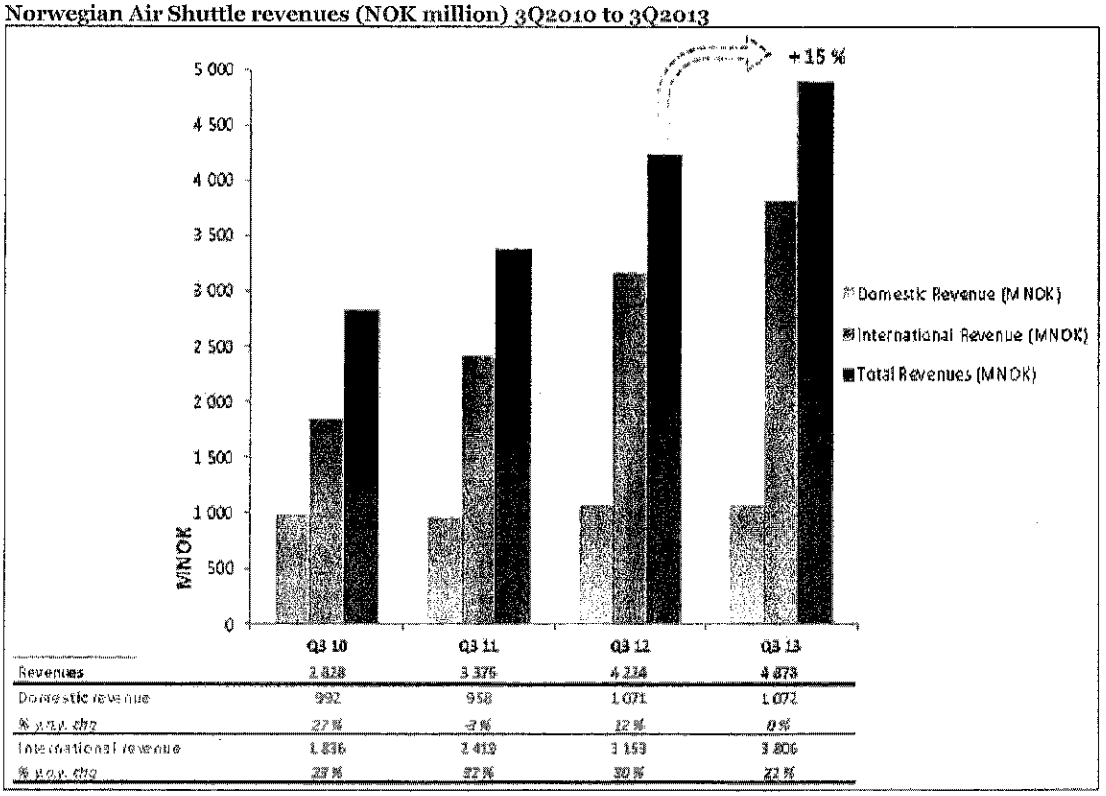


*average for departure during the month of July
Source: Norwegian Air Shuttle

International traffic drives revenue growth and market share gains

Total revenues were up by 15% in the third quarter, driven by 21% growth in international traffic revenues. International traffic has been the main revenue driver for some years.

Norwegian Air Shuttle revenues (NOK million) 3Q2010 to 3Q2013



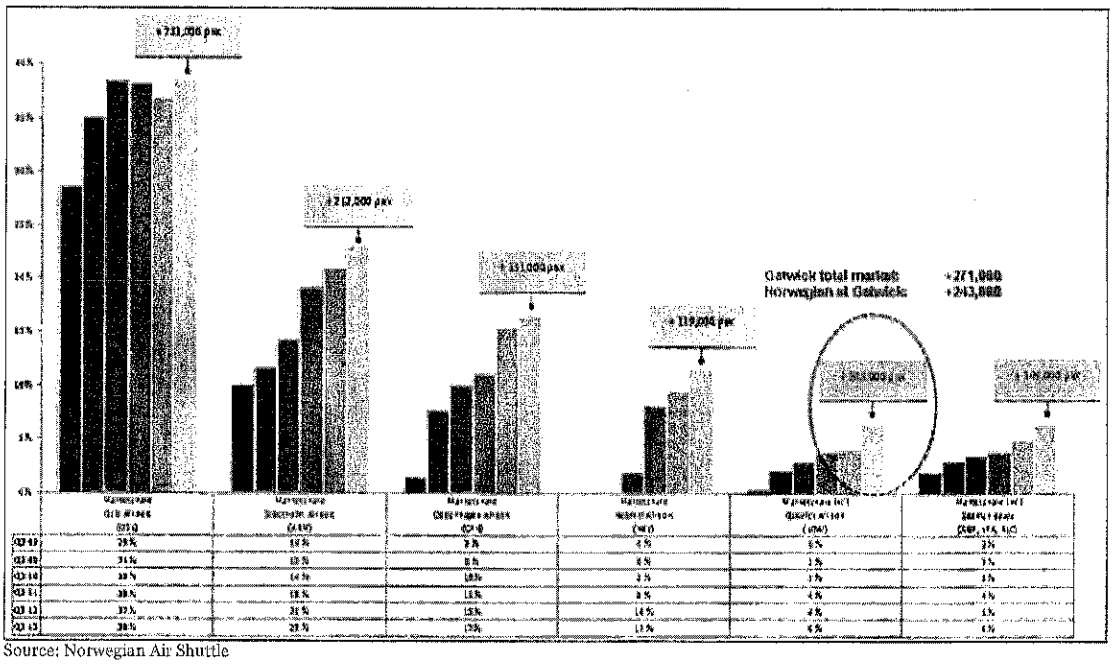
	Q3 10	Q3 11	Q3 12	Q3 13
Revenues	2 828	3 376	4 224	4 873
Domestic revenue	992	958	1 071	1 072
% y.o.y. chg	27 %	-3 %	12 %	0 %
International revenue	1 836	2 419	3 153	3 806
% y.o.y. chg	28 %	32 %	30 %	22 %

Source: Norwegian Air Shuttle

Norwegian again grew passenger numbers and market share at all of its main bases in 3Q2013. At its home base of Oslo, it recovered its previous 3Q peak market share of 39%, which it had last reached in 3Q2010. At Stockholm, Copenhagen, Helsinki, London Gatwick and in Spain (Malaga, Palma and Alicante), its share continues to grow consistently.

At its new Gatwick base, Norwegian accounted for 90% of the year on year growth in the total marker in the quarter and it now has a market share of 6% of passengers.

Norwegian Air Shuttle development of passenger numbers and market shares in selected markets 3Q2008-3Q2013



Source: Norwegian Air Shuttle

Norwegian's three new London-US routes: long-haul low-cost arrives on the North Atlantic

On 17-Oct-2013, Norwegian announced three new trans-Atlantic routes from London Gatwick: to Los Angeles, New York and Fort Lauderdale, to be launched in Jul-2014. These will not be Norwegian's first trans-Atlantic routes, but will be its first long-haul routes not to involve one of its Scandinavian bases. Like its existing long-haul routes, they will be operated with Boeing 787-8 equipment.

It operates its Dreamliner aircraft with a total of 291 seats, including 259 in economy and 32 in premium economy.

Norwegian Air Shuttle new North Atlantic routes from London Gatwick for summer 2014

Route	Launch date	Weekly freq
Gatwick-Los Angeles	02-Jul-14	2x
Gatwick-New York JFK	03-Jul-14	3x
Gatwick-Fort Lauderdale	04-Jul-14	2x

Source: Norwegian Air Shuttle

London Gatwick is already a base for Norwegian and it currently offers 25 European destinations from the airport (source; Innovata, week of 28-Oct-2013). In addition to the three new US routes, it will add five more European destinations in summer 2014 (Santorini, Corfu, Catania, Cyprus and Budapest) and increase frequencies to nine existing destinations.

Feed at Gatwick will be a key factor for success

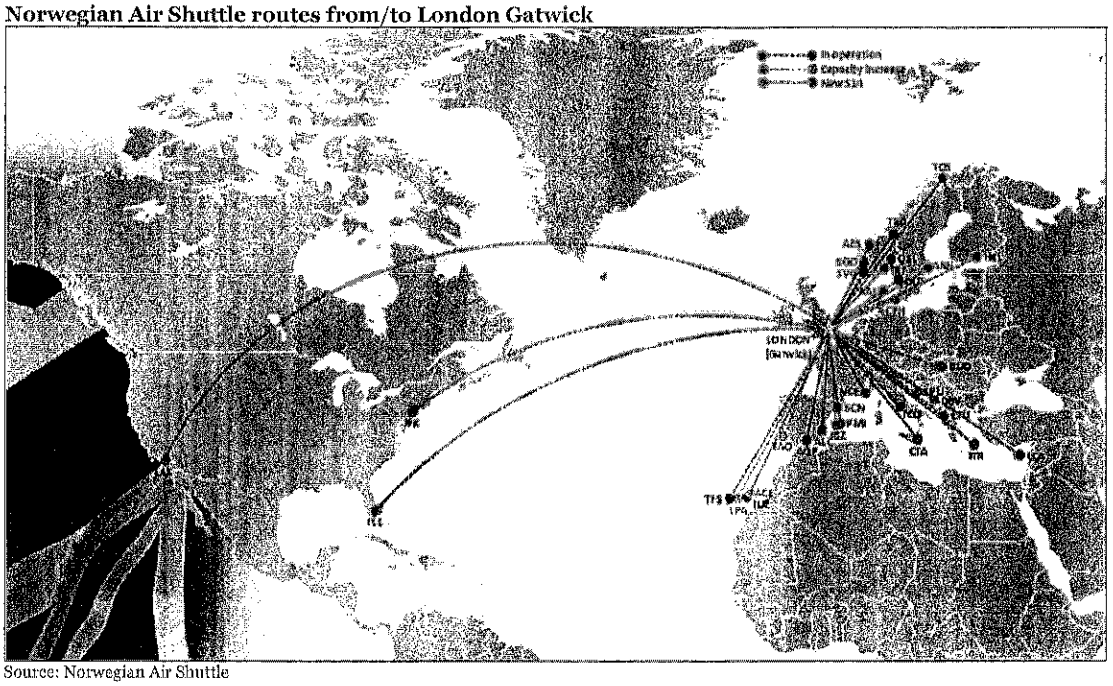
London is the largest O&D market from Europe to the US and Norwegian may tap into latent demand there for low fares across the Atlantic. Nevertheless, long-haul operations tend to require at least some feeder traffic from elsewhere to supplement local demand. This has been an issue in the past for long-haul LCCs from Asia, even when operating into London.

Norwegian's growing Gatwick network should help to feed its long-haul routes from its London base, where it can also benefit from the substantial short-haul networks of easyJet and British Airways (respectively the number one and number two at Gatwick). Nearly 70% of all seats operated into Gatwick are on LCCs, according to Innovata.

AirAsia X initially used Stansted for its Kuala Lumpur-London A340 service and then later moved to Gatwick. Both airports have an array of good connections possible on LCCs and AirAsia X saw significant self-connection traffic (it was high fuel prices and the aircraft type which made the route unviable).

As Norwegian CEO Bjorn Kjos says: "We have a lot of feeder flights in and out of Gatwick. Gatwick probably has the biggest network in all of Europe if you take account of all of the routes flown by **easyJet** [http://centreforaviation.com/profiles/airlines/easyjet-u2] and **Ryanair** [http://centreforaviation.com/profiles/airlines/ryanair-fr] ....it is an ideal base." The airport's CEO Stewart Wingate considers the operation a "significant game-changer". Thomson too will be operating 787s from Gatwick starting from 1-Nov-2013, so Mr Wingate has cause for optimism on that score.

Norwegian Air Shuttle routes from/to London Gatwick



Source: Norwegian Air Shuttle

Over time optimising the potential of Gatwick as a hub will require some considered tweaking of procedures. Certainly, the experience of long-haul LCCs in Asia, such as Scoot and Air Asia X, is that properly structured connections are preferable to relying on passengers self-connecting - even though a very large proportion does.

More importantly, Norwegian may lack feed at the other end of these routes. It has been reported that JetBlue may consider an interline or codeshare arrangement with Norwegian. According to **JetBlue** [http://centreforaviation.com/profiles/airlines/jetblue-airways-b6] spokesperson Anders Lindstrom (TheStreet.com, 11-Oct-2013), "Norwegian is a strong and popular brand among customers with a great product, which would make them a natural fit as a partner for JetBlue."

A partnership with JetBlue could be beneficial to Norwegian, as well as the US LCC. JetBlue already has bases at two of the three initial Norwegian US destinations from Gatwick, New York JFK and Fort Lauderdale. It also has a base at Orlando (where it will operate from Oslo in Summer 2014) and an operates from Oakland (Oslo and Stockholm).

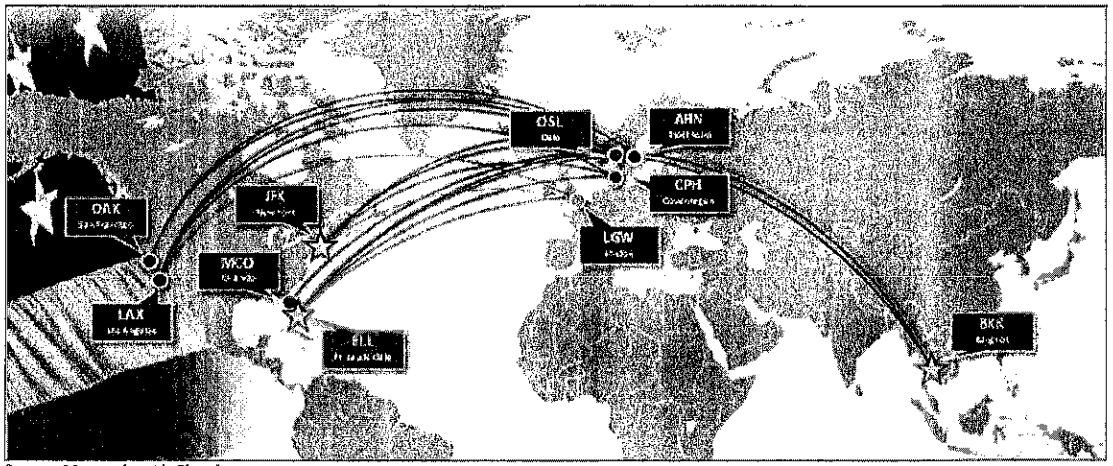
Fort Lauderdale and Orlando would be used by Norwegian mainly for connections to the Caribbean and Latin America while New York is JetBlue's largest hub with a vast array of domestic and some international connections. Connections at Oakland would be limited to Long Beach, JetBlue's only west coast destination from Oakland and its west coast base. JetBlue also serves Los Angeles but only from the east coast, leaving no feasible connections for Norwegian. But Los Angeles is a large enough destination market to support service from the UK and Scandinavia, with connections on the European end.

Long-haul network of 14 routes, biased towards the US, in summer 2014

The new US routes will bring Norwegian's total long-haul network to 14 routes: six from Oslo, three from Copenhagen, two from Stockholm and three from London Gatwick. The bulk of its long-haul network, 12 routes, will be to the US, with just two to Asia (Oslo and Stockholm to Bangkok). It will have 15 weekly round trips from New York alone from the summer of 2014.

The long-haul network is still relatively small compared with a total of 382 routes across its entire network, but Norwegian plans significant growth. According to Norwegian's projections, long-haul should grow to account for 4% of departures, 8% of passenger and 46% of ASKs in 2015, when the long-haul fleet will rise to eight aircraft.

Norwegian Air Shuttle long-haul network summer 2014



Source: Norwegian Air Shuttle

Norwegian's low share of the UK-US market means market power is limited

Norwegian's planned London-US operation is not large compared with the activities of existing competitors. On London to Fort Lauderdale, there are no other competitors at present, according to Innovata, although British Airways, American Airlines and Virgin Atlantic all operate to Miami (only 23 miles away). Norwegian's planned 582 weekly seats to Fort Lauderdale in Jul-2014 compares with BA's 4,396, AA's 3,584 and Virgin's 2,634 weekly seats flown in Jul-2013 (week of 1-Jul-2013, source: Innovata).

On its other two new US routes, Norwegian would have a share of seats of 3% (London to Los Angeles) and 2% (London to New York), assuming that the existing competitors' capacity were to remain the same in Jul-2012 as in Jul-2013. Putting it in the wider context of the overall UK-US market, Norwegian's planned capacity will be less than 1% of this market.

Moreover, Heathrow's importance in this market has grown substantially, accounting for more than 80% of US-UK passengers in 2012, from around 60% in 2007. Schedules and connections at Heathrow are much better attuned to trans-Atlantic operations. That said, Heathrow is full and Gatwick, via Norwegian, could well attract additional demand for trans-Atlantic air travel.

Norwegian Air Shuttle weekly seat capacity on new North Atlantic routes from London versus competitor capacity

London to:	Norwegian	BA	Virgin	AA	United	Delta	Air New Zealand	Competitor airport pair
Los Angeles	582	6,594	4,424	2,170	1,904	-	2,324	LHR to LAX
New York JFK	873	18,710*	14,742*	7,668	6,692**	4,984	-	LHR to JFK, except where indicated
Fort Lauderdale	582	-	-	-	-	-	-	-

Note: compares Norwegian's planned capacity for Jul-2014 with competitor capacity for week of 1-Jul-2013
* to JFK and Newark
**Newark
Source: CAPA – Centre for Aviation, Innovata, Norwegian Air Shuttle

Share of weekly seat capacity on Norwegian's new North Atlantic routes from London

London to:	Norwegian	BA	Virgin	AA	United	Delta	Air New Zealand
Los Angeles	3%	37%	25%	12%	11%	0%	13%
New York JFK	2%	35%	27%	14%	12%	9%	0%
Fort Lauderdale	100%	-	-	-	-	-	-

Note: compares Norwegian's planned capacity for Jul-2014 with competitor capacity for week of 1-Jul-2013
* to JFK and Newark
**Newark
Source: CAPA – Centre for Aviation, Innovata, Norwegian Air Shuttle

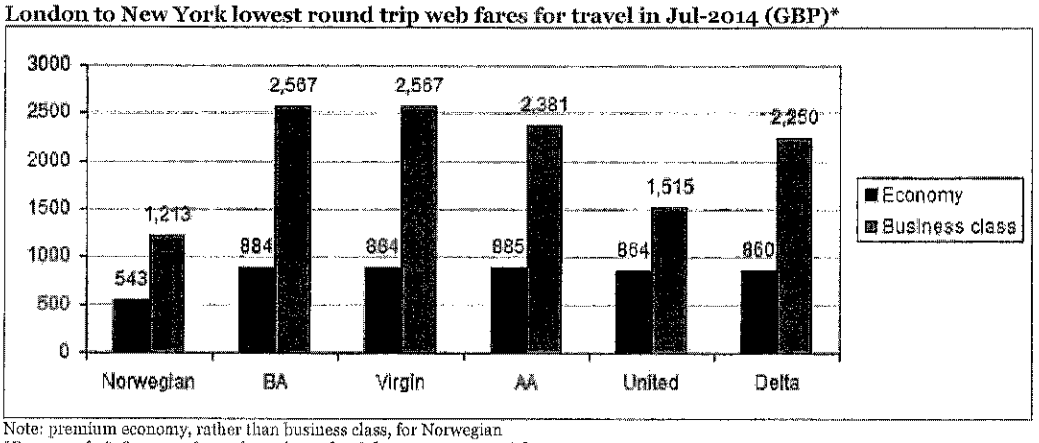
Price will be Norwegian's USP

Clearly, Norwegian will not be selling its London to US network on the strength of its schedule, nor on the breadth of its network and partnerships, but it will be targeting a mainly leisure market on the basis of low fares. This will represent its best hope of competing in a market that is dominated by the global alliances.

So, how low are its fares? Norwegian has announced introductory one way fares of GBP199 to Los Angeles, GBP149 to New York and GBP179 to Fort Lauderdale. In order to compare prices with competitors, we sampled currently available fares from the websites of each of the competitors on London to New York for the week of Norwegian's planned route launch. While this does not necessarily give a totally robust basis for analysis of their respective pricing strategies, it does provide a useful illustration.

As of 28-Oct-2013, Norwegian's website is offering an economy class fare of GBP543 for a return trip to New York, departing on 3-Jul-2014 and returning on 10-Jul-2014. This compares with competitor prices in a tight range of GBP860 to GBP884 and represents a significant discount offered by Norwegian.

London to New York lowest round trip web fares for travel in Jul-2014 (GBP)*



Note: premium economy, rather than business class, for Norwegian
*Fares as of 28-Oct-2013 for outbound travel 3-Jul-2014, return 10-Jul-2014
Source: CAPA – Centre for Aviation, airline websites

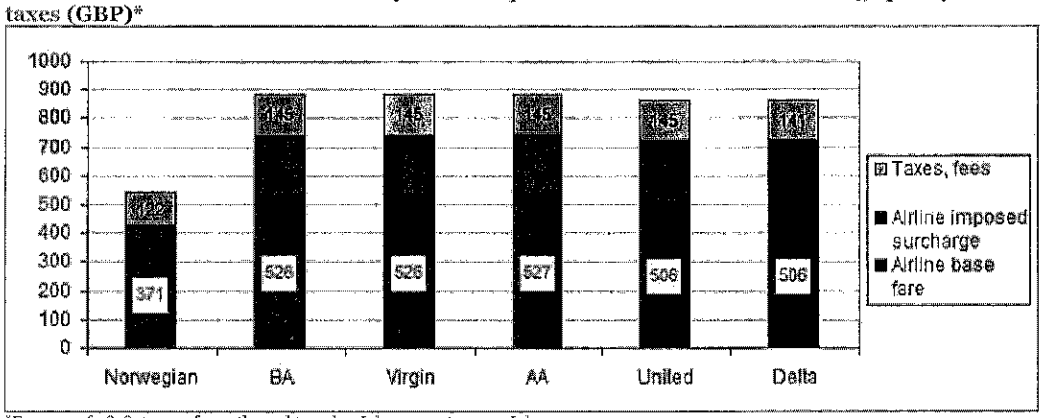
Norwegian's premium economy fare (it has no business class fare) is around half that of the competitors' business class fares. Note that United is currently offering a significantly lower business class fare for this trip than the other competitors – presumably reflecting a short term promotion – but, otherwise the existing competitor fares are very similar to each other and all are well above Norwegian's.

Lower surcharges, taxes and fees too

Not only is Norwegian's base fare in economy significantly lower than that of the competition (GBP371 versus GBP506 to GBP527), but it also imposes a lower fuel surcharge and charges less in respect of external taxes and fees, according to the breakdown of its fare provided on its website.

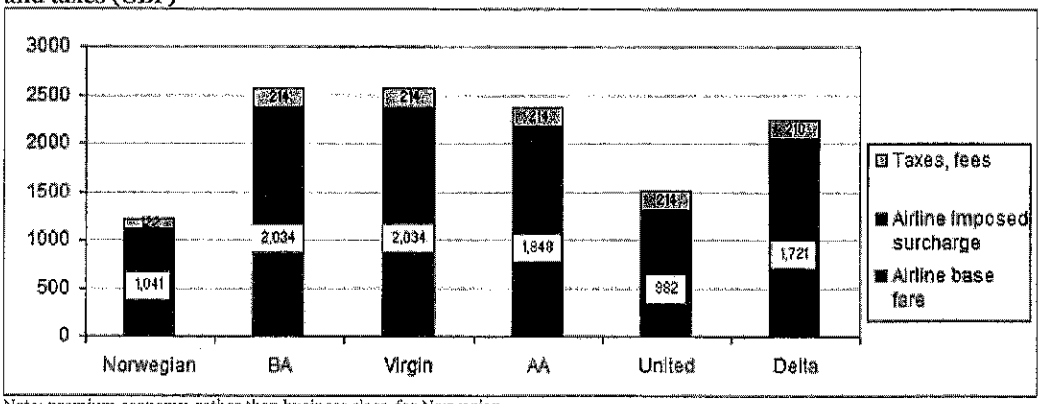
Lower airport and handling charges at Gatwick account for some of this, but presumably this means that Norwegian is subsidising the external charges, which are broadly identical for each of the competitors.

London to New York lowest economy round trip web fares for travel in Jul-2014, split by base fare, surcharges and taxes (GBP)*



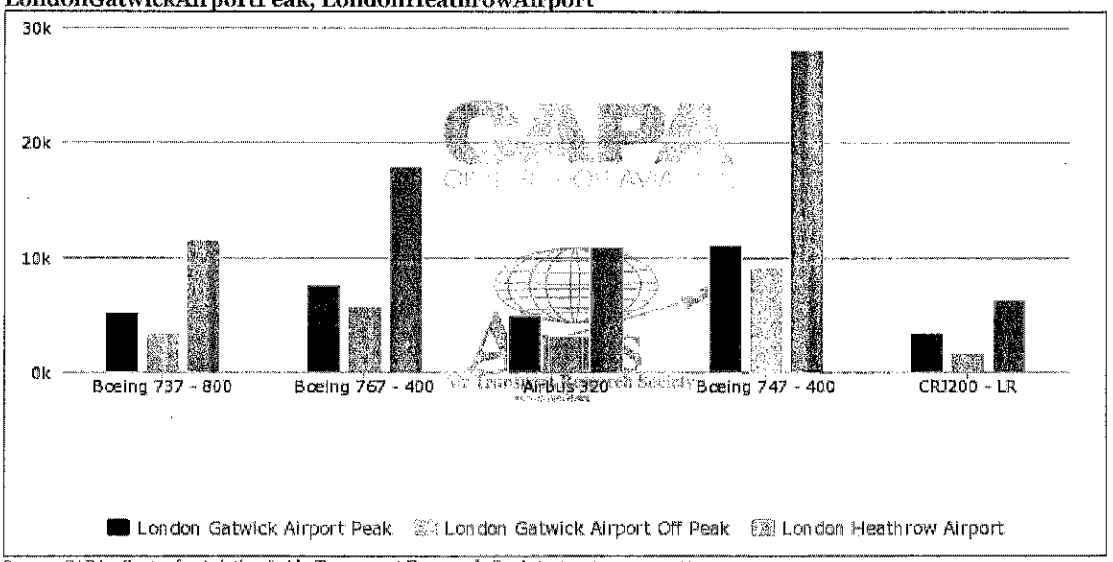
*Fares as of 28-Oct-2013 for outbound travel 3-Jul-2014, return 10-Jul-2014
Source: CAPA – Centre for Aviation, airline websites

London to New York lowest business class round trip web fares for travel in Jul-2014, split by base fare, surcharges and taxes (GBP)*



Note: premium economy, rather than business class, for Norwegian
*Fares as of 28-Oct-2013 for outbound travel 3-Jul-2014, return 10-Jul-2014
Source: CAPA – Centre for Aviation, airline websites

Combined Landing / Terminal Charges with Baggage / Check-in (USD) for LondonGatwickAirport Off Peak, LondonGatwickAirportPeak, LondonHeathrowAirport



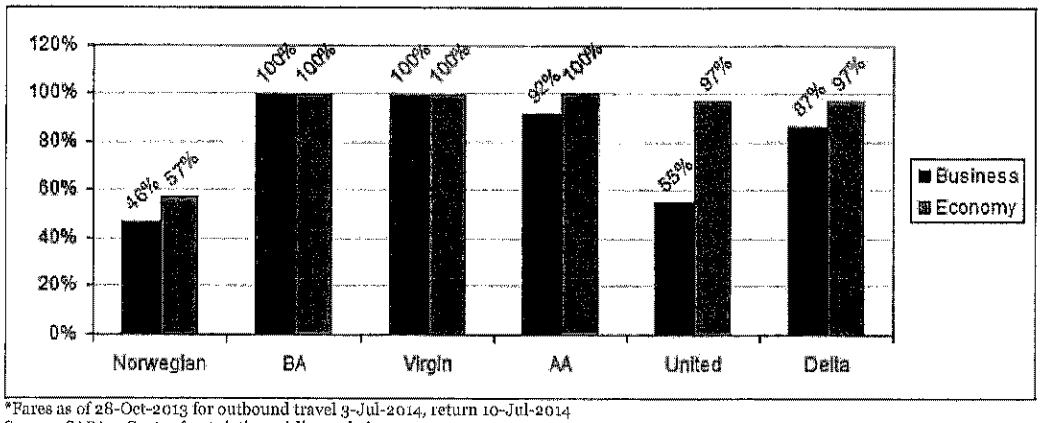
Source: CAPA - Centre for Aviation & Air Transport Research Society [http://www.atrsworld.org/]

Norwegian's fare will generate around half the revenue per passenger of competitors on LON-NYC

In terms of the proportion of the fare kept by the airline (i.e. excluding external taxes and fees), Norwegian's pricing of this illustrative trip will generate a bit less than half the revenue per passenger of its competitors.

The competitors' prices for a round-trip business class fare to New York, net of external charges, are a multiple of around three times or more those of their economy fares. By contrast, Norwegian's premium economy fare is only 2.6 times its economy fare.

London to New York lowest round trip web fares as percentage of British Airways fare Jul-2014, excluding external taxes and charges (GBP)*



*Fares as of 28-Oct-2013 for outbound travel 3-Jul-2014, return 10-Jul-2014
Source: CAPA – Centre for Aviation, airline websites

The source of significant cost advantage: a combination of factors

Given that the approach of traditional network carriers is effectively to subsidise economy passengers with highly priced business class fares, this raises questions over Norwegian's ability to cover its costs with these low fares. The key to long-haul low-cost is to find meaningful sources of cost advantage. Airport charges can provide some differential, but not to the same extent as the use of secondary airports on short-haul intra-European routes.

Labour costs can also make a difference, and Gatwick should be a lower-cost base for Norwegian in this respect than its Scandinavian bases, where wage rates are much higher, but London is not a low wage economy in an absolute sense. The absence of legacy pension costs and a more flexible workforce than those of traditional carriers may allow Norwegian to have lower labour unit costs than British Airways, for example.

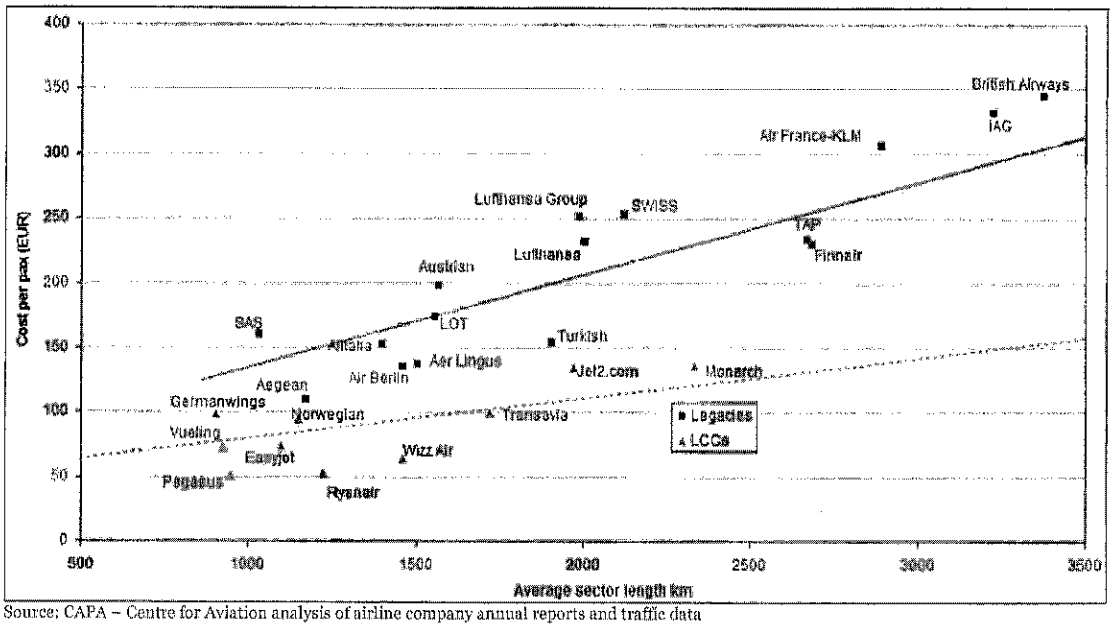
However, productivity improvements and lower cabin crew wage rates at BA in recent years reduce the potential advantage in this area. Moreover, Norwegian will reportedly not base its 787 aircraft for these routes at Gatwick, but at the US destinations, although it is not yet clear where its crew will be based. Having aircraft and crew located at different ends of a route could lead to significant crew accommodation costs, although presumably there is method in this strategy.

Aircraft operating costs can also be a source of cost advantage if the most modern, fuel efficient equipment is deployed. Norwegian has this, in the form of the Boeing 787-8, but it is not unique in operating such aircraft. BA already has four in service, United seven (and both have more on order), while both American Airlines and Delta Air Lines have ordered 787s for future delivery.

Costs will be the key to Norwegian's success

Wherever it may come from, a sustainable cost advantage will be key to Norwegian's success, or otherwise, in operating a low fares strategy on the Atlantic.

Cost per passenger versus average sector length for selected European airlines 2012



Source: CAPA – Centre for Aviation analysis of airline company annual reports and traffic data

Current data on Norwegian's operating costs are not directly comparable to those of the likes of BA, due to their very different average sector lengths. Nevertheless, a plot of cost per passenger versus average sector length for European LCCs and legacy carriers gives some useful pointers (see chart above).

If its cost per passenger were to grow along the LCC trend line as its average sector length increased, Norwegian's cost per passenger would be well under half that of British Airways, based on 2012 data.

Norwegian's cost per passenger would be well under half that of British Airways...

This is by no means a given and would require Norwegian to achieve healthy load factors and efficient operations, but it does suggest it may not be beyond the realms of possibility for it to generate less than half the revenue per passenger of its competitors and still be profitable. That would be a telling advantage.

Over to you Mr O'Leary.....

If Norwegian is profitably successful in its London-US operations, might that tempt other LCCs to enter the trans-Atlantic market?

None has shown real interest in doing so any time soon. Ryanair's Michael O'Leary has long mooted the idea of setting up a new vehicle to do this, separate from Ryanair, but he has conditioned that on waiting until aircraft prices are low enough to offer a significant ownership cost advantage.

...you can bet that both Mr O'Leary and nearby Stansted Airport, where Ryanair currently accounts for 80% of the 430,000 weekly seats, will be watching very intently...

That one of the industry's greatest cost cutters does not yet see an opportunity to enter the long-haul LCC arena suggests that the concept is yet to be proved. But you can bet that both Mr O'Leary and nearby Stansted Airport, where Ryanair currently accounts for 80% of the 430,000 weekly seats, will be watching very intently. Getting hold of a handful of the tightly held 787s in the short term will be a challenge, even for such a big Boeing customer, and Mr O'Leary could well find himself wishing he had been prepared to take a bit more of a risk.

See related articles:

Norwegian Air's move into Southeast Asia intensifies European airline competition [http://centreforaviation.com/analysis/norwegian-airs-move-into-southeast-asia-intensifies-european-airline-competition-119836]

Norwegian Air Shuttle strong growth in 2Q2013 profits but the challenges are only just beginning [http://centreforaviation.com/analysis/norwegian-air-shuttle-strong-growth-in-2q2013-profits-but-the-challenges-are-only-just-beginning-118494]

- **Norwegian improves its 1Q2013 results but widebody profits may be one for the long-haul** [http://centreforaviation.com/analysis/norwegian-improves-its-1q2013-results-but-widebody-profits-may-be-one-for-the-long-haul-105974]

EXHIBIT 2

Norwegian Air uses Dreamliners to fuel big U.S. expansion
TODAY IN THE SKY
Ben Mutzbaugh, USA TODAY 11:32 a.m. EDT September 4, 2013

Fast-growing low-cost carrier Norwegian Air Shuttle is shifting its rapid expansion to the United States, announcing three new U.S. destinations that will launch in 2014.

The carrier said on Tuesday that it would add new service between Scandinavia and Los Angeles, Oakland and Orlando. Norwegian also announced a new route from New York JFK, adding Copenhagen flights to its existing schedule there. The airline will fly the new routes on its newly acquired Boeing 787 Dreamliners that seat 291 passengers.

Norwegian touted introductory fares as low as $472 round-trip from its new destinations.

"We believe that the U.S is low-hanging fruit," Norwegian CEO Bjorn Kjos is quoted as saying by Bloomberg News. "People love to fly cheap and they love to fly far."

Kjos says the lower operating costs of Boeing's 787 Dreamliner allow Norwegian to launch long-haul routes that previously would have been money-losers.

Reuters adds background on the carrier, saying "Norwegian placed Europe's biggest aircraft order last year when it bought 222 planes from Boeing and Airbus. It has been one of Europe's most successful carriers, taking market share from SAS and also moving outside its traditional Nordic market with bases in London and Spain."

As for Norwegian's new U.S. routes announced on Tuesday, the carrier plans the following frequencies:

Los Angeles

Stockholm service begins March 2, with two weekly round-trip flights. The schedule increases to three weekly flights on April 30.
Copenhagen service begins Feb. 28, with two weekly round-trip flights. The schedule increases to four weekly flights on April 30.
Oslo service begins June1, with one flight a week.

Oakland

Stockholm service begins May 3, with two weekly round-trip flights.
Oslo service begins May 28, with three weekly round-trip flights.

Orlando

Oslo service begins May 29, with two flights a week.

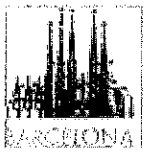
New York

Copenhagen service begins Feb. 28, with two weekly round-trip flights. The schedule increases to four weekly flights on April 30.
Norwegian flies mostly within Europe, though it has ambitions growth plans after launching long-haul flights to Thailand and the United States in May. The airline already has announced plans to expand to Fort Lauderdale, as well – saying it would add service to all three Scandinavian capitals from the South Florida airport this November.

So far the response to our New York, Bangkok and Fort Lauderdale routes has been tremendous," Kjos adds in a statement. "Most of our flights have been fully booked over the summer. Our offer has not only been well received by Scandinavian passengers travelling to the U.S. or Asia, but also Asians and Americans going to Scandinavia and beyond."

EXHIBIT 3

buying business travel



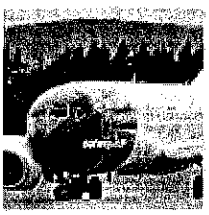
ACTE offers buyers discount for Barcelona

Destination Report: Chongqing

Special repo Google Glas

Norwegian to launch flights from Gatwick to US

Author - Rob Gill - 17 Oct 2013



Scandinavian airline Norwegian is to launch long-haul services from Gatwick to three US cities for summer 2014 with one-way prices starting at £149.

The airline is planning to fly year-round from the Sussex airport to New York, Los Angeles and Fort Lauderdale starting in early July 2014 with all flights scheduled to use Dreamliner B787 aircraft according to its GDS inventory.

Norwegian launched a new base at Gatwick for summer 2013 offering routes to the Mediterranean. It will add another five short-haul destinations for summer 2014: Santorini, Corfu, Sicily (Catania), Cyprus and Budapest.

The airline plans to fly twice weekly from Gatwick to Los Angeles starting on July 2, three times per week to New York JFK from July 3, and twice per week to Fort Lauderdale in Florida.

Norwegian's CEO Bjorn Kjos said: "There's great demand for high quality flights at a low fare between the UK and the US, particularly to and from Gatwick, where no other airline currently offers these routes.

"We are looking forward to welcoming many new customers on board our brand new aircraft. Launching long-haul routes between Gatwick and the

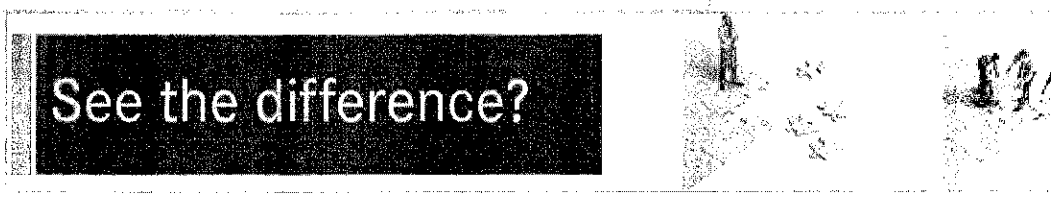
United States is also an important part of our strategy to expand internationally and get a stronger foothold in markets outside Scandinavia."

Stewart Wingate, Gatwick's CEO, added: "This is one of the most exciting route developments since Gatwick's change of ownership four years ago and shows the benefits to passengers of Gatwick competing with Heathrow on routes, price and service."

norwegian.com/uk

The interview: Maurice Appointment Group
Special report: Power c
Airports analysis: All to
Airplus and BBT in epic
According to Amon: Ta

Tags: Norwegian Air Shuttle Gatwick Airport



Contact details

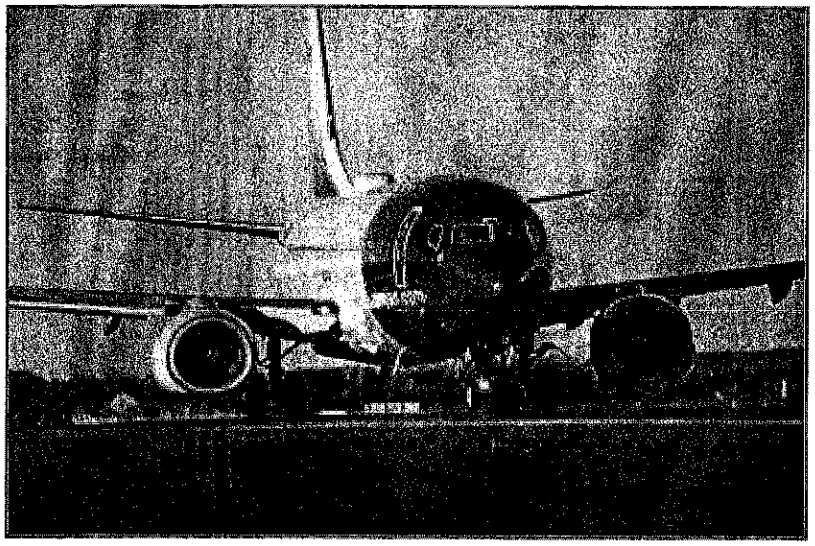
Buying Business Travel, 5th Floor, Warwick House, 25-27 Buckingham Palace Road, London SW1W 0PP
Tel: +44 (0) 207 821 2700
Fax: +44 (0) 20 7821 2701

EXHIBIT 4

More challenges at Norwegian Air

November 28, 2013

The already-troubled long-haul intercontinental flights launched by Norwegian Air earlier this year now face being grounded, unless Norwegian obtains, during the next three weeks, the Irish airline license it needs to operate them. Norwegian's initial application for the license was returned by Irish authorities, reportedly because of deficiencies in the airline's paperwork.



Norwegian Air continues to face many challenges over its new long-haul service, now in connection with the Irish license needed to operate them after December 23. PHOTO: Norwegian Air/Hans Olav Nyborg

Norwegian Air has a Norwegian license, called an Air Operator Certificate (AOC), for its domestic and international service within Europe. It applied for an Irish AOC for its new long-haul service, however, in order order to avoid Norwegian personnel regulations that would have dramatically increased its costs. Norwegian Air also registered its new but troubled Boeing 787 Dreamliner jets meant to be used on the long-haul routes to Bangkok and the US in Ireland, and since has been operating them and other leased long-haul aircraft with cheaper Asian crews.

Newspaper *Dagens Næringsliv (DN)* reported on Thursday that Norwegian authorities gave the airline dispensation to operate its new long-haul flights under its Norwegian certificate until December 23. After that, Norwegian Air must have its new Irish AOC to keep the flights in the air.

Application returned twice

DN reported that the Irish Aviation Authority, however, has returned Norwegian's application for an Irish AOC twice, on the grounds the airline had supplied insufficient information. Norwegian aviation authorities at *Luftfartstilsynet* in Bodø confirmed the initial rejections that now have delayed issuance of the license Norwegian needs.

DN reported that the Irish authorities wouldn't accept that Norwegian Air planned to use its same Norwegian key personnel with aviation experience for its Irish operations. The Irish authorities also made new demands for documentation in flight manuals that haven't been implemented in Norway.

Anne-Sissel Skånvik, communications director at Norwegian, confirmed that the airline's application for the crucial Irish AOC was still under review. She claimed it was "not unnatural" for the authorities to request more information, and that operations director Asgeir Nyseth would now be moved to a new office in Dublin to serve as "accountable manager" in the airline's newly established Norwegian Long Haul AS.

Current license extension opposed

Norwegian authorities, reported DN, have indicated that they won't extend the temporary permission the airline has had to operate its long-haul flights pending receipt of the Irish AOC. Rival Scandinavian Airlines (SAS), which didn't initially object to Norwegian's Irish registration and

license plans, now says it will oppose any extension as well, claiming Norwegian Air already has enjoyed a competitive advantage for six months.

It's critical, therefore, that the Irish AOC is in hand by December 23, although Skånvik said Norwegian Air would apply for an extension if the Irish AOC doesn't materialize by then.

Norwegian has also been opening new bases outside Norway for its European routes, mostly in Spain, as part of additional efforts to cut costs. Another was expected to open in Barcelona this week.

newsinenglish.no/Nina Berglund

Filed Under: Business, News Tagged With: airlines

EXHIBIT 5

Norwegian airline in talks over Irish base

Barry O'Halloran

Last Updated: Thursday, August 8, 2013, 21:46

Scandinavian airline Norwegian Air Shuttle is seeking the go-ahead from regulators to establish its long-haul subsidiary in the Republic.

The airline, known as Norwegian, was reported earlier this year to have been considering a number of locations, including the Republic, for a proposed long-haul subsidiary to get around costly regulations in its homeland.

Spokesman Lassek Sandaker-Nielsen confirmed yesterday it is in talks about the possibility of obtaining an Irish Air Operator's Certificate (AOC) for the new business. However, Mr Sandaker-Nielsen insisted that "this is not the same as opening an operational base".

The Irish Aviation Authority (IAA), which is responsible for granting these permits, did not comment, but it is understood that it is processing an application from the Norwegian carrier.

If an AOC application is successful, the company has to base its head office in the Republic.

Norwegian announced this year that it was launching new routes to Thailand and the US and is due to begin these services later this month.

The airline has been seeking to register the long-haul business outside Norway to circumvent regulations that apply in the Scandinavian country in a bid to cut costs.

These included restrictions that prevent airlines from hiring cabin crews from countries where wages are lower than in Norway.

EXHIBIT 6

August 8, 2013

From HSBC Analyst Andrew Lobbenberg:

***** Norwegian seeks Irish AOC**
CAPA reports that Norwegian Air Shuttle's long-haul operation is seeking an Air Operator's Certificate and an Air Carrier Operating Licence (ACOL) from the Irish Commission for Aviation Regulation. In Jun-2013 the airline received temporary approval from CAR to register its fleet of six Boeing 787-8 aircraft in Ireland under an arrangement which will expire on 24-Dec-2013. CAPA cites that the airline is reportedly using the Irish registry to circumvent restrictive Norwegian labour laws which prevent airlines from hiring lower cost flight attendants from Asia.

EXHIBIT 7

Norwegian considers basing long-haul division in Ireland

- Twitter
- Print

By: Michael Gubisch London
23 hours ago

Source: Pro

See more Pro news Â»

Norwegian is applying for a permanent Irish air operator's certificate for its new long-haul division, as the Scandinavian low-cost carrier prepares for the first intercontinental deployment of its Boeing 787 on 15 August.

The Irish Aviation Authority has issued a temporary AOC for Norwegian's long-haul arm, which launched on 30 May, with two wet-leased Airbus A340s, and operates flights to New York's JFK airport and Bangkok. But that certificate - which is being used to operate the airline's 787s - will expire by year-end.

Now, the Oslo-based carrier is "in the process" of applying for a permanent AOC in Ireland to be able to employ international crew members. The airline wants to recruit flight attendants from Thailand, which would not be possible if the aircraft were registered at home as Norwegian law prohibits the employment of staff from outside the European Economic Area.

The carrier has international pilots, but the flightcrew need to be employed on Norway-based terms and conditions. This would also become more flexible under Irish regulations.

Norwegian says that it would like to operate all aircraft from Norway, but the country's strict rules and regulations prevent it from competing against other carriers with fewer limitations. The carrier adds that it had been considering different countries to its long-haul division, including Sweden, before it eventually opted for Ireland.

Also under consideration is relocation of the long-haul division's headquarters to Ireland, as it would not be legally possible for a Norway-based airline to permanently operate aircraft under another country's AOC. The carrier insists, however, that the licence transfer to Ireland applies only to the long-haul division and not the group's short-haul mainstay.

The first of eight 787-8s ordered by Norwegian was delivered at the end of June. The aircraft has been deployed on European routes for pilot familiarisation.

Norwegian is planning to employ the type on Stockholm-Bangkok route for the first time on 15 August. The aircraft is scheduled to fly to New York the next day.

EXHIBIT 8

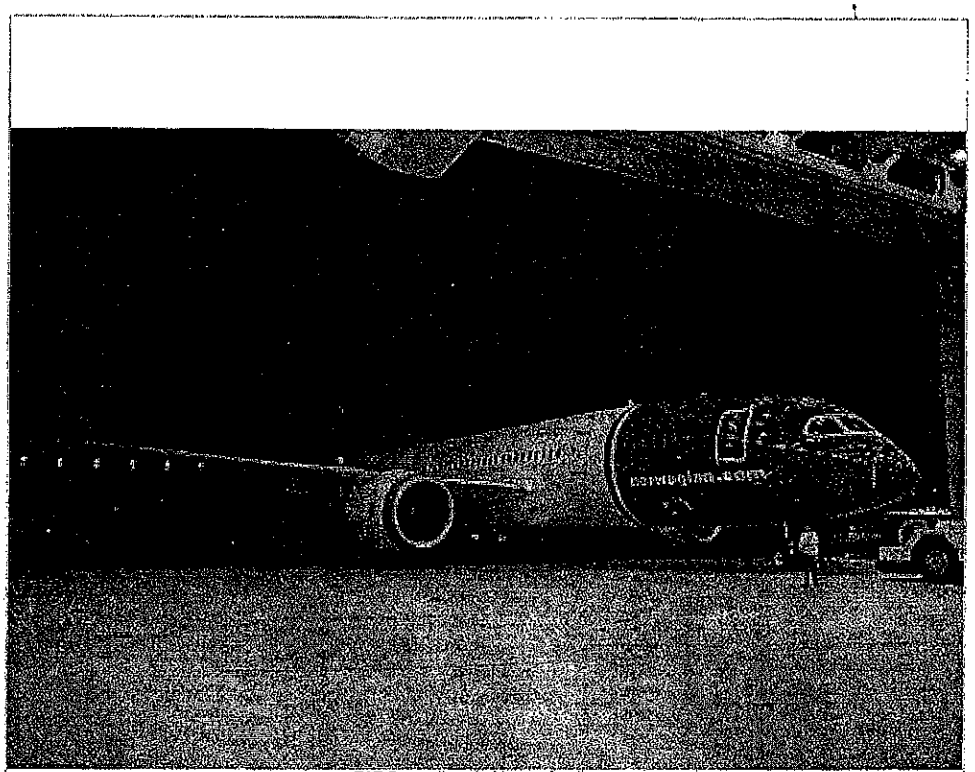
the Foreigner Norwegian News in English

News Article

Air authorities powerless over Norwegian move

Published on Monday, 29th April, 2013 at 14:21 under the news category, by Michael Sandelson .
Last Updated on 29th April 2013 at 18:11.

Carrier Norwegian Air Shuttle's considered overseas aircraft registration is unpreventable, Norway's Ministry of Transport says.



787 Dreamliner in Norwegian livery
Photo: Atle Straume/Norwegian

CEO Bjørn Kjos and his crew aired the possibility last week the airline may place one of its forthcoming Boeing 787 Dreamliners under an Irish flag for cost reasons.

Mr Kjos argued competing with Asian airlines on certain long-haul routes, with Norway-based cabin personnel and accompanying wages, would be nigh impossible otherwise.

Unions in Norway have raised the alarm this would jeopardise these, as well as personnel's working conditions. Minister of Labour Anniken Huitfeldt has stated this "is out of the question for me to make compromises [on]."

However, Ministry of Transport officials tell The Foreigner in an email there is nothing they can do should Mr Kjos decided to carry out any proposed action.

"As long as Norwegian has a Norwegian AOC (Air Operators Certificate) the company's activities are as a main principle subject to Norwegian legislation. There is however nothing Norwegian authorities can do to prevent Norwegian from moving it's AOC to Ireland or another country," they write.

Norwegian applied to the CAA Norway to modify its AOC in a letter dated 17 April 2013, a copy of which the CAA has sent The Foreigner.

Also included with this is an application for approval of leasing aircraft from Dreamliner owner International Lease Finance Corporation (ILFC) – the head lease – and for a (sub) wet lease agreement (ACMI) between Norwegian Air Shuttle (NAS) and subsidiary Norwegian Long Haul AS.

Norwegian states its 12-year contract means the Dreamliner "will probably be registered in Ireland under [aircraft] registration EI-LNA", the application reads.

Dublin-based Wilmington Trust SP Services is listed as the Dreamliner's trustee, with which Norwegian signed the agreement on 31 October 2011.

Norway was put as the aircraft's country of registration at the time. Delivery of this first Boeing 787 is planned for June/July 2013.

"The Government said no to changing the regulations in January [2013]. Already at that time, Norwegian made it clear that they were considering registering long-haul planes in another country," according to Minister of Labour Anniken Huitfeldt.

"The Government wants to ensure good competitive conditions for Norwegian industry, and we work with this every day. To us, however, it is important to assure terms and conditions for employees, and to prevent social dumping. It is a shame if Norwegian chooses to register aircrafts abroad," she added.

What, if any, action might be taken regarding Norwegian now?

"The Ministry of Labour will not take any action regarding Norwegian," officials answer.

Meanwhile, as reported in last week's article, the Norwegian matter comes at a time Ryanair is under scrutiny for alleged pay and working conditions inferiorities regarding two Norway-domiciled former staff.

Ryanair has a home base at Rygge Airport in eastern Norway. These ex cabin personnel have accused the low-priced carrier of using "slave contracts, which CEO Michael O'Leary refutes.

"They just invented these false claims some six months after they were dismissed: one for breach of safety regulations, and two was dismissed because she wouldn't turn up for work during her 12-month probation," said Mr O'Leary.

The Foreigner asked Ministry of Transport officials how they might be handling the matter, ensuring fairness in both their treatment of the Ireland-registered carrier, and regarding Norwegian's proposed move.

"Competition and globalization within international aviation is rapidly increasing. The Norwegian Ministry of Transport is currently performing an extensive study in order to further identify challenges," they declare.

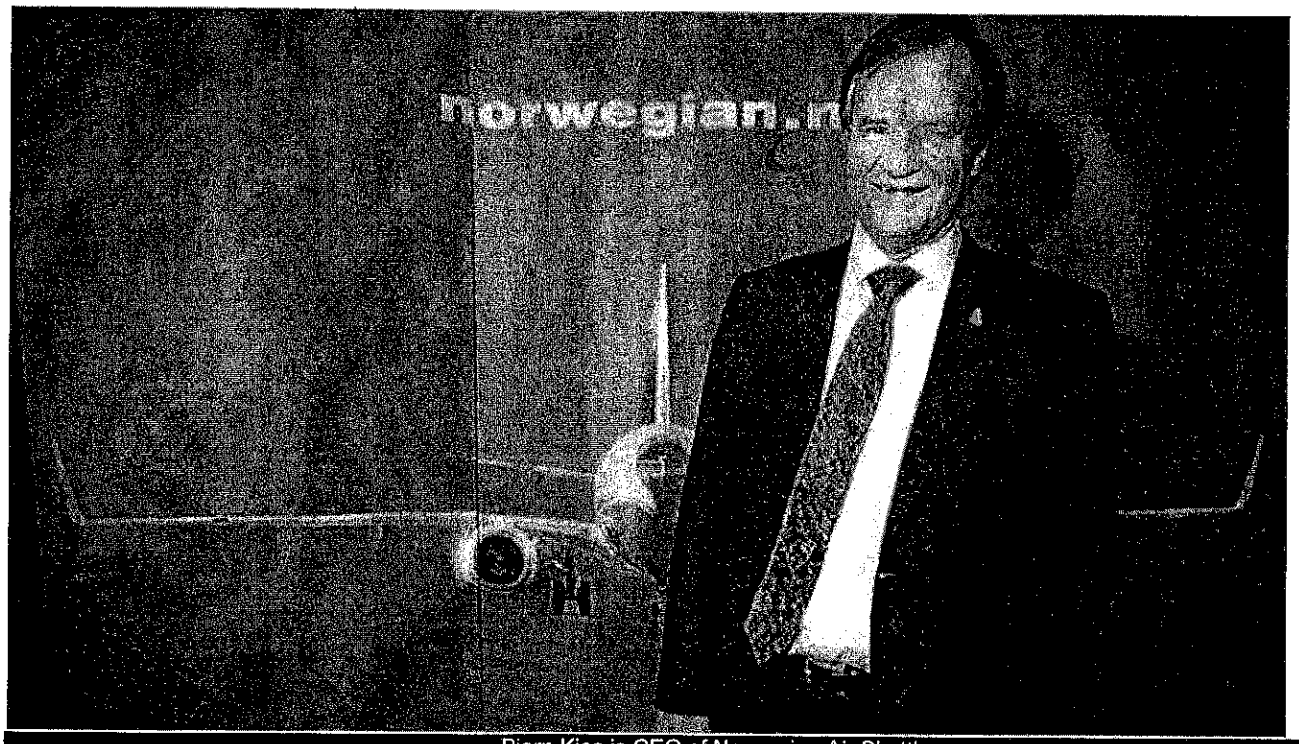
"The study will be an important tool for the establishment of measures that in the best possible way will take care of the interests of both the airliners and their employees. The results from the study are estimated to be available by the end of 2013."

EXHIBIT 9

Budget airline may register aircraft in Ireland to avoid Norwegian labour law

Updated:
16:27, Thursday, 25 April 2013

Share



Bjorn Kjos is CEO of Norwegian Air Shuttle

Budget airline Norwegian Air Shuttle is considering registering a long-haul aircraft in Ireland to circumvent Norwegian laws, which bar it from hiring cheaper Asian cabin crews.

The carrier has sent a letter to Norway's Civil Aviation Authority asking it to authorise "renting an aircraft that in all likelihood will be registered in the Irish Aircraft Registration Department", reports AFP.
The contents of the letter, seen by business daily Dagens Naeringsliv, were confirmed by company spokesman Lasse Sandaker-Nielsen.
The new aircraft would operate on Norwegian's recently announced routes to Thailand and the United States.
To ensure competitive fares on the new routes, the company wants to hire staff in Asia for a fraction of the cost it is now paying in Scandinavia.
However earlier this year Norwegian authorities ruled out making any changes to the existing framework.
The airline has responded by brandishing the possibility of registering eight future Boeing 787 Dreamliners abroad, adding to union allegations that it is practicing social dumping.
"A final decision has not been made yet," Sandaker-Nielsen said.
Norway airline carriers can only operate aircraft registered in another country on a temporary basis, and unless the rules are changed Norwegian would eventually have to register its entire long-haul subsidiary in Ireland, DN wrote.
Sandaker-Nielsen also said the company expects to take delivery of its first Dreamliner in June, almost two months behind schedule following problems with the planes' batteries that now appear to have been resolved.
Norwegian has previously said it would lease two Airbus A340s from Portugal's HiFly to avoid delaying the launch of its New York and Bangkok flights.

EXHIBIT 10

Company Printout

Company	525771 NORWEGIAN AIR INTERNATIONAL LIMITED		
Previous Name(s)			
Registered Office	70 Sir John Rogerson's Quay		
	Dublin 2		
Type	Single Member Private Company Limited By Shares		
Date Incorporated	03/04/2013		
Last Annual Return	03/10/2013	**Designation**	Normal
Next Annual Return Date	03/10/2014	**Date of Designation**	
Bond Expiry Date			

Register of particulars of charges including mortgages pursuant to sections 103, 105 and 99(10) of the Companies Act 1963 in respect of the above named company. Computerised information for charges may be truncated on this print-out, please refer to the company file or images for complete particulars on Charges.

No Charge information on file

Directors Special Note Please note that the information displayed on this printout as to the particulars of the directors and secretary of this company may not be complete or up to date, as there may be unregistered documents which affect the position. Please refer to the list of Documents below, and if necessary, consult the company file or images for full, up-to-date particulars as to the company's officers. If this printout is blank as to officer details, please consult the images of the registered New Company documents.

Anders Tage Lennart Ceder Dalbackavagen 12 Se -247 51 Dalby Sweden	DIRECTOR
Asgeir Nyseth Fiskerroken 7 N-9017 Tromose Norway	DIRECTOR
Rolf Krister Arranio Fortvagen 128 18768 Taby Sweden	DIRECTOR
Matsack Trust Limited 70, Sir John Rogerson's Quay, Dublin 2.	SECRETARY

Documents

Status	Scans	Number	Submission	A/Cs To Date	Date Effective	Date Received /Registered
REG	*	8571173	NEW COMPANY WITH CAPITAL DUTY		03/04/2013	26/03/2013
REG	*	8766623	SR ALTERATION TO MEMORANDUM OF ARTICLES		12/08/2013	12/08/2013
REG	*	8794483	CHANGE IN DIRECTOR OR SECRETARY		12/08/2013	29/08/2013
REG	*	8794485	CHANGE IN DIRECTOR OR SECRETARY		12/08/2013	29/08/2013
REG	*	8794486	CHANGE IN DIRECTOR OR SECRETARY		12/08/2013	29/08/2013
REC	*	8893550	ANNUAL RETURN - NO ACCOUNTS		03/10/2013	23/10/2013

EXHIBIT 11

Annual Return

Sections 125, 127, 128 Companies Act, 1963
Section 7 Companies (Amendment) Act 1986
Section 26 Electoral Act 1997
Sections 43, 44 Companies (Amendment)(No 2) Act 1999
(as amended by section 10 Companies (Amendment) Act 2009)
Section 249A Companies Act 1990 (inserted by section 107 Company Law Enforcement Act 2001)
Companies Act 1990 (Form and Content of Documents Delivered to Registrar) Regulations 2002

AN OIFIG
COMI

5915062

23 OCT 2013

Companies Acts, 1963 to 2009

B1

Tick box if bond is attached ☐
note eighteen

Company Number 5 2 5 7 7 1

Please complete using black typescript or BOLD CAPITALS, referring to explanatory notes

Company Name *in full*: NORWEGIAN AIR INTERNATIONAL LIMITED

Return made up to *notes one and two*: Day 0 3 Month 1 0 Year 2 0 1 3

If the return is made up to a date earlier than the company's existing Annual Return Date (ARD), one of the following boxes must be ticked.

☐ The company wishes to RETAIN the anniversary of its existing ARD for next year.

☐ The company wishes to CHANGE its ARD for next year to the anniversary of its made-up-to-date on this return.

Financial Year *note three*: From Day Month Year To Day Month Year

Audit Exemption *note four*

☐ Please tick the box if the company is claiming the exemption from audit in respect of the financial year covered by the accounts attached to this return. The company may **not** claim the audit exemption if it is late in filing this annual return or was late in filing its last annual return to which accounts were attached or if the company is a parent or subsidiary company or is a public company, including a guarantee company. *note four*

Auditor Registration Number *note twenty three*

Auditor Registration Number (ARN): This is a unique number that is allocated to each individual auditor/firm of auditors by a Recognised Accountancy Body (RAB). The ARN for each registered auditor may be obtained by checking the Public Register of Auditors on the CRO website, www.cro.ie *note twenty three*

Presenter Details — Person to whom queries can be addressed — Registered on www.core.ie? ☐ Yes ☐ No

Name	Matheson		
Address	70 Sir John Rogerson's Quay, Dublin 2, Ireland		
Presenter Email	matheson@matheson.com	Reference Number	137434
Telephone Number	01 232 2000	Fax Number	01 232 3333
DX Number		DX Exchange	

Registered Office

note five

70 Sir John Rogerson's Quay, Dublin 2, Ireland

Email Address (optional): *see note five* matheson@matheson.com

Other Addresses

note six

Address	Register(s)/documents held at this address

Secretary

note seven

Surname: MATSACK TRUST LIMITED

Former Surname *note eight*: None

note seven

Forename:

Former Forename *note eight*: None

Residential Address *note seven*: 70 Sir John Rogerson's Quay, Dublin 2, Ireland

Donations for Political Purposes

[X] None

note nine and ten

Name of person or political party to whom donation was made

Value of donation € / _

BLUEPRINT 2000

Authorised Share Capital
note eleven

Total
€ / _ 100,000,000.00 made up as follows:

Class	Number of Shares	Nominal Value Per Share € / _
Ordinary	100,000,000	1.00

Issued Share Capital
(insert nominal values)

Total
€ / _ 1.00 made up as follows:

Paid up on shares issued for cash	€ / _ 1.00	
Considered paid on other shares	€ / _ 0.00	
Total calls unpaid	€ / _ 0.00	(E)
Total not yet called	€ / _ 0.00	(F)

} The sum of these figures must equal the total issued share capital.

Shares Issued

Total standing to credit of Capital Conversion Reserve Fund *note twelve* € / _ 0.00

Consideration - all cash

Class	Number of Shares	Total Nominal Value €/__	Total Premium Paid € / _	Total Amount Paid € / _
Ordinary	1	1.00	0.00	1.00
Totals (A)	1		(C)	1.00

Consideration - not all cash

Class	Number of Shares	Total Nominal Value €/__	Total Premium Considered Paid € / _	Total Amount Considered Paid € / _
Totals (B)	0		(D)	0.00

Totals

Total number of shares issued (A) + (B) 1

This total must agree with the total number of shares held by existing members as stated in the **List of Past and Present Members** section of the return

Total paid and unpaid and considered paid (C) + (D) + (E) + (F) € / _ 1.00

Other Share / Debenture Details
note thirteen

List of Past and Present Members

Persons holding shares on the date to which the annual return has been made up for 20 13 (insert year) and of persons who have held shares therein at any time since the date of the last return, or in the case of the first return, the date of incorporation of the company. *note fourteen*

☐ Tick box if the list of past and present members is submitted on CD.

notes seven and fifteen	Name and Address	Share Class	Numbers Held *note sixteen*	Number Transferred and Date *note seventeen*	Particulars of Transferee *note seventeen*
Name Address Folio No.	MATSACK NOMINEES LIMITED 70 Sir John Rogerson's Quay, Dublin 2, Ireland	€1.00 Ordinary	0	1 12/08/2013	NORWEGIAN AIR SHUTTLE ASA
Name Address Folio No.	NORWEGIAN AIR SHUTTLE ASA PO Box 115, 1330 Fornebu , Norway	€1.00 Ordinary	1		
Name Address Folio No.					
Name Address Folio No.					
Name Address Folio No.					
Name Address Folio No.					
Name Address Folio No.					
Name Address Folio No.					
Name Address Folio No.					
Name Address Folio No.					

Total number held 1 The total number of shares held must agree with the total number of issued shares given in the **Shares Issued** section (total of **(A)** plus **(B)**).

Directors
including shadow/ alternate directors if any

note seven

Surname: AARNIO
Former Surname *note eight*: None
Forename: ROLF KRISTER
Former Forename *note eight*: None
Date of Birth (Day Month Year): 18 10 1959
EEA Resident *note eighteen*: X
Alternate Director *note nineteen*:
Residential Address *note seven*: FORTVAGEN 128, 18768 TABY, SWEDEN
Business Occupation: MANAGING DIRECTOR
Nationality: Swedish
Company *note twenty*
Other Directorships: See continuation sheet
Place of Incorporation *note twenty one*
Company Number

note seven

Surname: CEDER
Former Surname *note eight*: None
Forename: ANDERS TAGE LENNART
Former Forename *note eight*: None
Date of Birth (Day Month Year): 03 08 1955
EEA Resident *note eighteen*: X
Alternate Director *note nineteen*:
Residential Address *note seven*: DALBACKAVAGEN 12, SE-247 51, DALBY, Sweden
Business Occupation: TECHNICAL DIRECTOR
Nationality: Swedish
Company *note twenty*
Other Directorships: None
Place of Incorporation *note twenty one*
Company Number

note seven

Surname: NYSETH
Former Surname *note eight*: None
Forename: ASGEIR
Former Forename *note eight*: None
Date of Birth (Day Month Year): 19 03 1957
EEA Resident *note eighteen*: X
Alternate Director *note nineteen*:
Residential Address *note seven*: FISKEKROKEN 7, N-9017, TROMSOE
Business Occupation: CHIEF OPERATING OFFICER
Nationality: Norwegian
Company *note twenty*
Other Directorships: See continuation sheet
Place of Incorporation *note twenty one*
Company Number

Certification

We hereby certify that (i) this form has been completed in accordance with the Notes on Completion of Form B1, (ii) contains the particulars in respect of the company as at the date to which the return is made up and that (iii) *note twenty two*

The company is not a private company.

The company is a private company and has not since the date of the last annual return (or the date of incorporation if this is the first return) issued any invitation to the public to subscribe for any shares or debentures in the company. X

The company is a private company with more than 99 members, the excess of the number of members over 99 consisting wholly of persons who, under section 33(1)(b) Companies Act 1963, are not included in reckoning the number of members.

Signed [signature] Director | [signature] Secretary
Document requires two different signatures. Same person cannot sign as both director and secretary.

Name *in bold capitals or typescript*: ASGEIR NYSETH | MATSACK TRUST LIMITED

GAVIN COLEMAN
FOR & ON BEHALF OF
MATSACK TRUST LIMITED

Checklist of documents annexed

Balance Sheet Balance Sheet S128 Companies Act 1963 (CA 63); S7 & S18 Companies (Amendment) Act 1986 (CAA 86) ☐

Profit and Loss Account S7 and S18 CAA 86 ☐

Notes to the Accounts Schedule of CAA 86 (refer specifically to s12 for notes required in the case of small / medium sized businesses) ☐

Directors' Report S128 CA 63; S7 & S18 CAA 86 ☐

Auditor's Report S128 CA 63; S7 & S18 CAA 86 ☐

Special Auditor's Report Duly certified by a director and secretary to be a true copy of the report S128(6B) CA 63 ☐

Overall Certification The Acts require that the balance sheet, profit and loss account, directors' report and auditor's report be certified by both director and secretary to be a true copy as laid or to be laid before the A.G.M. or sent to the sole member in accordance with the single member private limited company regulations. In the case of full accounts, an overall certification will be sufficient. ☐

Guarantee by parent undertaking of the liabilities of subsidiary undertaking S17 CAA 86 as amended ☐

Declaration of consent by shareholders of subsidiary to exemption S17 CAA 86 as amended ☐

Notification to shareholders of Guarantee S17 CAA 86 as amended ☐

Note stating company has availed of exemptions in s17 CAA 86 as amended ☐

Accounting documents

Reg 39 E.C. (Companies: Group Accounts) Regulations 1992 ☐

Reg 7 E.C. (Credit Institutions: Accounts) Regulations 1992 ☐

Reg 7 E.C. (Accounts) Regulations 1993 ☐

Regs 5, 17 E.C. (Insurance Undertakings: Accounts) Regulations 1996 ☐

Section 43 Bond *See note eighteen above.* ☐

Form B73 Nomination of a new ARD ☐

Further Information

Professional Advice If you have a problem completing this annual return, and in particular are unclear of the requirements pertaining to a company's ARD, you should consult your professional adviser.

CRO Address When completed and signed, please file with the CRO. The Public Office is at 14 Parnell Square, Dublin 1. DX address: 145001

The Dx (Document Exchange) service is an alternative to filing by post. If submitting by post, send with prescribed fee to the Registrar of Companies at: Companies Registration Office, O'Brien Road, Carlow.

Please carefully study the explanatory notes above. A Form B1 that is not completed correctly or is not accompanied by the correct documents or fee is liable to be rejected and returned to the presenter by the CRO pursuant to section 249A Companies Act 1990 (inserted by section 107 Company Law Enforcement Act 2001). Unless the document, duly corrected, is relodged in the CRO within 14 days, it will be deemed to have never been delivered to the CRO.

FURTHER INFORMATION ON COMPLETION OF FORM B1, INCLUDING THE PRESCRIBED FEE, IS AVAILABLE FROM www.cro.ie OR BY E-MAIL info@cro.ie

Other Directorships

Company Number 525771

Form B1 Continuation sheet

Director's Name ROLF KRISTER AARNIO

Other directorships

Company Name *note twenty*	Place of Incorporation *note twenty one*	Company Number	Resigned
Ab Norwegian Air Shuttle Finland Ltd	Finland		
Airport Cordination Sweden	Sweden		Resigned
Flygarbetsgivarnas Service AB	Sweden		
Nordic Global Airlines Oy	Finland		

Other Directorships

Company Number 525771

Form B1 Continuation sheet

Director's Name ASGEIR NYSETH

Other directorships

Company Name *note twenty*	Place of Incorporation *note twenty one*	Company Number	Resigned
Lufttranspor AS	Norway		Resigned
Norwegian Air Shuttle ASA	Norway		
Norwegian Long Haul AS	Norway		

EXHIBIT 12

TTD A BOLD VOICE FOR TRANSPORTATION WORKERS

I request confidential treatment of this letter pursuant to 49 U.S.C. § 40115

January 11, 2010

Mr. John Byerly
Deputy Assistant Secretary of State
for Transportation Affairs
U.S. Department of State
EEB/TRA, Room 3425
2201 C Street, NW
Washington, D.C. 20520

Mr. Paul Gretch
Director, Office of International Aviation
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, D.C. 20590

Re: U.S. – EU air service negotiations: reciprocal recognition of fitness and citizenship determinations

Dear Mssrs. Byerly and Gretch:

This letter is to express the concern of the Transportation Trades Department, AFL-CIO (TTD) about the proposal to amend the U.S. – EU Air Transport Agreement (ATA) to include an article on the reciprocal recognition of regulatory determinations with regard to airline fitness and citizenship. This proposed article provides in part that the U.S. and the EU will recognize fitness and citizenship determinations made by the aviation authorities of each entity and treat those determinations as if they had been made by its own aviation authority.

This proposal would essentially put into the ATA the Procedures for the Reciprocal Recognition of Regulatory Determinations with Regard to Airline Fitness and Citizenship established in an exchange of letters between the U.S. and EU in January 2009. These letters and the procedures were attached to the Record of Meeting of the third EU-U.S. Joint Committee meeting, along with a document titled Application Procedures for Air Carriers of the European Union (Application Procedures). In TTD's view, the reciprocal recognition regime established by these documents could materially erode or even eliminate the ability of the U.S. regulatory authorities to inquire into and, if appropriate, deny, authorization to EU carriers on legitimate public interest grounds long established in U.S law.

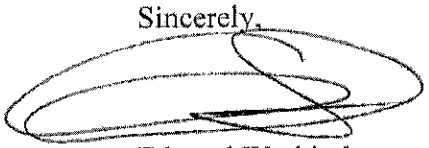
The Application Procedures relieve EU carriers from having to file with the U.S. authorities a range of information that would normally be required of foreign carrier applicants for operating authorizations. Included among the information that is no longer required is information on the names and citizenship of directors and officers, on the owners of the capital stock or capital of the applicant, on interests in other aeronautical entities, on the degree of government ownership and on inter-carrier agreements. All this information, however, could be germane to determining whether a grant of authorization is consistent with the public interest.

For example, United and Aer Lingus have said they are considering starting a joint venture airline, 51 percent owned by Aer Lingus that would be based in the EU. If the two carriers were to proceed with this plan, it is possible that several of United's employee groups would argue that the grant by DOT of authorizations to the joint venture airline would be contrary to the public interest. However, under the Application Procedures the fitness and citizenship of the joint venture carrier would be determined exclusively by European aviation authorities and the carrier would not even have to file with DOT pertinent information about its ownership and management structure. We do note that in the Procedures for Reciprocal Recognition the U.S. has retained the right to seek consultations if it believes that the conditions in Article 4 of the ATA have not been met, and the proposed new article would retain this right. But whether the provisions of Article 4 allow DOT to apply the full range of public interest tests to the grant of authorizations is not at all clear.

The arrangements for reciprocal recognition were agreed to without consultation with labor or, to our knowledge, any other private sector stakeholders. Accordingly, we would like your assurance that the U.S. retains the right to determine whether a particular request for operating authorizations is consistent with the public interest, as well as the ability to require the submission of any information relevant to that determination. We also believe, that if it has not already done so, the U.S. should inform the EU that it retains this right.

I appreciate your consideration of our views on this important matter.

Sincerely,



Edward Wytkind
President

cc: Susan Kurland, Assistant Secretary for Aviation and International Affairs
Christa Fornarotto, Deputy Assistant Secretary for Aviation and International Affairs

EXHIBIT 13

MEMORANDUM OF CONSULTATIONS

1. Delegations representing the European Union and its Member States and the United States of America met in Brussels 23-25 March 2010 to complete negotiations of a second stage air transport agreement. Delegation lists are appended as Attachment A.

2. The delegations reached *ad referendum* agreement on, and initialled the text of, a Protocol to Amend the Air Transport Agreement between the United States of America and the European Community and its Member States, signed on 25 and 30 April 2007 (the "Protocol", appended as Attachment B). The delegations intend to submit the draft Protocol to their respective authorities for approval, with the goal of its entry into force in the near future.

3. References in this Memorandum to the Agreement and to articles, paragraphs, and annexes are to the Agreement, as it would be amended by the Protocol.

4. The EU delegation confirmed that as a consequence of the entry into force on 1 December 2009 of the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, the European Union replaced and succeeded the European Community and that, as of that date, all the rights and obligations of, and all the references to, the European Community in the Agreement refer to the European Union.

5. The delegations affirmed that the procedures for reciprocal recognition of regulatory determinations with regard to airline fitness and citizenship in the new Article 6 *bis* are not intended to modify the conditions prescribed under the laws and regulations normally applied by the Parties to the operation of international air transportation referred to in Article 4 of the Agreement.

6. With respect to Article 9, the delegations expressed their desire to further EU/U.S. cooperation on aviation security, with the aim of achieving, wherever possible, maximum reliance on each other's security measures, consistent with applicable laws and regulations, to reduce unnecessary duplication of such measures.

7. The delegations noted that security cooperation is expected to include regular consultations on amendments to existing requirements, where feasible prior to their implementation; close coordination of airport assessment activities and, where possible and appropriate, air carrier inspections; and exchange of information on new security technologies and procedures.

8. With a view to fostering efficient use of the resources available, enhancing security, and promoting facilitation, the delegations noted the benefit of swift and, wherever possible, coordinated responses to new threats.

9. Both delegations noted that the provisions of the respective conventions in force between a Member State and the United States for the avoidance of double taxation on income and on capital remain unaffected by the Protocol.

10. With respect to paragraph 7 of Article 15, the EU delegation noted that the issues to be addressed by any work in this area would be expected to include, among other things, the environmental effectiveness and technical integrity of the respective measures, the need to avoid competitive distortion and carbon leakage and, where appropriate, whether and how such measures may be linked or integrated with each other. The U.S. delegation noted that in

developing recommendations, it would expect to focus, *inter alia*, on consistency with the Chicago Convention and the promotion of the objectives of the Agreement.

11. The two delegations emphasised that nothing in the Agreement affects in any way their respective legal and policy positions on various aviation-related environmental issues.

12. In recognition of shared environmental objectives, the delegations developed a Joint Statement on Environmental Cooperation appended as Attachment C to this Memorandum of Consultations.

13. The EU delegation restated the EU's intention to continue to work through the United Nations Framework Convention on Climate Change to establish global emissions reduction targets for international aviation.

14. The U.S. and EU delegations restated the U.S. and EU intentions to work through the International Civil Aviation Organisation (ICAO) to address greenhouse gas emissions from international aviation. Both delegations also noted the contributions from industry in support of this process.

15. Both delegations noted that the references to the balanced approach in paragraph 4 of Article 15 refer to Resolution A35-5 unanimously adopted at the 35th ICAO Assembly. The delegations emphasised that all aspects of the balanced approach principle established in that Resolution are relevant and important, including the recognition that "States have relevant legal obligations, existing agreements, current laws and established policies which may influence their implementation of the ICAO balanced approach".

16. Both delegations underscored their support for applying ICAO's "Guidance on the Balanced Approach to Aircraft Noise," which is currently published in ICAO Document 9829 (2nd edition).

17. With regard to paragraph 5(a) of Article 15, the EU delegation noted that "interested parties" is defined in Article 2(f) of Directive 2002/30/EC to mean "natural or legal persons affected or likely to be affected by, or having a legitimate interest in the introduction of, noise reduction measures, including operating restrictions." The EU delegation also noted that, under Article 10 of that Directive, Member States must ensure that, for the application of Articles 5 and 6 of that Directive, procedures for consultation of interested parties are established in accordance with applicable national law.

18. Recognising the challenges related to the increasing cross-border mobility of workers and structure of companies, the EU delegation noted that the European Commission is closely monitoring the situation and is considering further initiatives in order to improve implementation, application, and enforcement in this area. The EU delegation also referred to the work being undertaken by the European Commission on transnational company agreements and stated its willingness to inform the Joint Committee about these and other related initiatives, as appropriate.

19. The U.S. delegation noted that, in the United States, the principle that allows for selection of a single representative for a defined class or craft of employees at an airline has helped promote rights for both airline flight and ground workers to organise themselves and to negotiate and enforce collective bargaining agreements.

20. Both delegations noted that, in the event that a Party would take measures contrary to the Agreement, including Article 21, the other Party may avail itself of any appropriate and proportional measures in accordance with international law, including the Agreement.

21. In relation to paragraph 4 of Article 21, the EU delegation noted that the review referred to in that paragraph will be exercised by the European Commission *ex officio* or *ex parte*.

22. The delegations noted that the traffic rights referred to in paragraph 4(a) of Article 21 would be in addition to those granted to the European Union and its Member States in Article 3 of the Agreement.

23. The delegations expressed their satisfaction with the cooperation between the U.S. Department of Transportation and the European Commission, as provided for in the Agreement, with the shared objective of improving each other's understanding of the laws, procedures and practices of each other's competition regimes and the impact that developments in the air transportation industry have had, or are likely to have, on competition in the sector.

24. The delegations affirmed the commitment of the respective competition authorities to dialogue and cooperation and to the principle of transparency, consistent with legal requirements, including the protection of confidential commercial information. The delegations further affirmed the willingness of the respective competition authorities to provide guidance on procedural requirements, where appropriate.

25. The delegations noted that any communication to the Joint Committee or elsewhere relating to the cooperation under Annex 2 must respect the rules governing disclosure of confidential or market-sensitive information.

26. For the purposes of paragraph 4 of Annex 6, the delegations expressed their expectation that the Joint Committee will develop, within one year of signature of the Protocol, appropriate criteria for determining whether countries have established a record of cooperation in air services relations.

27. The delegations welcomed the participation of representatives of Iceland and Norway as observers on the EU delegation and noted that work will continue in the Joint Committee to develop a proposal regarding conditions and procedures for Iceland and Norway to accede to the Agreement, as amended by the Protocol.

28. Both delegations expressed their expectation that their respective aeronautical authorities would permit operations consistent with the terms of the Agreement, as amended by the Protocol, on the basis of comity and reciprocity, or on an administrative basis, from the date of signature of the Protocol.

For the Delegation of the European Union and its Member States

Daniel CALLEJA

For the Delegation of the United States of America

John BYERLY

EXHIBIT 14

INTERPRETATIVE NOTES:

This consolidated text of the EU-US First and Second Stage Agreements has been prepared as a working document for reference only and is not intended to constitute a separate, legally enforceable agreement.

Text of 2007 Agreement (Times New Roman 12)
Text of 2010 Protocol (Arial 11)
[Comments (Courier New 12)]

AIR TRANSPORT AGREEMENT

[as amended by the]

PROTOCOL
TO AMEND THE AIR TRANSPORT AGREEMENT
BETWEEN THE UNITED STATES OF AMERICA
AND THE EUROPEAN COMMUNITY AND ITS MEMBER STATES,
SIGNED ON APRIL 25 AND 30, 2007

THE UNITED STATES OF AMERICA (hereinafter the "United States"),

of the one part; and

THE REPUBLIC OF AUSTRIA,
THE KINGDOM OF BELGIUM,
THE REPUBLIC OF BULGARIA,
THE REPUBLIC OF CYPRUS,
THE CZECH REPUBLIC,
THE KINGDOM OF DENMARK,
THE REPUBLIC OF ESTONIA,
THE REPUBLIC OF FINLAND,
THE FRENCH REPUBLIC,
THE FEDERAL REPUBLIC OF GERMANY,
THE HELLENIC REPUBLIC,
THE REPUBLIC OF HUNGARY,
IRELAND,
THE ITALIAN REPUBLIC,
THE REPUBLIC OF LATVIA,
THE REPUBLIC OF LITHUANIA,
THE GRAND DUCHY OF LUXEMBOURG,
MALTA,
THE KINGDOM OF THE NETHERLANDS,
THE REPUBLIC OF POLAND,
THE PORTUGUESE REPUBLIC,

airlines of the other Party, nor shall it require the filing of schedules, programs for charter flights, or operational plans by airlines of the other Party, except as may be required for customs, technical, operational, or environmental (consistent with Article 15) reasons under uniform conditions consistent with Article 15 of the Convention.

5. Any airline may perform international air transportation without any limitation as to change, at any point, in type or number of aircraft operated; provided that, (a) for U.S. airlines, with the exception of all-cargo services, the transportation is part of a service that serves the United States, and (b) for Community airlines, with the exception of (i) all-cargo services and (ii) combination services between the United States and a member of the ECAA as of the date of signature of this Agreement, the transportation is part of a service that serves a Member State.

6. Nothing in this Agreement shall be deemed to confer on:

(a) U.S. airlines the right to take on board, in the territory of any Member State, passengers, baggage, cargo, or mail carried for compensation and destined for another point in the territory of that Member State;

(b) Community airlines the right to take on board, in the territory of the United States, passengers, baggage, cargo, or mail carried for compensation and destined for another point in the territory of the United States.

7. Community airlines' access to U.S. Government procured transportation shall be governed by Annex 3.

ARTICLE 4

Authorization

On receipt of applications from an airline of one Party, in the form and manner prescribed for operating authorizations and technical permissions, the other Party shall grant appropriate authorizations and permissions with minimum procedural delay, provided:

(a) for a U.S. airline, substantial ownership and effective control of that airline are vested in the United States, U.S. nationals, or both, and the airline is licensed as a U.S. airline and has its principal place of business in U.S. territory;

(b) for a Community airline, substantial ownership and effective control of that airline are vested in a Member State or States, nationals of such a state or states, or both, and the airline is licensed as a Community airline and has its principal place of business in the territory of the European Community;

(c) the airline is qualified to meet the conditions prescribed under the laws and regulations normally applied to the operation of international air transportation by

the Party considering the application or applications; and

(d) the provisions set forth in Article 8 (Safety) and Article 9 (Security) are being maintained and administered.

ARTICLE 5

Revocation of Authorization

1. Either Party may revoke, suspend or limit the operating authorizations or technical permissions or otherwise suspend or limit the operations of an airline of the other Party where:

(a) for a U.S. airline, substantial ownership and effective control of that airline are not vested in the United States, U.S. nationals, or both, or the airline is not licensed as a U.S. airline or does not have its principal place of business in U.S. territory;

(b) for a Community airline, substantial ownership and effective control of that airline are not vested in a Member State or States, nationals of such a state or states, or both, or the airline is not licensed as a Community airline or does not have its principal place of business in the territory of the European Community; or

(c) that airline has failed to comply with the laws and regulations referred to in Article 7 (Application of Laws) of this Agreement.

2. Unless immediate action is essential to prevent further noncompliance with subparagraph 1(c) of this Article, the rights established by this Article shall be exercised only after consultation with the other Party.

3. This Article does not limit the rights of either Party to withhold, revoke, limit or impose conditions on the operating authorization or technical permission of an airline or airlines of the other Party in accordance with the provisions of Article 8 (Safety) or Article 9 (Security).

ARTICLE 6

Additional Matters related to Ownership, Investment, and Control

Notwithstanding any other provision in this Agreement, the Parties shall implement the provisions of Annex 4 in their decisions under their respective laws and regulations concerning ownership, investment and control.

ARTICLE 6 *bis*

Attachment 3

8. If one Party believes that a matter involving aviation environmental protection, including proposed new measures, raises concerns for the application or implementation of this Agreement, it may request a meeting of the Joint Committee, as provided in Article 18, to consider the issue and develop appropriate responses to concerns found to be legitimate.

ARTICLE 16

Consumer Protection

The Parties affirm the importance of protecting consumers, and either Party may request a meeting of the Joint Committee to discuss consumer protection issues that the requesting Party identifies as significant.

ARTICLE 17

Computer Reservation Systems

1. Computer Reservation Systems (CRS) vendors operating in the territory of one Party shall be entitled to bring in, maintain, and make freely available their CRSs to travel agencies or travel companies whose principal business is the distribution of travel-related products in the territory of the other Party provided the CRS complies with any relevant regulatory requirements of the other Party.

2. Neither Party shall, in its territory, impose or permit to be imposed on the CRS vendors of the other Party more stringent requirements with respect to CRS displays (including edit and display parameters), operations, practices, sales, or ownership than those imposed on its own CRS vendors.

3. Owners/Operators of CRSs of one Party that comply with the relevant regulatory requirements of the other Party, if any, shall have the same opportunity to own CRSs within the territory of the other Party as do owners/operators of that Party.

ARTICLE 17 *bis*

Social Dimension

1. The Parties recognise the importance of the social dimension of the Agreement and the benefits that arise when open markets are accompanied by high labour standards. The opportunities created by the Agreement are not intended to undermine labour standards or the labour-related rights and principles contained in the Parties' respective laws.

Attachment 3

2. The principles in paragraph 1 shall guide the Parties as they implement the Agreement, including regular consideration by the Joint Committee, pursuant to Article 18, of the social effects of the Agreement and the development of appropriate responses to concerns found to be legitimate.

ARTICLE 18

The Joint Committee

1. A Joint Committee consisting of representatives of the Parties shall meet at least once a year to conduct consultations relating to this Agreement and to review its implementation.

2. A Party may also request a meeting of the Joint Committee to seek to resolve questions relating to the interpretation or application of this Agreement. However, with respect to Article 20 or Annex 2, the Joint Committee may consider questions only relating to the refusal by either Participant to implement the commitments undertaken, and the impact of competition decisions on the application of this Agreement. Such a meeting shall begin at the earliest possible date, but not later than 60 days from the date of receipt of the request, unless otherwise agreed.

3. The Joint Committee shall review, as appropriate, the overall implementation of the Agreement, including any effects of aviation infrastructure constraints on the exercise of rights provided for in Article 3, the effects of security measures taken under Article 9, the effects on the conditions of competition, including in the field of Computer Reservation Systems, and any social effects of the implementation of the Agreement. The Joint Committee shall also consider, on a continuing basis, individual issues or proposals that either Party identifies as affecting, or having the potential to affect, operations under the Agreement, such as conflicting regulatory requirements.

4. The Joint Committee shall also develop cooperation by:

(a) considering potential areas for the further development of the Agreement, including the recommendation of amendments to the Agreement;

(b) considering the social effects of the Agreement as it is implemented and developing appropriate responses to concerns found to be legitimate;

(c) maintaining an inventory of issues regarding government subsidies or support raised by either Party in the Joint Committee;

(d) making decisions, on the basis of consensus, concerning any matters with respect to application of paragraph 6 of Article 11;

(e) developing, where requested by the Parties, arrangements for the reciprocal recognition of regulatory determinations;

case may be, the European Union. The diplomatic note or notes from the European Union and its Member States shall contain communications from each Member State confirming that its necessary procedures for entry into force of this Protocol have been completed.

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Agreement.

DONE at Brussels on the twenty-fifth day of April, 2007 and at Washington on the thirtieth day of April, 2007, in duplicate.

Done at Luxembourg on the twenty-fourth day of June in the year two thousand and ten.

For the United States of America

За Република България

Pour le Royaume de Belgique
Voor het Koninkrijk België
Für das Königreich Belgien

Cette signature engage également la Communauté française, la Communauté flamande, la Communauté germanophone,la Région wallonne, la Région flamande et la Région de Bruxelles-Capitale.

Deze handtekening verbindt eveneens de Vlaamse Gemeenschap, de Franse Gemeenschap, de Duitstalige Gemeenschap,het Vlaamse Gewest, het Waalse Gewest en het Brussels Hoofdstedelijk Gewest.

Diese Unterschrift bindet zugleich die Deutschsprachige Gemeinschaft, die Flämische Gemeinschaft, die Französische Gemeinschaft, die Wallonische Region, die Flämische Region und die Region Brüssel-Hauptstadt.

Za Českou republiku
På Kongeriget Danmarks vegne

Für die Bundesrepublik Deutschland

Eesti Vabariigi nimel

Για την Ελληνική Δημοκρατία

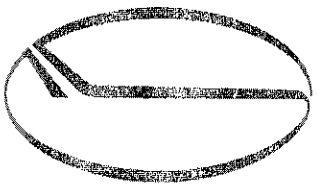
Por el Reino de España

Pour la République française

Thar cheann Na hÉireann

Attachment 3

EXHIBIT 15



Air Transport Association

CONSOLIDATED AIR TRANSPORT AGREEEMENT
BETWEEN THE
GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE
GOVERNMENT OF IRELAND

The attached document, prepared by the Air Transport Association's International Affairs Department, consolidates the four documents that comprise the United States-Ireland bilateral relationship (as of March 2001). The documents used, and the font style in which text from each document appears, are:

* Air Transport Services Agreement with Annex signed February 3, 1945 and entered into force on February 15, 1945

* *Amendment effected by Exchange of Notes signed on January 25, 1988 and September 29, 1989 (adding Article 5 bis, Security)*

* Agreement effected by Exchange of Notes signed on July 25 and September 6, 1990 and entered into force on September 6, 1990 (replacing Annex in its entirety and adding Article 6 bis, Ground Handling, and Article 6 ter, Pricing)

* *Memorandum of Consultation ("MOC") signed October 28, 1993 (amending Annex)*

[Note: All editorial comments are in brackets and in this font.]

The Air Services Agreement is the basic document. To the maximum extent possible, modifying text is consolidated from its original document to the section(s) in the basic agreement to which it most closely relates. Paragraph numbering and section formatting from the original document are retained.

While every effort has been made to ensure the accuracy of the consolidated document and to the best of our knowledge it is a fair and accurate representation of the current U.S.-Ireland agreement situation, it is NOT an official document. If you do discover any errors, please advise ATA's International Affairs Department.

Air Transport Association of America, Inc.
1301 Pennsylvania Ave., NW – Suite 1100 Washington, DC 20004-1707
(202) 626-4000

INDEX FOR
IRELAND AGREEMENT

CONSOLIDATED AIR SERVICES AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF IRELAND

Having in mind the resolution recommending a standard form of agreement for provisional air routes and services, included in the Final Act of the International Civil Aviation Conference signed at Chicago on December 7, 1944, and the desirability of mutually stimulating and promoting the sound economic development of air transportation between the United States and Ireland, the two Governments parties to this arrangement agree that the further development of air transport services between their respective territories shall be governed by the following provisions:

ARTICLE 1

[Grant of Rights]

The contracting parties grant the rights specified in the Annex hereto necessary for establishing the international civil air routes and services therein described, whether such services be inaugurated immediately or at a later date at the option of the contracting party to whom the rights are granted.

ARTICLE 2

[Designation and Authorization]

(a) Each of the air services so described shall be placed in operation as soon as the contracting party to whom the rights have been granted by Article 1 to designated an airline or airlines for the route concerned has authorized an airline for such route, and the contracting party granting the rights shall, subject to Article 6 hereof, be bound to give the appropriate operating permission to the airline or airlines concerned; provided that the airline so designated may be required to qualify before the competent aeronautical authorities of the contracting party granting the rights under the laws and regulations normally applied by these authorities before being permitted to engage in the operations contemplated by this agreement; and provided that in areas of hostilities or of military occupation, or in areas affected thereby, such inauguration shall be subject to the approval of the competent military authorities.

(b) It is understood that either contracting party granted commercial rights under this agreement should exercise them at the earliest practicable date except in the case of temporary inability to do so.

ARTICLE 3

[Customs]

In order to prevent discriminatory practices and to assure equality of treatment, both contracting parties agree that:

(a) Each of the contracting parties may impose or permit to be imposed just and reasonable charges for the use of public airports and other facilities under its control. Each of the contracting parties agrees, however, that these charges shall not be higher than would be paid for the use of such airports and facilities by its national aircraft engaged in similar international services.

(b) Fuel, lubricating oils and spare parts introduced into the territory of one contracting party by the other contracting party or its nationals, and intended solely for use by aircraft of such other contracting party shall be accorded national and most-favored-nation treatment with respect to the imposition of customs duties, inspection fees or other national duties or charges by the contracting party whose territory is entered.

(c) The fuel, lubricating oils, spare parts, regular equipment and aircraft stores retained on board civil aircraft of the airlines of one contracting party authorized to operate the routes and services described in the Annex shall, upon arriving in or leaving the territory of the other contracting party, be exempt from customs, inspection fees or similar duties or charges, even though such supplies be used or consumed by such aircraft on flights in that territory.

ARTICLE 4

[Safety]

Certificates of airworthiness, certificates of competency and licenses issued or rendered valid by one contracting party shall be recognized as valid by the other contracting party for the purpose of operating the routes and services described in the Annex. Each contracting party reserves the right, however, to refuse to recognize, for the purpose of flight above its own

territory, certificates of competency and licenses granted to its own nationals by another State.

ARTICLE 5

[Application of Laws]

(a) The laws and regulations of one contracting party relating to the admission to or departure from its territory of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft while within its territory, shall be applied to the aircraft of the other contracting party, and shall be complied with by such aircraft upon entering into or departing from or while within the territory of the first party.

(b) The laws and regulations of one contracting party as to the admission to or departure from its territory of passengers, crew, or cargo of aircraft, such as regulations relating to entry, clearance, immigration, passports, customs and quarantine shall be complied with by or on behalf of such passengers, crew or cargo of the other contracting party upon entrance into or departure from, or while within the territory of the first party.

ARTICLE 5 bis

[Security]

(a) In accordance with their rights and obligations under international law, the Contracting Parties reaffirm that their obligation to protect, in their mutual relationship, the security of civil aviation against acts of unlawful interference forms an integral part of this Agreement.

(b) The Contracting Parties shall provide upon request all necessary assistance to each other to prevent acts of unlawful seizure of aircraft and other unlawful acts against the safety of passengers, crew, aircraft, airports and air navigation facilities and any other threat to aviation security.

(c) The Contracting Parties shall act in full conformity with the provisions of the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970 and the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal on 23 September 1971.

(d) The Contracting Parties, in their mutual relations, shall act in conformity with the aviation security provisions established by the International Civil Aviation Organization and designated as Annexes to the Convention on International Civil Aviation signed at Chicago on 7 December 1944, to the extent that such security provisions are applied by the Contracting Parties; they shall require that operators of aircraft of their registry or operators who have their principal place of business or permanent residence in their territory and the operators of airports in their territory act in conformity with such aviation security provisions. Each Contracting Party shall advise the other of its intention to notify any difference to the standards of the Convention on International Civil Aviation.

(e) Each Contracting Party agrees to observe the security provisions required by the other Contracting Party for entry into the territory of that other Contracting Party and to take adequate measures to protect aircraft and to inspect passengers, crew, their carry-on items as well as cargo and aircraft stores prior to and during boarding or loading. Each Contracting Party shall also give positive consideration to any request from the other Contracting Party for special security measures to meet a particular threat.

(f) When an incident or threat of an incident of unlawful seizure of aircraft or other unlawful acts against the safety of passengers, crew, aircraft, airports and air navigation facilities occurs, the Contracting Parties shall assist each other by facilitating communications and such other appropriate measures as may be agreed intended to terminate rapidly and safely such incident or threat thereof.

(g) When a Contracting Party has reasonable grounds to believe that the other Contracting Party has departed from the aviation security provisions of this Article, the aeronautical authorities of that Contracting Party may request immediate consultations with the aeronautical authorities of the other Contracting Party. Failure to reach a satisfactory agreement within 15 days from the date of such request will constitute grounds to withhold, revoke, limit or impose conditions on the operating authorization or technical permission of an airline or airlines of the other Contracting Party. When required by an emergency, a Contracting Party may take interim action prior to the expiry of 15 days.

ARTICLE 6

[Revocation of Authorization]

Each contracting party reserves the right to withhold or revoke a certificate or permit to an airline of the other party in any case where it is not satisfied that substantial ownership and effective control are vested in nationals of either party to this agreement, or in case of failure of an airline to comply with the laws of the State over which it operates as described in Article 5 hereof, or to perform its obligations under this agreement.

ARTICLE 6 bis

[Ground Handling]

Each Contracting Party confirms that, in its territory, the designated airlines of the other Contracting Party have the right to provide ground-handling services for their own operations.

ARTICLE 6 ter

[Pricing]

(a) Each Contracting Party shall allow prices for air transport to be established by each designated airline of the Contracting Parties, based upon commercial considerations in the marketplace. Intervention by the Contracting Parties shall be limited to:

(1) prevention of unreasonably discriminatory prices or practices;

(2) protection of consumers from prices that are unreasonably high or restrictive because of abuse of a dominant position;

(3) protection of airlines from prices that are artificially low because of direct or indirect Government subsidy or support.

(b) Each Contracting Party may require notification to or filing with its aeronautical authorities of prices proposed to be charged to or from its territory by the designated airlines of the other Contracting Party. Notification or filing by the airlines of both Contracting Parties may be required not more than 30 days before the proposed effective date of such prices. In individual cases, notification or filing may be permitted on shorter notice than normally required. Neither Contracting Party shall require the notification or filing by airlines of the other Contracting Party of prices charged by charter operators to the public for traffic originating in the territory of either Contracting Party.

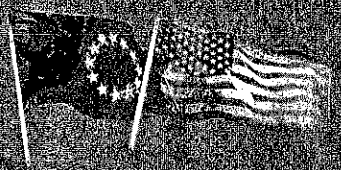
(c) Neither Contracting Party shall take unilateral action to prevent the inauguration or continuation of a price charged or proposed to be charged by an airline of either Contracting

EXHIBIT 16

EU-US

Aviation Forum

on Liberalisation and Labour: Past, Present and Future



Washington DC

3-4 December 2008

Executive Summary

EUROPEAN COMMISSION
External Relations

Printed by the European Commission Directorate General for External Relations

Executive Summary

Introduction

1. The European Commission (Directorate General External Relations (DG Relex) and Directorate General for Energy and Transport (DG Tren)) organised a two-day 'Labour Forum' in Washington D.C. on 3-4 December as part of an initiative to facilitate discussion between stakeholders and decision-makers on labour issues linked to the first stage EU-U.S. accord and the ongoing negotiations on a comprehensive second stage agreement.

2. Copies of the programme and presentations that were given can be found on the DG TREN website at:

   http://ec.europa.eu/transport/air/international_aviation/country_index/united_states_en.htm

3. This document provides a summary of the discussions that took place and is designed to act as a complement to the many and varied presentations given at the Forum.

4. The aim of the event was to provide the participants with a common understanding of the labour laws and employee concerns that have a bearing on the agreement and its future evolution.

5. The event took place in a constructive and cordial atmosphere and involved over 70 participants representing a wide range of interests, including: employee and airline representatives, the U.S. Government (Departments of State and Transport), the European Commission (DG Legal Service, DG Employment, DG Relex and DG Tren) and European Member States, as well as academics and expert practitioners in the area of labour relations from both sides of the Atlantic.

Opening remarks

6. The Forum was opened by John Bruton, the European Commission's Head of delegation to the United States. He noted the importance of social standards to the European single Market and the fact that social matters are "hard-wired" into the process of closer European economic integration. In addition, he emphasised the opportunity provided by the discussions between Europe and the United States in providing a chance for the many groups with an interest in labour matters to influence the direction of policy in this area. The importance of the EU-U.S. aviation market meant that labour concerns could and should duly be taken into account. This could be a precedent for aviation relations with other countries.

European and U.S. Labour Law

7. Professor Peter Turnbull provided an introduction on the purpose of labour laws which focused on the history of European labour law and the experience of labour in the civil aviation sector. He noted that in Europe, employee representation was based on a dual system of collective bargaining and consensual decision-making, with significant emphasis placed on the right of workers to be consulted at company level. He emphasised the common interest in achieving high social

standards, both in terms of employee satisfaction and the increased productivity that stable and well-motivated staff generate.

8. Addressing European law in more detail, the European Commission outlined the mixed nature of the legal structure in Europe: it is dealt with both by rules at national and European level, with the latter establishing a number of key fundamental rights and obligations that are binding on Member States. The achievement of high social standards was a central objective of the European Union and all Member States recognised the right to collective bargaining and the right to strike.

9. In developing its rules, Europe had faced the question of how to reconcile common rules on economic integration with the variety of national labour laws that exists in Europe. A large number of corporations now operate in multiple countries within Europe, and the engagement of social partners in decisions about the development of these trans-national operations was a key challenge and priority. The European Commission favours "social dialogue" between the social partners (employees and employers) at trans-national company level as a good governance practice. In particular, information and consultation rights of workers in transnational companies can be effectively promoted through the operation of more than 800 European Works Councils (EWCs), which represent them, and which are aimed at providing a standing forum for the exchange of concerns. Some of these Councils are part of wider World Councils. Aer Lingus, British Airways, Air France/KLM and Alitalia all have EWCs for example. Moreover, in some transnational companies workers' representatives are now fully integrated into the process of corporate decision-making, through co-determination and other systems of participation. This focus on trans-national dialogue had led to more than 150 trans-national agreements being signed covering international company workforces, including those based outside of Europe. Christian Welz from Eurofound noted that added to the possibility for agreements to be reached at company level, there was also the possibility under the European Treaty (Articles 137-139) for social partners to develop minimum social standards at a sectoral level which could then in turn be adopted by the Council, thereby transforming them into Community law. This had been done six times in the last twenty years (the Working Time Directive for mobile workers in the aviation sector was cited as an example).

10. The European Commission also presented an update on recent jurisprudence in the area of union rights. The recent European Court of Justice (ECJ) rulings on "*Laval*" and "*Viking*" had confirmed the right to strike as a fundamental right under European law, but had noted that this right was not absolute – certain conditions were needed to ensure that the right did not illegitimately hinder other fundamental freedoms in the Treaty such as the right of establishment. In both cases, the ECJ had tried to establish a balance between two fundamental objectives – the protection of employees' working conditions and the protection of the internal market. Recent judgments had imposed certain conditions on the utilisation of these rights. Firstly, the action had to be in pursuit of a legitimate aim (the protection of workers was confirmed by the ECJ in "*Laval*" as a legitimate aim) and proportionate to the achievement of that aim. Secondly, member state laws applying to a company have to be uniform and predictable (the laws cannot

force a company to agree to abide by conditions of establishment, including those established by unions, that are not known to the company at the time of the decision). Lastly, in "*Viking*", the court found that strike action could not be taken simply on the basis of a conflict with union policy (in this case, union opposition to the reflagging of a ferry company), but had to be directed at instances which directly threatened harm to workers.

11. In the session on U.S. labour law, the two speakers (Joshua Javits and Professor Kochan) pointed to the strength of the U.S. system in providing a clear Federally-based framework and rules for the governance of airline industrial relations (the Railway Labor Act), noting the recognition of unions and a right to strike. However, there were contrasting views of the success of the law in practice. Joshua Javits set out the detail of the U.S. system, with its provisions on union representation, mediation, arbitration and ultimately the right to take "self-help" (strike or other forms of industrial action). He pointed to the apparent stability that the Railway Labor Act had created, and the fact that Congressional reviews of the law on a number of occasions had led to the conclusion that the key provisions did not need amending. He noted, however, that the right to strike had often been frustrated in practice by the existence of a Presidential veto.

12. Professor Kochan presented a different perspective on the Railway Labor Act, noting the long average length of time needed for conclusion of negotiations, and the failure of the system to engender a positive workplace culture. Inevitably, the functioning of the law was often heavily influenced by extraneous factors such as the politics and industrial relations culture in existence at the time. In his view, the system faced major challenges, not least because of the current confluence of pressures in the system: the historically loss-making nature of the industry compounded by the currently weak state of the U.S. and global economy, a series of contract negotiations due in 2009-10, and the build-up of workforce pressures due to increased demands on productivity and the challenge of airlines with lower legacy labour costs. His conclusion was that a policy change was needed as a response to the crisis that focused on better labour relations, including better integration of labour issues in management decisions.

The Labour Experience with U.S. Deregulation and the Single Aviation Market in the EU

13. In the discussion on the labour experience associated with U.S. regulatory change, some union representatives voiced their concerns about the impact of liberalisation on their members, pointing to the increased pressure on workers as a result of liberalisation and a few suggested that a return to a reregulated industry would be better for their members. However, the majority of speakers noted that a return to the heavily regulated industry of the past was not an option, and the challenge was in making the current system based on broad commercial freedoms work better for employees. The South West Pilots union (SWAPA) noted that without deregulation in the U.S., SouthWest and the jobs that depend on it would not exist. The Air Transport Association (ATA) noted the problems with the pre-1978 regulated system in the U.S., including the restrictions on new competition (e.g. between 1970 and 1974, no new competition was allowed in the sector) and the regulated nature of prices and operations. The

speaker noted that the sector had been witnessing a gradual reduction of the proportion of GDP spent on the aviation sector (which had historically been between 0.9-1.0 per cent of GDP, but was now closer to 0.75 per cent) which was indicative of the down trend in airline revenues and profitability.

14. The discussion on the Single Aviation Market in Europe raised concerns about the relatively modest nature of social legislation at a European level when compared to that on commercial freedoms, safety, ATM management, etc. A number of union representatives claimed that this "mis-match" meant that companies had the possibility of playing one set of workers off against another, to the detriment of labour. The European Cockpit Association (ECA) presented their experience of the single market in Europe, noting that there had been an increase in operational pressure (45% increase in productivity versus a 9% increase in salary during the period) which had created concerns about an all-pervasive focus on increased productivity. The European Transport Workers' Federation (ETF) noted that the single aviation market had created benefits, but most of these benefits had been captured by consumers and the wider economy, and workers had gained little. There was therefore a need to concentrate on how the needs of workers could be better accommodated within the Single Aviation Market.

15. The Association of European Airlines (AEA) noted that the Single Aviation Market had created more employment opportunities for the industry, particularly in the low-cost sector. However, the industry remained one of the most "regulated deregulated" industries in the world and further work in the area of ownership and control and state aid/barriers to exit was needed to ensure that the market worked effectively.

16. easyJet presented their approach to labour relations from the perspective of a pan-European airline with bases in a number of different Member States. Partly as a reflection of management best practice and partly in response to pressure from Member States, the airline had moved to a system of local contracts for its staff that reflected local conditions of employment. A number of participants noted the good labour relations that easyJet had fostered, in contrast to carriers that discouraged union participation and sought a one-size-fits-all approach for all their employees irrespective of location.

Labour issues associated with stage 1 of the EU-U.S. Air Transport Agreement

17. A number of the speakers noted that as stage one has only been applied since 30 March 2008, it was perhaps too early to be judging the outcome of the first stage agreement. However, there had been some early indications of the impacts on employers and employees.

18. The International Federation of Airline Pilots Associations (IFALPA) representing pilots globally noted that the experience in Europe had been mixed as firms had responded differently to the opportunities on offer. The concern was that unions would be less able to oppose reflagging, which would allow the possibility for airlines to engage in "regulatory shopping", or pursue "social dumping." The "*Laval*" and "*Viking*" ECJ judgments were cited as evidence that the balance of power in Europe had swung too far in the employers' direction and applying the

principle of proportionality created uncertainty about what future action would be judged as legal. The example given was the recent BA Open Skies case, where the British Airline Pilots' Association (BALPA), representing British Airways pilots, had been unable to secure agreement on a common seniority list for Open Skies pilots based in France and BA pilots based in the UK. This was also down to the nature of the "schedule K" provision in BA pilots' contracts, which stated that all BA pilots in the UK were subject to a common seniority list. This provision was inapplicable in this case because of the lack of an international dimension.

19. The Allied Pilots Association (APA) noted some recent developments in the industry, including moves by carriers outside of Europe and the U.S. which were focusing on novel labour models (e.g. LAN Chile operate with crews based in their different destination markets). In the U.S., scope clauses negotiated in union agreements often limited the degree to which these freedoms could be exercised. The Independent Pilots Association (IPA) representing UPS pilots noted that they were supportive of Open Skies policies because of the additional market opportunities this type of agreement presented. However, they remained opposed to the granting of U.S. cabotage rights to foreign carriers because of the impact on their members.

20. Lastly, International Air Transport Association (IATA) noted that they the first stage deal had not gone far enough. The industry needed a radical overhaul of the way it was structured in light of its chronically poor profitability; the industry had returned around 0.3 per cent per annum on its investment over the last 60 years compared to an estimated cost of capital of around 6 to 7 per cent. This was ultimately unsustainable without repeated Government assistance and chronic bankruptcy. Looking ahead, there was not enough time to sort out labour problems in Europe before moving on to bilateral agreements such as that with the U.S. Perhaps the solution to the discussion was to incorporate certain conditions or provisions in these international agreements in order to meet legitimate labour concerns.

Labour issues associated with stage 2 proposals

21. The session on the labour issues associated with the stage two proposals was designed to discuss the possible labour implications of the European proposals for further opening up of the transatlantic market. The Airline Pilots Association (ALPA) noted that it was not opposed to opening up, only opening up without protection. It was therefore vital that anyone operating within the American market complied with U.S. law. This was one reason why ALPA was opposed to the granting of cabotage (as well as domestic wet leasing). On ownership and control liberalisation, ALPA still had reservations. Firstly, it was unclear how protections under U.S. law could be applied to employees of U.S. airlines employed in other territories. Secondly, it was unclear how pilots would negotiate agreements with airlines established abroad and how these agreements could be enforced. Thirdly, what was stopping the European arm of a merged U.S.-European parent carrier from basing all of the international services to the U.S. in Europe? A possible way forward would have to include a mechanism for selecting representatives of each community of interest across the entire entity to negotiate on behalf of labour, and would need to include a way of enforcing any subsequent agreements.

22. The ECA noted that the recent ECJ judgments in the area of labour protection had "neutered" the ability of unions to protect their members and that as a consequence, the current system had become unsustainable. Something had to be done to re-establish the ability of workgroups to bargain at the group level.

23. The Association of Flight Attendants (AFA) noted that the proposals for greater market access were unnecessary; U.S. airlines already had adequate access to capital and the ATA had recently forecast a profitable year for the industry in 2009. What was needed instead of a second stage deal was a general discussion on U.S. aviation policy.

24. In concluding, the European Commission set out why it saw a second stage deal as being vital to the industry; the current structure of the industry, with its barriers to international restructuring was unsustainable and the meagre historical profits had not been enough to even repay investors, let alone generate the additional revenues needed to invest in improved salaries and conditions for employees and a more efficient industry (e.g. cleaner aircraft and more efficient ATM systems). In answer to union concerns, cabotage should not be seen as a major threat to established labour interests. The majority of rules are extremely similar, as are the wages/working conditions. Furthermore, the ability to exercise these rights were hindered by other rules (immigration, flight limitations, etc) that meant that cabotage rights were likely to provide limited – but nevertheless valuable - flexibility to airlines. On ownership and control reforms, the Commission noted that this was unlikely to provide additional competition between labour groups which could be used by employers to drive down wages. Many of the approaches cited by unions as ways for employers to force down wages (for example by playing one set of employees against another) were already theoretically possible through alliance agreements that provided for "metal neutrality", but in such cases unions had secured scope clauses to guard against this. Furthermore, unions were increasingly aligned internationally (as the titles of many of the representatives at the Forum demonstrated). These changes limited the ability for airline management to restructure to the detriment of established labour. However, the European Commission was sensitive to these fears and was willing to explore solutions to legitimate concerns. In the question and answer session following this panel, some potential solutions were discussed, including whether the EU-U.S. second stage agreement could deal with these issues through provisions that established minimum employee protections in the exercise of additional investment rights, and/or granted the authorities of both sides the discretion to decide whether standards are met.

Next steps

25. In summing up the discussions, the European Commission noted the success of the Labour Forum in bringing together key actors from Europe and the United States and in helping to create a better understanding of each other's legal positions and concerns. It was clear that there were issues about the way that the traditional approach to protecting minimum standards and providing for collective bargaining could be adapted to an increasingly borderless industry. The second stage agreement offered an opportunity to both sides to address this transition, as

it was both about greater commercial freedoms but also about moving forward on regulatory issues of common concern.

26. The Commission volunteered to hold a second Labour Forum in Brussels with the aim of developing possible solutions to the concerns raised at this event. It is anticipated that this second Labour Forum will take place towards the end of the first half of 2009.

END

EXHIBIT 17

EU-US

Second Aviation Forum

on Liberalisation and Labour

Brussels

22-23 June 2009

EUROPEAN COMMISSION
External Relations

FUNDED BY THE EUROPEAN COMMISSION, DIRECTORATE GENERAL FOR EXTERNAL RELATIONS

EUROPEAN COMMISSION

Directorate-General
for Energy
and Transport

Executive Summary

Introduction

1. This document summarises the main points arising from the Second EU-US Aviation Forum on Liberalisation and Labour ('Labour Forum') which took place on 22-23 June 2009 in Brussels.

2. This second Labour Forum was organised by the Directorate General for External Relations (DG Relex) and the Directorate General for Energy and Transport (DG Tren). It followed on from the first Labour Forum held in Washington on 3-4 December 2008.

3. The aim of the second Labour Forum was to further develop the understanding of social issues relating to existing and proposed reforms under discussion in the context of the EU-US Aviation Agreement and the associated second stage negotiations, notably those associated with the reform of traditional nationality-based ownership and control rules. A programme for the event, as well as electronic copies of the presentations given, can be found on the DG Tren website at:

   http://ec.europa.eu/transport/air/events/2009_06_22_int_us_en.htm

4. Further information on EU-US relations can also be found on the DG Relex website:

   http://ec.europa.eu/external_relations/us/index_en.htm

5. The Labour Forum was attended by policy-makers and stakeholders with an interest in the social dimension of reforms associated with discussions on the second stage EU-US aviation agreement. It was attended by representatives from Europe and the U.S., including the U.S. Departments of State and Transportation, airlines, airports, the U.S. National Mediation Board, representatives of the European Commission, EU Member States, EFTA States, the International Labour Organisation (ILO), academia, Eurofound, and trade unions from both sides of the Atlantic.

Summary of the first Labour Forum and review of the key themes

6. The first morning of the Forum was dedicated to reviewing the key emerging themes from the first Labour Forum and in placing these concerns in the context of similar debates held in other sectors. Daniel Calleja, Director of Air Transport presented a short summary of the key themes from the first Labour Forum in Washington, noting the general commercial and social issues that had been identified, and the various positions of the players involved. These key themes were reinforced by stakeholders in a later session on the key emerging themes.

Employee representatives' concerns

7. The main concern held by social partners such as pilot representatives, the European Cockpit Association (ECA), related to the impact that possible ownership and control reforms would have on employee and union rights in the trans-national operations that would be made possible. The concern was that the freedom for airlines to establish themselves (through acquisition, merger or organic growth) on both sides of Atlantic would affect the rights traditionally enjoyed by airline employees at the national level (i.e. the right to collectively organise, negotiate, agree and enforce agreements at company level). The question that a number of social partners believe needs answering is how these rights could be protected for workers employed in the US and European airline companies based in more than one country?

8. It was asserted that such a problem had arisen in recent years within Europe as the commercial freedoms granted to airlines had not been matched by developments in social protection which are based on differing national regimes.

Employer representatives' concerns

9. Representatives from European (the Association of European Airlines - the AEA) and American industry (the Air Transport Association – the ATA) focused on the poor-track record of the sector in generating profits and the problems that increasingly under-capitalised airlines faced in generating the conditions for sustainable employment. For example, it was highlighted that since 2001, the US industry has generated only one year of profits and has reduced the number of full time employees by 25 per cent. This was neither good for employees nor employers, and there was a shared interest in finding a more successful formula for the industry.

10. The AEA noted that the problem of labour representation in a trans-national environment remained an unsolved problem. However, an opportunity existed: a successful second stage agreement would provide for greater stability and certainty for the industry, which would in turn help in securing its future. The ATA noted that in developing answers to the labour problem, negotiators would have to be mindful of the effect on industry.

The key-note address

11. The key note address for the Forum was given by Mr Canga-Fano, Vice President and Commissioner for Transport, Antonio Tajani's Deputy Head of Cabinet. The key messages given by Mr Canga-Fano were that the status quo was something that neither totally satisfied the airlines nor their employees. The second stage agreement therefore represented an important and unique opportunity to address both the commercial crisis facing the industry and the social dimensions of the agreement, and that the European side was ready to listen to ideas on how best to do this.

The challenge of labour in the trans-national context

12. The keynote speech from Karen Curtis, Deputy Director of the Standards Department at the International Labour Organisation (ILO), put the issue of international employee representation in aviation in the context of past developments across the economy. The protection of labour standards in the face of increased internationalisation was a core challenge of the Organisation and an area in which a lot of work had been done. Reference was made to the 188 Conventions covering labour standards in a wide-range of sectors and a large number of these Conventions are fully applicable in the aviation sector. For example, fundamental rights recognised by existing conventions include the right to strike and specify the negotiation of collective agreements as an exclusive prerogative of trade union representatives. They also stress the binding nature of collective agreements. Complaints based on breaches of these basic rights can be lodged with the Organisation's Committee of Freedom of Association (CFA), which is tasked with up-holding the right to union representation. More than 2700 cases have been brought before the CFA in its history.

13. The ILO explained that, currently, no Convention exists that is tailored to the needs and circumstances of the aviation sector (though sectoral Conventions exist for health-care workers, shipping, and other trades). The establishment of such a Convention would be possible, but would need to be initiated and extensively debated in the ILO's tripartite forum (Government, Industry and Employees) before being passed as a Convention – a process which would normally take several years and would require a two-thirds vote in favour from the ILO membership. Furthermore, a general problem of enforcement with such Conventions remained – for example, the ILO relies on moral suasion to enforce its Conventions, rather than on any form of legal sanction.

A look at some approaches

14. The discussion then moved on to a discussion of approaches that have been adopted in the aviation sector and other industries to tackle the problem of employee representation in a trans-national environment.

A look at some approaches: trans-national agreements

15. The first of the themed sessions examined the experience of trans-national agreements dealing with social matters in trans-national companies. This included the experience of companies in the aviation sector, where a number of agreements have been struck between airlines and their employees.

16. Christian Welz from the European Foundation for the Improvement of Living and Working Conditions – Eurofound) introduced the session by giving an overview of trans-national agreements, noting that these voluntary agreements were common at the global (International framework agreements – IFAs) and European level (European Framework Agreements – EFAs). However, there is, as yet, no clear international legal framework for their enforcement. They therefore tended to be agreements which framed the broad principles of employee-employer relationships at the company level, but often the detail was left to national-level agreements between employees and their employers. Such framework agreements also tended to be restricted in terms of their scope, with many limited to issues such as consultation procedures during periods of company restructuring.

17. KLM (Miriam Kartman) then set out their experience in the aviation sector, which had been developed following the Air France economic merger to deal with many of the issues associated with the subsequent restructuring. Inspired by the company structure ('one group, two airlines, three businesses'), the Group's Strategic Management Committee was responsible for the framework agreement which had been drawn up to protect certain elements within the company such as the existence of the two hubs (Paris and Amsterdam), the national identities of the operators and the pre-existing labour arrangements for the Air France and KLM sides of the group. It was explained that the framework agreement had been crucial in helping to manage the emotional concerns associated with mergers such as how best to structure dialogue between management and employees, and how to deal with concerns about the sharing of production between the companies.

18. A further example of how airlines had dealt with the trans-national dimension of their operations was provided by Mr Nick Charnley, Chairman of easyJet's pilot company council. easyJet has major bases in five different Member States and problems arising from the application of individual Member State law had led to a realisation that the original approach preferred by labour and management of a single contract for all staff was not tenable, and there was therefore a need to move to a system of decentralised agreements based on tailoring elements of the package to local conditions. This was managed within a global framework agreement with the different national representatives. This means that although much of the content of collective agreements still tends to be negotiated at "group" level, the union structures mean that a coordinated position from the different union groups can be difficult because of the absence of a pan-European union. The establishment of such a pan-European union is precluded by the absence of a suitable legal framework and the consequent reluctance of national unions to cede control. In further developing the trans-national dimension of the management-employee relationship, it was thought that more use might be made of Works Councils to act as a forum for the sharing of views, beyond the Council's limited scope of information sharing and consultation (see section, 'A look at some approaches: the Works Council', below).

A look at some approaches: the Works Council

19. This session examined the functioning of the European Works Council, and how the concept has been applied in Europe.

20. The session was opened by Armindo Silva, acting Director at the European Commission's Directorate General for Employment (DG Empl), who explained that Works Councils are a concept developed in Europe as a way of structuring dialogue between employees and employers, and are aimed at engendering a positive industrial relations culture. Under European law (Directive 94/45/EC), companies must establish EWCs where they have more than 150 employees in 2 or more Member States and employ over 1000 people in total. These EWCs must be used to provide information and provide a forum for consultation on matters affecting employees. They are *not* a legal platform for negotiations. There are now 890 European Works Councils within Europe representing more than 12 million employees. 120 of these EWCs have been established in US firms, and the approach is having an effect beyond Europe. It was noted that although the statutory basis of EWCs is limited, they have played a particularly important role in cases of company restructuring.

21. A practical perspective on Works Council was provided by Timo Eckard of Vereinigung Cockpit, a large German pilots union, which underlined the role of the European Works Council as a forum for information exchange in the context of relations with Lufthansa. It was noted that such a forum would not (and legally could not) replace company to union negotiations on collective agreements – such matters had to be dealt with separately. Instead, they were a way of ensuring that employees were adequately informed of developments in the company at an appropriate juncture, and as such, they were an effective way of ensuring a flow of information between the parties.

22. A further perspective on Works Councils was provided by Emmanuel Jahan of Air France, who explained how the Councils fitted in with the other approaches to dialogue such as the trans-national agreement adopted by Air France-KLM and the direct negotiations with the labour unions. In reality, it was important to recognise the benefits and limitations of EWCs – although they are an effective means of information exchange, their role was in practice restricted because they were rarely representative. For example, the requirement to field employees from each of the operating states irrespective of size, meant that the markets with the largest employment were often under-represented on the Council. Furthermore, it was difficult to structure the Council along craft lines, making it difficult to ensure representation of, for example, "cabin crew" in discussions. Correcting for these problems would simply make the Works Councils unwieldy. EWCs were therefore a useful complement to more traditional means of dialogue between companies and their employees.

A look at some approaches: Multinational Conventions

23. The next approach examined was that of the multinational convention. In the absence of harmonised national labour standards for aviation workers, some commentators have suggested that a multinational convention on the rights of airline workers might be one way forward. One industry which has pioneered such an approach has been the maritime sector, and this session examined their experience in this area.

24. The session was opened by a presentation by George Quick, Vice President of the International Organization of Masters, Mates and Pilots, an international union representing maritime workers. Mr Quick articulated the negative effects on labour that the system of flagging for convenience had generated, noting that it has been difficult to establish a system of standards in the sector given that companies are often operating outside of national control. He noted that he expected problems to remain, even once the Maritime Labour Convention 2006 (see next paragraph) had been brought into force.

25. A detailed account of the efforts made by participants in the sector to agree a revised Martime Labour Convention aimed at tackling the problem of inadequate standards in the sector was given by Mr Lindemann, former member of the Social Affairs Committee of the European Community Shipowners' Associations (ECSA). He explained that in 2001, a decision was taken by the ILO members to consolidate and update the existing Conventions, which had become out-dated. Following preparatory work, including a major conference in 2006, the Maritime Labour Convention 2006 was agreed, establishing a new set of basic standards for the industry that must be applied by all Members of the ILO. It covers the minimum requirements for seafarers to work on a ship, conditions of employment, hours of work and rest, wages, leave, repatriation, accommodation, recreational facilities, food and catering, occupational safety and health protection, medical care, welfare and social security protection. Enforcement of the standards remains an issue, and much of that work falls to the port authorities to inspect the ships' certification. Nevertheless, Mr Lindemann noted that the Convention was widely viewed as a positive step for those employed in the industry, and its implementation will be monitored closely.

A look at some approaches: Common Labour Standards

26. This session examined how common labour standards might be ensured across a company operating in more than one national jurisdiction.

27. Karen Curtis from the ILO noted that there were a number of approaches to establishing common standards, some of which involved soft law (declarations) or hard law (treaties). Presently, agreements such as trans-national agreements (IFAs) lacked a clear means of enforcement, given that the trans-national nature did not sit comfortably with the national basis on which labour law was implemented.

28. Seth Rosen, Director of the International Pilots Service Corporation, stressed that aviation was a very union-dense sector and that involvement of the unions was therefore essential. He also noted that airlines needed to be profitable to secure the future of their employees; "without sustained profitability, we have nothing". Mr Rosen noted that an example of securing common labour standards in aviation was Scandinavian Airlines, where S.A.S. had been successful in ensuring common standards across their company since the creation of the airline in the 1950s. This single contract was enforceable under Swedish law and had been in operation through three rounds of restructuring since 1978. This idea that change was necessary was picked up by Mr Grau-Tanner of IATA, who noted that the industry had so far been unable to find a financially sustainable path, and the performance of the industry was likely to severely deteriorate given the current economic crisis.

29. François Ballestero, Political Secretary from the European Transport Workers Federation (ETF) set out the Federation's thoughts on what was needed to secure common labour standards across companies. The emphasis should be on the quality as well as the quantity of jobs. A list of the solutions proposed by the ETF is included under the section 'Moving the debate forward'.

A look at some approaches: the Convergence of Labour Law

30. The last themed session of the Forum was aimed at examining the steps that would be needed to ensure convergence in the labour laws of the parties. This session was a chance for a discussion on the practical and political obstacles of trying to obtain a single set of labour laws as a precondition for action on reforming ownership and control restrictions in the industry. Opening the session, Marc van Hoof, Director of the European Commission's Legal Service set out the legal position with regard to the Treaty, noting that the Treaty expressly excluded certain areas of social policy from action at the Community level, namely: pay, right of association, social security and the right to strike.

These fundamental exclusions make it impossible for the Commission to bring forward proposals on any of these issues, except in concert with Member States in the context of a dedicated mixed agreement such as the EU-US second stage agreement.

31. Carlos Salas, Vice Chairman of the European Cockpit Association (ECA) responded by noting that the Association had been a strong supporter of regulatory convergence as a means of improving standards in the industry across a number of areas such as security, safety and economic regulation. A similar approach could be advocated for social matters, though the key issue was ensuring recognition of existing arrangements such as negotiated collective agreements. When combined with information sharing and a common set of labour standards, this should provide the basis for an effective and sustainable dialogue between employees and employers.

32. Paul Rice, first Vice President of the US Air Line Pilots' Association (ALPA), concluded the session by stating that it was essential that the protection offered to workers was not diluted by moves to grant greater commercial freedom to airlines. The preferred way for doing this would be to provide for a single labour law in Europe based on the provisions of the US Railway Labor Act, which provided for clear procedures for the selection of bargaining representatives, a clear negotiation framework, a dispute resolution procedure, and a clear enforcement mechanism. Ultimately, he noted, there were four fundamentals of labour rights that needed to be protected: the ability to organise, negotiate, agree and enforce collectively.

Moving the debate forward

33. The last session of the Forum was an attempt to try and summarise the key findings of the day and a half of discussions and identify a way forward. A number of social partners had developed a number of recommendations for how social considerations might be incorporated in the second stage EU-US negotiations. These formulations are summarised below.

a. *Formulation 1 – International Pilots Service Corporation*

A second stage agreement would need to be assessed using the following criteria:

i. Does the union have the strength to be able to negotiate with the company?

ii. Can the distribution of work be properly agreed upon?

iii. Is it possible to enforce the contract?

iv. Can individual rights be properly protected?

b. *Formulation 2 - European Cockpit Association (ECA)*

A second stage agreement would need to:

i. Allow coherent election of independent representatives across all company fleets

ii. Encourage negotiation between management and (mobile) staff at all levels

iii. Acknowledge agreements

iv. Enable enforcement of the terms

c. *Formulation 3 – Air Line Pilots' Asssociation (ALPA)*

A second stage EU-US agreement would need to be based on:

i. Single EU labour law

ii. Single representation for class and craft

iii. Selection of bargaining representative

iv. Negotiation framework

v. Dispute resolution

vi. Enforcement mechanism

d. *Formulation 4 – European Transport Workers' Federation (ETF)*

A second stage agreement should include the following:

i. References to ILO conventions, OECD Guidelines, Rome Convention and European Social Charter

ii. In case of trans-national airlines, mutual recognition of national trade unions where the company has the majority of its operations, their rights and collective agreements and their extension to the other countries + enforcement of the CBA

iii. Establishment of a « Joint Work's Body » when, at least, 2 companies are jointly involved in business + mutual recognition of trade unions

iv. Application of national social protection where the employee routinely performs his/her duty

v. To guarantee the individual rights as regards labor contracts, working time, vocational training and social benefits

vi. To identify areas of convergence and nonconvergence on social issues between EU and USA

vii. To set up a permanent EU-USA Labour Forum with the aim to make recommendations to the EU-USA governing bodies

34. It was agreed that as part of the process of developing these and other ideas for possible inclusion in a second stage agreement, an independent "*explorateur*", Claude Chêne, would be appointed to develop a report on the issues. Claude Chêne is an ex-Director of Air Transport at the European Commission and is currently involved in a number of other studies for the Commission, including in the field of transport.

EXHIBIT 18

CAPTAIN JOHN PRATER
PRESIDENT, AIR LINE PILOTS ASSOCIATION
U.S. – EUROPEAN UNION LABOUR FORUM
WASHINGTON, D.C.
DECEMBER 3, 2008

Good afternoon.

Thank you for that warm and thoughtful introduction.

I would also like to say thank you to the European Commission for holding this forum. The airline industry is not made up of just airlines, and their passengers and shippers. Airplanes fly, and passengers and shippers get where they are going, because of the dedicated professionalism of flight attendants, mechanics, ramp workers, customer service agents and pilots. Decade after decade, these highly skilled and committed workers have essentially built our industry and have allowed it to fly more people to more points with a steadily improving safety record that is unmatched in any other sector. Any effort to alter the regulatory structure governing air transportation services must consider and address the potential effect of the proposed changes on these individuals.

The urge to liberalize is understandable. Standard received economic theory is that left to their own devices and driven by competitive necessities, managers will provide what the consumer wants in the way of services. And deregulation has the added benefit of letting the government administrators off the hook for the consequences of these managerial decisions.

But the consequences are not entirely benign. Among the consequences we have seen here in the United States is the loss of acceptably priced services to many small communities, thus depriving them of the desired connection to the national air service network. Also, there seems to be an almost endless susceptibility of airline management to the urge to place more capacity into the system than can be profitably supported by the demand structure, with the consequence that the vast majority of passenger airlines are frequently unable to turn a profit.

In addition, as you will hear this afternoon, the effects of deregulation on airline workers have often been harsh – even devastating. It is important to listen to what will be said. While there has been job growth and relative stability at some carriers, that result has not been the rule.

The concerns that airline employees have about proposals to deregulate are based on experience. I don't think there are any employees from my generation - in the passenger sector at least – who have not been through at least one merger or bankruptcy, and most of been through several of those events. My own carrier – Continental – went through the Chapter 11 process twice, and skirted with a third visit to bankruptcy court. Several of the unions here, including those like the Transport Workers Union and the International Association of Machinist & Aerospace Workers, have seen a number of carriers where they represented large numbers of workers – Braniff, Eastern, Pan Am come to mind – simply be driven out of business by a radically altered regulatory environment. At many others, the reorganizations in bankruptcy, or restructurings in order to avoid bankruptcy, have resulted in dramatically reduced wages and working conditions, and in many case the termination of pension plans.

I would like to talk just briefly about a couple of the proposals being advanced by the European Union in the current air service negotiations that cause concern for U.S. airline employees: the proposal to drop the restrictions on the ability of each sides' airlines to carry the other sides' domestic traffic – i.e., the cabotage proposal - and the proposal to eliminate the restrictions on foreign ownership and control.

The continuing effort of the EU to seek cabotage rights is puzzling to me. Having a European airline operate in the United States domestic market, either in its own right or by wet-leasing aircraft to a U.S. airline, while subject to its own national laws, is completely at odds with the a number of U.S. laws, including our immigration laws. Volkswagen's manufacturing

plants in the U.S. are subject to U.S. – not German - labor, immigration and tax laws. The same is true for any other business operating here, either U.S. owned or foreign owned. There is no good reason I can see why a European airline, say Lufthansa, should be exempt from these rules. ALPA, and, I am pretty confident, every other union represented here, is opposed to the exchange of cabotage rights. I am also confident that the new Congress and Administration will not be receptive to the proposed exchange. I would urge the EU to withdraw the proposal and allow the negotiators to concentrate on matters that are reasonably calculated to result in meaningful benefits to the various stakeholders in these talks.

The EU's proposal on ownership and control is another matter – having a foreign owned U.S. incorporated airline that operates according to U.S. laws would be consistent with the ways other foreign owned - businesses operate in the U.S. However, here are a number of serious problems with the proposal from airline labor's point of view. This proposal has a direct parallel in one of the principal changes permitted by the deregulation in the U.S. Prior to deregulation there could not be multiple airlines under a single ownership. Deregulation freed U..S airline managers to create holding companies that could own multiple airlines. The managers quickly and widely took advantage of this freedom and the result was predictable - airline employees found themselves competing not only with employees at other carriers, but with their counterparts at airlines within the same corporate family. Workers rapidly found themselves bidding against their fellow family members for flying and other job opportunities. Eventually, the National Mediation Board developed a practice that has allowed airline employees to seek a determination that two separate airlines are being operated as a single airline for labor relations purposes and thus should have a single employee representative for these purposes. However, the NMB's single carrier process is can be slow and uncertain and subject to constraining political concerns at both the employee and carrier level. It is far from a perfect process.

The same potential "double breasting" issues are manifest in the EU ownership and control proposal. Moreover, they are complicated by the circumstances of European labor laws and the possible limitations of U.S. labor law. We are likely to hear a good deal over the next day and a half about the fragmented nature of European labor law. Europe has created a common aviation area but has neglected to create a common law. Each country retains its own labor law with its own rule for major labor relations issues such as the selection of employee representatives, the formation of bargaining agreements and the resolution of disputes over the formation or implantation of agreements. Different country laws also remain in place for health insurance, retiree pay and benefits, and other basic components of overall compensation. Thus it is possible that European airlines might use the variation in labor and other social welfare laws as a tool to extract concessions from their employees.

The new regulation pertaining to operation of air services in the Community that just came into effect does not seem to put any restraint on this possible course of action. Under that regulation a EU carrier may receive an operating license in the country in which it has its registered office, and carries out its principal financial functions, including it airworthiness management. There is no requirement that the operating certificate be issued by the country where the carrier's dominant flight activities take place. Presumably this is because that country may change as the airline seeks to respond to market opportunities, just as here in the United States carriers create, upgrade, downsize or eliminate hubs as conditions warrant. But the lack of a significant link between the location of the country that issues an operating license and the country whose labor laws apply highlights the lack of uniformity of labor law in Europe and the possibility of forum shopping by carriers for favorable labor rules and causes great concern both for U.S. employees and our colleagues on the other side of the Atlantic.

The EU's ownership and control proposal also illuminates a potential shortcoming in the laws on both sides of the Atlantic. It is not clear that the labor laws governing labor-management relations in our industry have the territorial scope to resolve the types of labor bargaining issues that would arise if a holding company on one side of the Atlantic controlled airlines on both sides. It is not at all clear how the employees – and particularly mobile employees; the flight crew and cabin staff – would be able to bargain effectively over the allocation of work that could be done by the employees of any of the commonly-controlled carriers. You will hear more about this topic as well, I am sure.

How much added value would derive from doing away with the ownership and control rules is not clear. Even absent a change in these rules, U.S. and EU airlines have been able to build ever closer alliances. Pilots of these carriers have been working to develop their own alliances and to work collectively with their companies to address the many, often tough, labor-management issues posed by the linkages. We have seen instances of managements, such as in the KLM –Air France link-up, where a management has actively engaged with employees in this effort, with very positive results. This cooperative model seems to be carrying over to the SkyTeam alliance in general and we hope other managements will see the benefits of tapping into employee expertise and increasing employee participation and as cross-border airline cooperation deepens.

Many of the concerns that will be raised at this forum are shared in whole or large part by both European and U.S. airline employees. For some time now ALPA and the European Cockpit Association have been working together to share data and to explore common interests. We certainly share, as I am sure do the other unions here, the desire to see our industry grow and flourish. It is critically important to us that the regulatory structure that applies to international

air services is one that allows our airlines to expand and create jobs. But as important, or even more important, than the number of jobs, is the quality of jobs.

In this regard, I must express our complete dismay at what is happening at Al Italia. That company is engaging in union-breaking practices that are likely to markedly set back prospects for a common basis of labor rules in Europe and, in turn, for liberalization. It seems that basic principals of fairness and balance between labor and management are being trampled by the apparent Italian government in an effort to establish a labor framework to its liking. Even more extraordinary is the intervention of the state into operational decisions made by pilots. It is almost hard to believe the reports we have been receiving of police being sent into cockpits to interrogate pilots about routine decisions they have made to ensure the safety of the airline's flights. This behavior is unacceptable in an industry where safety is paramount and depends on the professional judgments of those who are trained and qualified to make them. Another organization in which ALPA works closely with European and other pilots is the International Federation of Air Line Pilots Associations. Through its formal observer role at ICAO, IFALPA plays a role in the full range of safety issues addressed by that organization. The actions of the Italian government [What can we say here? Is this a matter that will be brought to the attention of ICAO?]

Coming back to an earlier theme, the quality of jobs is a key concern to airline labor. One key entry on the balance sheet that deregulation's proponent seem to overlook is the effect of the ADA on airline employees. Frequently it seemed that only one side of the ledger is considered – the benefit side – while the cost side is neglected. Customer benefits are touted, while employee losses are ignored.

And then there are the so-called "facts" that are thrown about. A few weeks ago at an IATA-sponsored meeting, an economist produced a chart showing a 3 percent annual increase in

U.S. pilot compensation since deregulation. I have no idea how he arrived at those numbers – certainly we have not been able to replicate them. The reality is that average pilot compensation has declined since deregulation. The Department of Transportation's own data shows that for the major passenger airlines real pilot wages have decreased at an average rate of 1.64 percent per year since deregulation and real wages and benefits combined have dropped 1.56 per year. Times thirty. You get the picture. And, these numbers don't factor in the thousands of pilots who have lost their jobs because their companies went out of business. Of course, the wage and befit reductions and job losses have been the story for all the other major employee groups as well: flight attendants, machinists, ramp workers, services agents, etc.

These kinds of effects of regulatory change were predicted by airline workers prior to the ADA. It turns out that they were right, and those who predicted that employees would generally benefit from the Act, and that any adverse consequences for employees would be isolated and modest, were wrong. So sure were these advocates of deregulation that they included in the Act an employee protection program that was supposed to provide compensation to qualifying employees whose carriers either suffered a major contraction or bankruptcy because of the changes brought on by the Act.

How did this program work in practice? Well, it didn't work at all. In fact, from an employee's point of view it was a complete failure. In the years immediately following deregulation, carrier after carrier experienced major contractions and/or bankruptcies. The response of the government was to establish enormously complex procedural barriers to employees who sought to make compensation claims. For years DOT stymied every effort of employees to seek compensation, even after the Department's law judges determined that compensation was warranted in specific cases and was likely warranted in many more, and even after the U.S. courts found that DOT's dilatory actions were the height of arbitrary and

capricious behavior. Eventually, after 15 years of administrative and judicial proceedings, the employees gave up. The amount paid from the program: zero dollars.

In our view, the reason the government fought so hard to avoid an honest assessment of the impact of deregulation on airline workers is because it was obvious that deregulation was the major cause of the employment contractions and bankruptcies involved. The payments owed airline workers would have run into the hundreds of millions of dollars and the government simply was not willing to recognize the impact and to pay that amount. (Next time maybe we will all become I-bankers.)

I recommend the history of this alleged employee protection program be reviewed in detail by anyone proposing to fashion a safety net for airline employees as part of a US –EU air services deal.

So we have our concerns and we have our experience. ALPA and the AFL-CIO's Transportation Trade Department are working closely with the transition team for the new administration as well as with key congressional leaders to fashion a regulatory framework to strengthen the competitive posture of our industry. We will continue this work once the new administration is in place. Our efforts will be based on our deep experience with the workings of our industry and will have as their purpose the creation of strong U.S. airlines that will be able to create and maintain high quality jobs. We look forward to working with the U.S. and EU negotiating teams to help achieve this objective.

I hope to see you all at the reception that the AFL-CIO Transportation Trades Department and its constituent unions – AFA, IAM, TWU and ALPA - will host tonight at 7:00 in the George Meany room of the AFL-CIO, 815 16th Street, NW.

I would be happy to take questions.

EXHIBIT 19

EU-US Aviation Forum
on Liberalisation and Labour: Past, Present and Future

Captain Rick Brennan
Professional Affairs Consultant,

The International Federation of Air Line Pilots' Associations

I·F·A·L·P·A
The Global Voice of Pilots

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Multiple

Bases

States

NAAs

AOCs

Contracts

Laws

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Prelude to Stage One

- The Legal Dilemma
  - EU Court ruling on Bi-lateral Agreements
  - Commerce Law v. Social Law

Euro – U.S. Pax traffic

- 56m (2007 – ICAO)
- 60% of the Global market

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Impact of Stage One

- Additional US Airlines Into Heathrow
- AF begins LHR – LAX Service
- LH buys/merges with LX, BM, SN, EN
- Airline Alliances
  - Joint Ventures, Revenue Sharing, ATI

- BA forms OpenSkies Airlines

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Conclusion

- EU Liberalisation =
  - Trans National Euro Managements
  - National Labour Law
- EU Designation =
  - Trans National Airline Managements
  - National Labour Law

EXHIBIT 20

EU-US Aviation Forum
on Liberalisation and Labour: Past, Present and Future

Context
The Purpose of Labour Laws

Professor Peter Turnbull
Cardiff University, UK

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Does Liberalisation Have a Positive (or Negative) Impact on Employees?

%	ECA	ITF
Privatisation	75 (8)	11 (50)
Commercialisation	33 (25)	16 (47)
Low-cost carriers	0 (54)	3 (74)
Global alliances	15 (39)	23 (43)
	n = 13	n = 52

Source: Cardiff University (1998)

Positive (and Negative) Effects of Liberalisation

%	ECA	ITF
Hours of work	9 (91)	7 (54)
Work intensity	9 (82)	2 (78)
Job security	10 (30)	9 (70)
Job satisfaction	9 (64)	5 (69)
Health & safety	0 (70)	20 (37)
Earnings	27 (55)	13 (56)
	n = 13	n = 52

Source: Cardiff University (1998)

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on Liberalisation and Labour: Past, Present and Future

Low Cost Carriers in Europe

"the worst forms of management practice exist in this segment of our industry"

The absence of an EU framework for the negotiation of a Europe-wide CLA "is a problem throughout the industry, [but] it is currently most prevalent in the growing LCC sector, with its many new start-ups and flight crew employed and switched between many different bases across Europe"

Source: ECA (2006) *Upheaval in the European Skies*

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on Liberalisation and Labour: Past, Present and Future

Liberalisation and Collective Bargaining

"liberalisation has increased the pressure on cost cutting. Some airlines have adapted in a determined and aggressive way, seeking continuously to reduce costs with a ruthless attitude for all actions that serve their business interests. In these airlines, collective bargaining is the only mechanism to avoid a downward spiral of pilots' terms and conditions and indeed their basic employment rights"

Source: ECA (2007) *Trans-national Representation and Collective Bargaining in Europe*

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on Liberalisation and Labour: Past, Present and Future

Trans-National Representation and Collective Bargaining in Europe: The Pilots' Approach

"Pilot Associations are great believers in the utility of collective bargaining, even in a trans-national context ... all the benefits from national collective bargaining apply to the trans-national mode, to a greater or lesser extent, and there should be no barriers to collective bargaining at any level"

Source: ECA (2007: 5)

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EUROPEAN COMMISSION

The Social Agenda for 2005-2010

"Providing an optional framework for trans-national collective bargaining at either enterprise or sectoral level:

- could support companies and sectors to handle challenges dealing with issues such as work organisation, employment, working conditions, training,
- it will give the social partners a basis for increasing their capacity to act at trans-national level. It will provide an innovative tool to adapt to changing circumstances, and provide cost-effective trans-national responses."

Source: COM (2005)33 final

EU-US Aviation Forum
on Liberalisation and Labour: Past, Present and Future

An Effective Framework for Trans-National Collective Bargaining

- Voluntary then compulsory
- Representative organisations
- Scope of CLAs
- Legal enforcement at the European level
- Complementary to national collective bargaining
- Occupational bargaining

Source: ECA (2007: 15-16)

EU-US Aviation Forum
on Liberalisation and Labour: Past, Present and Future

British Airways-BALPA Dispute

- OpenSkies to the USA
- Extending the geographical scope of "Schedule K"
- A mandate for strike action
- Legal action – *Viking* and *Laval*

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Regulation of International Secondary Action

- The action in the "secondary" country must be lawful on its own terms under national rules and/or
- There must be at least some community of interest in the outcome of the action between the participants in the "primary" and "secondary" action
- If the primary action is unlawful, the "secondary" action may also be unlawful

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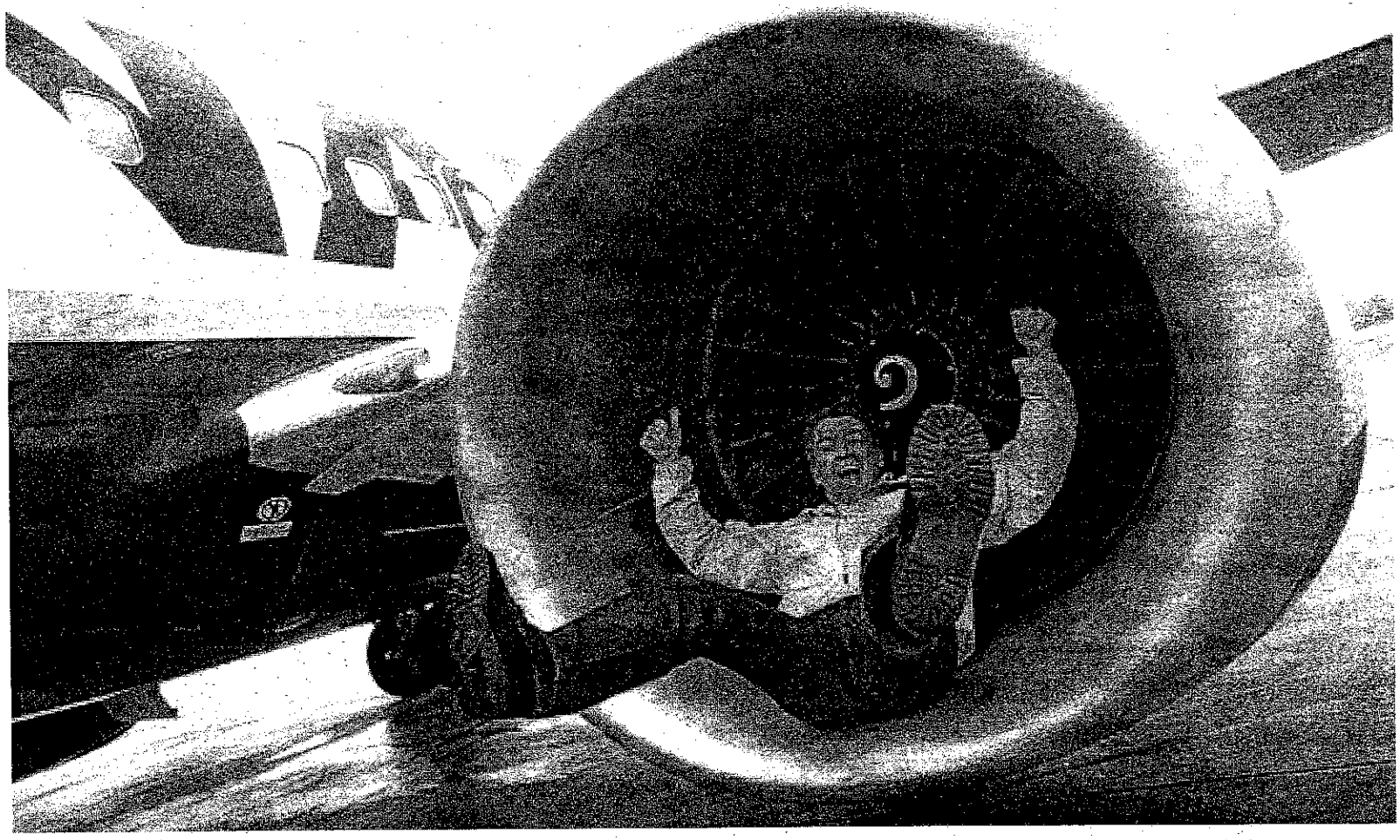
EU-US Aviation Forum

on Liberalisation and Labour: Past, Present and Future



Washington DC, 3-4 December 2008

EUROPEAN COMMISSION
External Relations

Directorate-General
for Energy
and Transport
EUROPEAN COMMISSION

Funded by the European Commission, Directorate General for External Relations

EU-US Aviation Forum
on Liberalisation and Labour: Past, Present and Future

Ryanair – A Trans-National LCC

- Twenty-three bases in eight EU Member States
- Irish and UK contracts
- Training costs and "indentured labour"
- Agency workers and contract hours
- "Unburdened by integrity"

EU-US Aviation Forum
on Liberalisation and Labour: Past, Present and Future

Ryanair Management

"all the hallmarks of action in terrorem"
(Mr Justice Smyth)

"Oh, it is excellent to have a giant's strength;
but it is tyrannous to use it like a giant."

Measure for Measure, Act II.2

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Washington DC, 3-4 December 2008

EUROPEAN COMMISSION
Directorate-General for Energy and Transport

EU-US Aviation Forum
on Liberalisation and Labour: Past, Present and Future

Productivity and Labour Market Regulation in European Countries

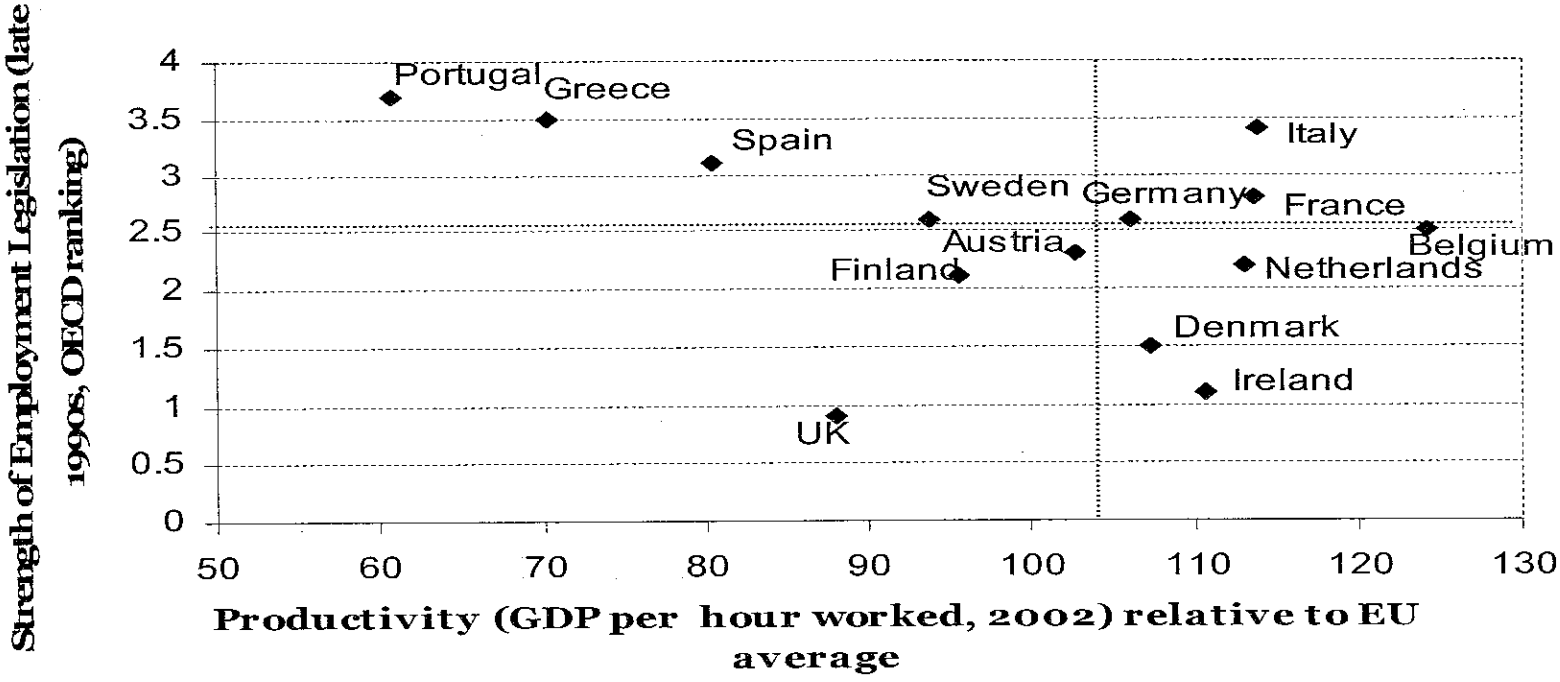

EXHIBIT 21

EU-US Second Aviation Forum on Liberalisation and Labour

CAPTAIN GEORGE A. QUICK

Vice President

International Organization of Masters, Mates and Pilots

IMPACT OF OPEN INTERNATIONAL COMPETITION ON U.S. MARITIME LABOR

EUROPEAN COMMISSION External Relations

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EUROPEAN COMMISSION Directorate-General for Energy and Transport

Brussels

22-23 June 2009

The FOC System

- International maritime transportation system is dominated by the Flag of Convenience (FOC) system.
- An FOC ship is defined as one where there is no genuine link between the beneficial owner of the ship and the country of registration.
- 32 countries, primarily in the third world economy, have registries that are open to ships of any owner regardless of nationality.

The FOC System

- The FOC countries view ship registration as a revenue source, rather than as a means of effective national regulation of shipping.

- There is considerable competition among FOC countries to attract shipping companies to their registry based on low manning levels, low national regulatory standards, lax enforcement of international standards, and freedom from taxation on income of owners and crew.

The FOC System

- A shipowner under an FOC flag enjoys all the rights under international law of a ship flying the flag of a sovereign nation, with none of the obligations of national taxes or national laws that protect labor and social conditions.

- It is not surprising that the vast majority of shipping companies in international trades operate under FOC registries to avoid national taxation and regulation. UNCTAD estimates that more than 71% of the world fleet is registered under FOC flags.

Impact of FOC System on U.S. International Trade

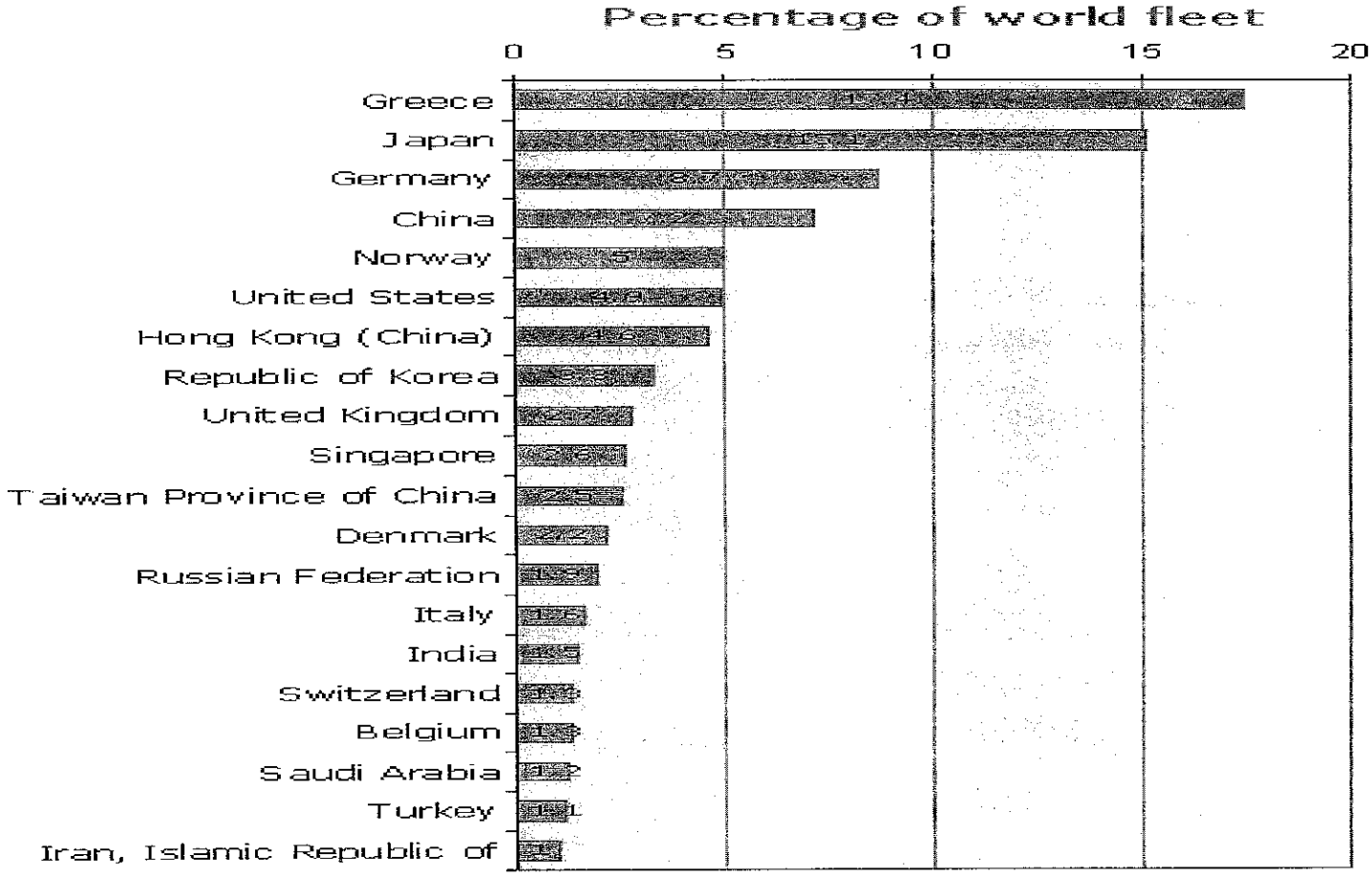
- Total number of ships in U.S. international trade 6,767 *
- Number of U.S. ships in U.S. international trade 89

- Percentage of port calls by U.S. ships 2.5%

- The small number of U.S. ships are not in open competition, but survive through subsidies or cargo preference programs established under a government policy to maintain a core base of maritime skills and ships to serve national security interests.

* MARAD 2007 Data

Top 20 beneficial ownership countries (January 2007)



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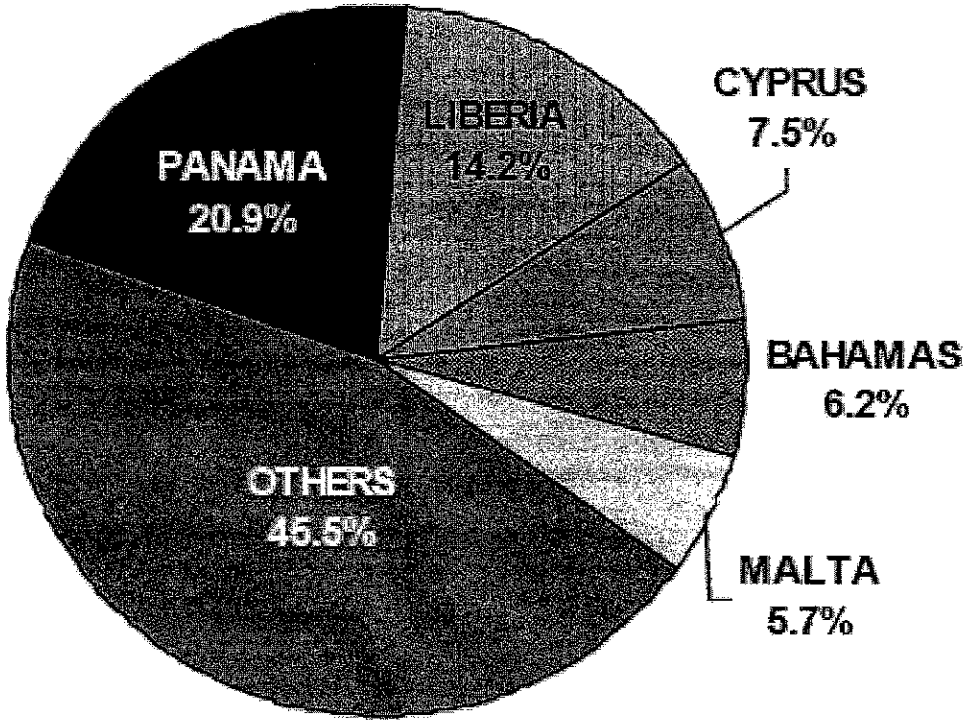
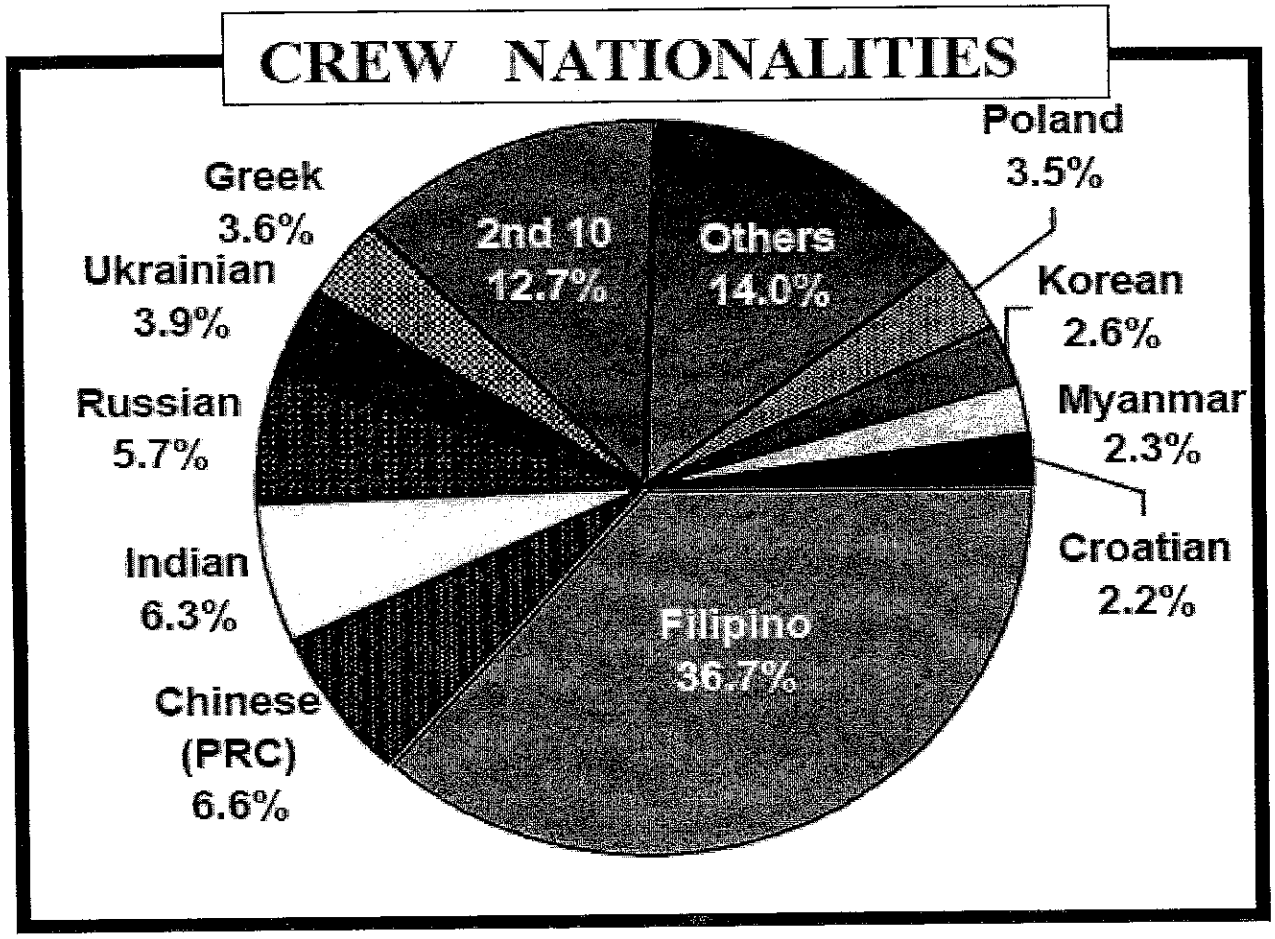
TOP FIVE FLAGS





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EUROPEAN COMMISSION Directorate-General for Energy and Transport

Impact on National Companies and Labor

- In a multi-national playing field where there are few restrictions on moving assets or operations between nations, companies will shift operations to the country with the lowest taxes and wages, and the least regulations.

- The competitive advantage of FOC ships in avoiding national taxes and labor standards creates an environment where regulated and taxed national shipping companies and labor cannot survive in an unregulated free global market.

Other Social and Legal Factors Effecting U.S. Labor

- Many EU countries exempt EU officers from taxes.
- EU officers covered under National Health care programs
- U.S. officers health care costs of $50-60 per day carried as employment cost.
- U.S. legal regime provides more liberal protection to maritime workers injured in shipboard accidents

Possible Issues for the EU-US Aviation Forum

- The U.S. and EU would have a combined playing field of 28 countries. Would airlines migrate to the least taxed, least regulated and lowest wage cost countries? What would this mean for labor in terms of protection wages, benefits and social conditions.

- One of the top open registries in FOC shipping is Malta which is now a member of the EU. Malta is establishing an open registry for aircraft based on the FOC model in shipping. What implication does this have for open competition by out side players within a EU-US framework?

International Regulation of International Shipping

- The FOC system created an industry outside of national regulatory control.

- Creating a large number of substandard ships and crews in international trade.

- The response has been a move toward greater international regulation of shipping under United Nations Organizations.

International Regulation of International Shipping

- The International Maritime Organization establishes safety standards for the operation of ships and for the training and certification standards for crews.

- The International Labour Organization establishes minimum working conditions for maritime labor.

- These organizations have no means to directly regulate but provide a forum for the drafting of international documents or conventions.

- The signatory countries then have a treaty obligation to bring their national laws into conformity with the Conventions.

Unions in the International Arena

- The rights of labor to organize in unions is a matter of national legislation.

- There is no right for a national union to organize labor on a ship under the flag of another country.

- The International Transport Workers Federation (ITF) has a campaign to organize labor on FOC ships. Such organizing is unassisted or supported by any national or international labor laws.

Unions in the International Arena

- There are approximately 50,000 ships in the world fleet.

- About 70% of the world fleet, or 35,000 ships, operate under the FOC system.

- The ITF has organized and has under labor CBA's about 5,000 ships.

- The penetration of union labor in the FOC fleet is 14%.

EXHIBIT 22

TRANSATLANTIC TRANS-NATIONAL AIRLINE COMPANIES: TAKING ACCOUNT OF SOCIAL ISSUES

A report by Claude Chêne, Special Advisor to the European Commission

Submitted to the chief negotiators of the EU-U.S. Second Stage Agreement, 9 November 2009

Introduction: the context and aim of this report

1. On 30 March 2008, the first stage EU-US agreement came into force, delivering greater commercial opportunities and a strengthened regulatory framework for carriers operating between the US and the 27 Member States of the European Union. Shortly afterwards, in May 2008, negotiations on a second stage agreement EU-US agreement began. Discussions between the EU and US on a second stage agreement have focused on, amongst other things, further opportunities for the liberalisation of market access restrictions between the EU and the United States; specifically, the reciprocal relaxation of domestic laws precluding the foreign ownership and control of airlines and further regulatory cooperation.

2. These discussions have shown that there is considerable support on both sides for greater commercial opportunities from stakeholders, including the relaxation of ownership and control rules. The US currently retains some of the most restrictive laws on the foreign ownership and operation of airlines in the world, the origins of which date back to a period when commercial transatlantic aviation was non-existent. The US is not alone. Europe's laws require that European carriers must be majority owned and controlled by Europeans[1]. Proponents of reform have argued that this is neither in the interests of the United States nor Europe and that change is necessary in order to place the industry on a firmer footing.

3. Supporters of reform point to the fact that such laws restricting foreign investment have led to airlines being starved of capital and deprived of opportunities to strengthen through diversification into foreign markets. Arguably, this has led to higher costs, greater financial volatility and vulnerability, and lower employment for airlines, and resulted in irrecoverable losses for consumers, aviation employees, investors and businesses.[2] Since 2001, the US airline sector has lost approximately 25 per cent of its full time workforce and made economic returns to investors in only one of the last eight years[3]. Such trends are neither socially desirable not financially sustainable.

4. Resisting these arguments in favour of reform, some stakeholders representing organised labour have been vocal in their opposition to change, arguing that the market opportunities

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[1] European law also allows for ownership and control rights to be extended to third countries where provided for in an international agreement. Thus, an EU-US agreement allowing for US ownership and control of European carriers would be instantly applicable and would supersede any conflicting domestic provisions on Member States' statutes.

[2] The European Commission's briefing note: *'EU-US Aviation: the importance of reforming cross-border investment'* gives further information on the arguments for reforming ownership and control rules. http://ec.europa.eu/transport/air/international_aviation/country_index/united_states_en.htm

[3] US Air Transport Association (ATA) figures / US DoT Form-41 data.

being discussed would be damaging to the interests of their members by perpetuating the trends that have already occurred. Furthermore, they have argued that the opening up of markets has been partially to blame for the performance of the industry in recent decades. These concerns have led the European Commission to organise two Labour Forums in Washington (December 2008) and Brussels (June 2009) to examine the issues in more detail and determine what might be done to address some of the perceived negative effects of market liberalisation.

5. The two Labour Forums were targeted at policy-makers and stakeholders with an interest in the social dimension of reforms associated with discussions on a second stage EU-US aviation agreement and were attended by representatives from Europe and the U.S., including the U.S. Government's Departments of State and Transportation, airlines, airports, the U.S. National Mediation Board, representatives of the European Commission, EU Member States, EFTA States, the International Labour Organization (ILO), academia, Eurofound and trade unions from both sides of the Atlantic.

6. The two Labour Forums provided further precision and clarity about the shared concerns of union interests and created a valued forum for open and frank discussion of the issues. Although a range of opinion was voiced about the likelihood of any negative effects on the interests of organised labour, it was clear at the conclusion of the second Labour Forum that there was a widely held consensus amongst the EU and U.S. delegations that a second stage agreement should seek to include a social dimension.

7. In order to ensure that the benefit from the dialogue was not lost and to develop the social dimension of the discussions further, the European Commission took the step of appointing me as an "explorateur". The remit given to me was to explore the issues further with key stakeholders and report back with recommendations for tackling the concerns raised.

8. Thankfully, in the short period since the second Labour Forum, it has been possible for me to meet with a broad cross-section of stakeholders in both the United States and Europe, and a large number of meetings have been held with union and airline representatives in Washington and Brussels. Given the time available, it has regretfully not been possible to meet with every one of the parties interested in this subject. However, I am especially grateful to all those that have agreed to discuss the issues with me for the time and effort that they committed to this important subject.

9. This report is the product of the many helpful and informative bilateral meetings in which I participated, as well as the many presentations that were given in the two Labour Forums. The report is set out as follows:

    - *Section 1: The social concerns associated with trans-national airline operations and the solutions put forward by social partners*
    - *Section 2: Examination of the potential for extra-territorial application of national laws and/or labour law harmonisation*
    - *Section 3: The building blocks for a possible solution to the social issues raised by transatlantic trans-national airlines*
    - *Section 4: Recommendations to the EU-U.S. negotiators*

10. In drafting this report, I have attempted to be succinct. The aim has not been to set out an exhaustive account of these issues but instead to try and distil what frequently appear to be complex issues in a way which can be easily assimilated and assessed. At certain points in the report, I have highlighted the key findings of my exploration, in order to clearly sign-post how I formed my recommendations.

Section 1: The social concerns associated with trans-national airline operations and the solutions put forward by social partners

11. The first task faced is setting out concisely the nature of the legitimate concerns raised by stakeholders so that the solutions can be properly targeted. The two Labour Forums provided a firm foundation, providing detail on the challenges that many labour representatives say are posed by liberalisation.

12. In the context of the first stage agreement, the concern most commonly voiced by labour representatives is that the greater commercial freedoms that have been provided by the first stage EU-US agreement have not been matched by a regulatory framework providing equivalent protection for employees. Thus, airline companies have been granted the possibility of basing some or all of their operations in a foreign market (For example, the right for Community carriers to operate from *any* Member State to the US, or for unlimited intra-EU fifth-freedom operations for US carriers) yet similar possibilities for labour groups to mirror the organisational structures of these trans-national airline companies (through, for example, the establishment of union groupings covering subsidiaries based in multiple national jurisdictions) have been precluded by restrictions in place in the national laws on both sides of the Atlantic[4].

13. A summary of the potential issues for labour created by the second stage proposals to liberalise ownership and control is presented by the executive summary to the second Labour Forum, which notes that:

> *'The main concern held by social partners...related to the impact that possible ownership and control reforms would have on employee and union rights in the trans-national operations that would be made possible. The concern was that freedom for airlines to establish themselves (through acquisition, merger, or organic growth) on both sides of the Atlantic would affect the rights traditionally enjoyed by airline employees at the national level (i.e. the right to collectively organise, negotiate, agree and enforce agreements at company level). The question that a number of social partners believe needs answering is how these rights could be protected for workers employed in the US and European airline companies in more than one country?'*
> (Source: Executive Summary for the Second Labour Forum, http://ec.europa.eu/transport/air/events/doc/2009_06_22_executive_summary.pdf)

14. It is important to highlight here that the focus of social partners on both sides of the Atlantic has been on the potentially damaging effects that having one company simultaneously owning and controlling airlines in the United States and Europe would

[4] A number of obstacles to union representation exist, the laws of the United States and some Member State laws only recognise a union if constituted in the jurisdiction of that State. Furthermore, many States forbid employees from being Members of more than one union. These and other rules make impractical the establishment of fully-functioning trans-national unions.

have on the airline's employees in the absence of the ability to bargain collectively, and airline management's potential ability to play one set of employees off against the other. It is therefore the potential trans-national nature of the operations rather than the prospect of investment by foreigners *per se*, that raises concerns.

Key finding:

The concerns of social partners have focused on the organisational challenges to labour posed by trans-national airlines; in particular, the ability of unions to replicate at the trans-national holding company level the arrangements for representation that employees have hitherto been used to at the national level. The concept of foreign investment *per se* as a way of helping airlines to access more capital and potentially improve their commercial viability appears to cause far fewer concerns.

I have focused in my report on examining solutions to the social concerns generated by trans-national companies. However, this should not obscure the fact that certain forms of foreign investment made under certain conditions (e.g. investment by a non-airline, or an airline investor with no operations in the same market) should not generate the same concerns.

15. In presenting their own solutions to the problems of organisation in trans-national companies, the social partners on both sides of the Atlantic have focused on two alternative courses of action.

    - *Extra-territorial application of national law.* An alternative solution suggested by certain social partners in the United States is that the legal principles governing aviation should be more closely aligned with those in the maritime sector. Thus, the law of an airline holding company's country of establishment would apply no matter where the aircraft were operating. In particular, any collective labour agreement reached between labour and management would be broadly applicable across all of the airline's operations, no matter where located. This would require some additional extra-territorial application of the holding company's national laws.

    - *Harmonisation of European labour law.* Another idea put forward by certain US and European social partners is to seek to harmonise labour law in Europe so as to provide a common and consistent legal basis for the engagement of employees with airline management. It should be noted that this proposal does not extend to the harmonisation of European and U.S. labour law.

16. The following section examines the practicality of these solutions.

Section 2: Examination of the potential for extra-territorial application of national laws and/or labour law harmonisation.

Extra-territorial application of national law

17. In discussions with social partners, I found that many unions associated their inability to apply the terms of collective labour agreements extra-territorially (i.e. to employees of operations outside the main country of establishment of the airline concerned) with the

problems cited. The extra-territorial application of labour law was therefore cited as a potential way of solving the problems raised.

18. In examining the practicality of applying the law extra-territorially, my investigations suggested that such measures would face considerable opposition from legislators and courts in Europe and the United States.

    - The first common principle is that mobile airline employees domiciled in the US and Europe are subject to the mandatory laws of the country of domicile, irrespective of their citizenship. This principle is enshrined in Europe in the Rome I Regulation Convention[5]. In the U.S., the courts have supported that view in judgments such as *Air Line Pilots Ass'n v. TACA International Airlines S.A.* This means, for example, that the U.S. courts have applied the Railway Labor Act (RLA) to employees of foreign airlines domiciled in the United States. The right to impose the law of the host state appears to be an important principle for legislators and courts in Europe and the United States. Consequently, the mandatory (or statutory) protections of the host state over-ride those of any other statutory or contractual relationship.

    - The second common principle is on the extra-territorial application of labour law. In Europe, it is universally recognised that employees are subject to the mandatory protections of the host state (Rome I Regulation). In the U.S., the courts have been careful not to override "*the long-standing principle of American law ... that Congress legislates against the backdrop of the presumption against extra-territoriality*"[6]. One of the most frequently cited cases regarding this question is *Independent Union of Flight Attendants v. Pan Am World Airways, Inc.* (aka. the "Berlin Express" case), which addressed the question of whether flight attendants engaged in extra-territorial operations entirely outside of the US (in this case, operating intra-EU routes) were covered by the protections of the Railway Labor Act. The courts ruled that they were not as the Railway Labor Act does not apply extra-territorially[7]. The rulings of foreign courts have also been consistent with this interpretation of US law, for example in assessing the state of jurisdiction of disputes arising between US carriers and their foreign-based employees[8]. Thus, as in Europe, US courts have decided overwhelmingly against the extra-territorial application of social legislation.

19. These strong parallels in Europe and the US suggest broad commonality in the US and European legal systems based on the principles of applying the labour law of the country in which an employee is domiciled and a strong presumption against extra-territorial

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[5] Rome I Regulation: Regulation (EC) No. 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I).

[6] EEOC v. Arabian American Oil Co., 499 U.S. 244 as cited in Stephen Moldof (2004) *The Extent to which U.S. Labor Laws Apply in an Increasingly Globalized Business/Labor Context.*

[7] The US Congress has twice, in 1991 and 1997, considered proposals on a possible extension of the Railway Labor Act to territories outside of the United States; neither hearing led to a change in the law. The transcript of the 1997 hearing by the House of Representatives' Subcommittee on Aviation details many of the arguments for and against extra-territorial application of the Railway Labor Act.
http://commdocs.house.gov/committees/Trans/hpw105-37.000/hpw105-37_0.htm

[8] Association of Flight Attendants v. United Airlines (797 F. Supp. 1115 (E.D.N.Y.), rev'd on other grounds, 976 F.2d 102 (2d cir. 1992), unreported decision following trial, CV-92.2919 (E.D.N.Y. Nov. 19, 1993).

application. It is clear from the history of labour law application in the US and Europe that the courts in both jurisdictions have established similar legal principles when dealing with the representation of workers in trans-national companies. Furthermore, exemptions to these principles in the area of labour law have been made only occasionally and, even then, have has only limited application, for example in many cases only applying to US citizens but not foreign employees of US companies[9]. These principles have been well-defined and supported by a significant body of case-law in Europe and the US[10]. This suggests that a solution to the problem based on extra-territorial application of collective labour agreements would run counter to established precedent and the general presumptions of international law.

20. Furthermore, there are non-legal impediments to the extra-territorial application of labour law. For example, it is likely that such amendments would be technically difficult to achieve, politically difficult to deliver, and would be likely to create their own source of conflicts.

21. It is also unclear to me how the extra-territorial application of collective agreements would be applied in certain cases. For example, in the event of a merger of equals between two large carriers, one US and one European, which collective labour agreement would apply to the merged entity? Would the US employees of the merged company still be covered by the Railway Labour Act, and if so, could their collective agreement be superseded by the European collective agreement or *vice versa*? Would the two collective labour agreements apply simultaneously? It is unclear how the extra-territorial application of collective labour agreements would work in practice.

22. There is also the possibility of undesired consequences. Application of the Railway Labor Act to all employees of US carriers based outside the US would, assuming such an approach was applied reciprocally, lead to the application of Irish or German labour law for employees of, for example, an Irish or German carrier with operations to or from the United States. It is foreseeable that such an approach would lead to the temptation for companies to "flag for convenience", as aircrews operating in the same state would be subject to differing labour law based on the airline's state of registry[11]. By doing so, unions may address their concerns about airline management playing one group of workers within the company against another. However, they would replace that problem with the possibility of airlines forcing down conditions through reference to competing groups of workers in other carriers with operations in the US or Europe but employed on contracts governed by foreign labor law. For example, a third country could base its pilots in the US or Europe and operate direct fifth-freedom services between the US and Europe

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[9] See, for example, Chapter 25, section III, of the Proskauer Guide on International Litigation and Dispute Resolution. http://www.proskauerguide.com/law_topics/25/III

[10] For a more detailed overview of the application of US labour law outside the US, see: Stephen Moldof (2001) *Issues in International Labor Law: The Application of U.S. Labor Law to Activities and Employees Outside the United States*, American Bar Association.

[11] Extra-territorial application of the law of the state of registry is applied in the maritime industry, reflecting the reality of life in the sector, which requires employees to live for long periods on ships that spend a significant amount of their time in international waters. It is noteworthy that the sector is frequently criticised for suffering from a problem of flags of convenience, a problem that it has sought to tackle through the application of minimum labour standards in the form of the ILO-sponsored Maritime Labour Convention 2006.

in direct competition with US and European carriers, whilst applying neither European nor US labour standards.

Key finding:

There are significant legal and practical obstacles to the extra-territorial application of labour law that make it difficult to envisage such an approach ever being acceptable to legislators in the United States or Europe, not least because existing legal practice in both jurisdictions consciously runs counter to such an approach. Furthermore, the reality of such a proposal would mean the reciprocal application of extra-territoriality, a development that would potentially create considerable concerns for social partners. I remain unconvinced that such an approach is at all practicable.

Harmonisation of European labour law

23. The alternative solution to the legal questions posed by trans-national airlines would be the creation of a harmonised legal system for the sector. The proposal put forward by some social partners is that the harmonisation of European labour law should be a pre-condition prior to the opening up of investment rules with Europe's partners such as the United States.

24. Presumably, "arbitrary" harmonisation of European law would not provide an adequate solution for social partners. Such harmonisation would have to tackle the crucial issue of employee representation at the trans-national company level.

25. Putting aside the specifics of how representation would be assured under harmonised laws, there are considerable problems with such a proposal. The most obvious are the political and legal obstacles that would be faced by any attempt to harmonise European social legislation. The harmonisation of European labour law would involve 27 different Member States giving up their sovereignty in this politically sensitive area. Although the European Community represents arguably the most developed system of shared sovereignty in the world, the Member States of the European Union have been keen to ensure that the power of the European Community is expressly limited in the area of social harmonisation. Article 137 of the Treaty, for example, excludes action by the Council to harmonise the laws and regulations of the Member States (paragraph 2(a)), or by the Community to address the issues of pay, the right of association, the right to strike, or the right to impose lock-outs (paragraph 5).

26. The mixed nature of the EU-U.S. agreement (the Community and its Member States) means that some legal flexibility is potentially possible, if the will were ever to exist to harmonise Member State laws in this area. However, the suitability of using an international treaty with an external partner (i.e. the U.S.) to solve an internal issue (i.e. the harmonisation of European labour law) would be highly questionable.

27. A further problem exists with this solution in the context of the EU-U.S. discussions, which is that, assuming European labour law is harmonised, airline employees and management would still be faced with two sets of labour law, American and European.

28. The national labour laws in the United States and Europe are based on recognition of similar principles. In Europe for example, all Member States of the European Union are subject to the principles of the EU Charter of Fundamental Rights, which includes the

right to freedom of association (Article 12(1)); the worker's right to information and consultation within the undertaking (Article 27); and the right to collective bargaining and action (Article 28). Similar principles drive the operation of labour policy in the US, including the Railway Labor Act in the US.

29. Despite these similarities, concerns about trans-national companies operating under (and potentially exploiting) two sets of labour law would remain for the reasons already given. And that is just in the bilateral context. If the EU-U.S. deal really does represent a break-through opportunity to reform the industry, and a template to be followed by other parts of the world, then it is clear that the environment in which these subsequent agreements would be implemented is one in which a multitude of labour laws will continue to exist.

30. Thus, the harmonisation of European labour law is not a workable solution in the context of the EU-U.S. agreement, even if such an approach is, in abstract, personally attractive. A related alternative: the creation of a universal set of minimum standards such as that agreed by Members of the ILO for the maritime sector, has also been considered. The creation of a common set of rules governing employment in the maritime sector has been pioneered by the membership of the International Labour Organisation (ILO). Given the need for universal agreement and the divergent interests of Governments in developed and developing markets, an equivalent approach in the aviation sector is likely to be characterised by a trend towards the "lowest common denominator", with the result that it would result in the provision of minimum standards, and may therefore be seen as a threat to the high levels of labour protection in place in the United States and Europe. Certainly, this was a common reaction of many employee representatives at the Second Labour Forum, where the applicability of the maritime convention was discussed. Furthermore, it is doubtful that such an approach would be seen as immediately acceptable in the aviation sector with its entrenched systems of national laws. Although a truly universal solution may ultimately be worth examining, it cannot in the short to medium term be expected to replace the system of national laws currently in place.

Key Finding:

European Labour law harmonisation faces considerable political and legal challenges. Given the scale of these challenges, it is disappointing to note that, even if successful, reform of this kind would only provide an incomplete solution to the problem given the fact that other countries' would continue to maintain divergent labour laws.

Furthermore, harmonisation alone would not be enough if the reforms did not tackle the issue of representation in trans-national companies. Thus, the precise form of such representation would still need to be addressed.

The establishment of a minimum universal set of labour conditions for the aviation sector, such as that agreed recently for maritime by the ILO would not provide an adequate solution due to the limited likely scope and level of standards of such an approach.

Section 3: The building blocks for a possible solution to the social issues raised by transatlantic trans-national airlines

31. In searching for a satisfactory solution to the problem of employee representation in trans-national companies, my conclusion is that, for the reasons given above, it is necessary to explore approaches other than the extra-territorial application or transatlantic harmonisation of national labour laws. Evidence from the Labour Forums and my discussions with union representatives suggests that many examples of good practice exist in both the United States and Europe, and the best way forward will be to find a suitable way of facilitating such practices so that they become the norm in trans-national corporations.

32. A Second Stage Air Transport Agreement between the EU and the US provides the opportunity to shape a solution that improves on the current situation faced by employees in engaging with their trans-national employers, whilst also providing for commercial benefits that should strengthen airlines' financial performance and create better prospects for employees. On the other hand, it is vital that we remain realistic about what can be achieved through an EU-US aviation agreement. It is clear that a Second Stage accord cannot hope to solve some of the problems outside of the reach of this kind of air services agreement, and work in other forums may be needed to address the problems cited by stakeholders, which are unique to the legal systems in place in Europe and the US. However, those problems go beyond the scope of the task I have been given - to examine and find solutions to the problems specific to the transatlantic aviation sector.

33. There is much that is good about the current structure of the industry that should be preserved. The airline industry on both sides of the Atlantic demonstrates high levels of union membership, and many categories of its workers have demonstrated a long track-record of securing and maintaining wages and conditions in excess of national averages, reflecting of course the high level of skill, training and experience needed to participate in the sector. Furthermore, the principally national nature of the relationship between airline labour and management, provides considerable benefit in enabling employment to be tailored to the culture, customs and commercial realities of the local markets served by an airline. Any action taken should not undermine these embedded strengths in the system.

34. Companies that have demonstrated a successful and constructive relationship with their employees tend to exhibit a desire to engage in dialogue and exchange information early. Such an approach helps to build trust and establish a culture of mutual sacrifice / reward that positions the company and its employees to adjust in a timely and appropriately way to the changing realities of the market. However, criticism of this approach often centres around the observation that, in many cases, such an approach is voluntary and depends heavily on the goodwill and good intentions of an airline's management. The absence or loss of this goodwill would leave employees reliant on the "bare bones of the law". Thus an approach that encourages such constructive relations would have significant attractions for employee representatives and company management.

35. Furthermore, in transitioning from an industry based largely on a mosaic of national firms to one in which truly international airlines can emerge, the social dimension of change cannot be ignored. And the evidence suggests that changes are necessary in this area too. As airlines have been allowed to explore greater international opportunities, their employees' ability to adapt to these changes has been hamstrung by national laws. In

seeking a solution that helps employees to adapt to the new realities of the global industry, decision-makers will be conscious of the balancing-act involved: employees rights must be protected and enforced, but at the same time, the industry must be allowed to maintain some flexibility in order to exploit commercial opportunities.

36. The policy response to this tension between the need to protect workers and promote commerce differs considerably, so in the context of an agreement between the Community and the 27 Member States of the European Union and the United States, one can expect the discussion about where the balance should be struck to be considerable.

37. In addressing the problem of representation in transatlantic airlines, my sense is that the solutions should be enabling and avoid being too prescriptive. Companies and employees need to find their own solutions based on the unique conditions and cultures that drive those firms. However, the search for those solutions should take place within a framework that provides for high minimum standards and encourages a cooperative and forward-thinking relationship involving both labour and management.

38. Thus, the rationale points in the direction of reforms to allow greater access to foreign capital and foreign market opportunities whilst putting in place structures which would better facilitate the interface between employees and employer in trans-national companies whilst preserving the benefits of national social engagement.

Section 4: Recommendations to the EU-U.S. negotiators

39. Before setting out the recommendations, it is worth summarising the key findings and principles which have helped steer the solution:

- Social partners have identified as their principal concern the issue of employee representation and engagement in trans-national airline companies and in particular the need for employees to find a means of elevating their engagement with national airline management to the level of the trans-national holding company. My recommendations therefore are focused on finding a solution to this issue.

- The existing legal systems on both sides of the Atlantic are complex, politically sensitive, and well established. Radically changing the law will therefore be difficult. Any solution to the problem should therefore seek to "work with the grain" of these existing national laws based on similar principles of application.

40. So what does this mean in practice? I have in mind two recommendations:

- The creation of company-level 'Labour Chambers'. In order to facilitate the dialogue between employees and management, it could be agreed that the air transport agreement should require, *as a condition of simultaneously exercising the right of airline ownership and control of international airlines in both the United States and Europe*, that the company, or companies, involved should provide for the opportunity for employees to be adequately represented at the holding company level as well as at the national level under the Parties'

existing national laws. Employees shall, in constituting the Labour Chambers, help decide how they should be run.

- The Joint Committee shall receive reports on the operation of the Labour Chambers. A review of the operation of the Labour Chambers should be regularly undertaken by the Joint Committee.

41. The primary aim of these recommendations is to establish at the international holding company level, arrangements for considering issues that affect employees on both sides of the Atlantic. The structure of the Labour Chambers should enable dialogue without providing for duplication of function or cost. In order to promote Labour Chambers that reflect the views of the management and employees involved and preserve the unique culture of the companies involved, I recommend that management and existing employee representatives should have the first opportunity to decide on the scope and functionality of the Labour Chambers established to provide an inter-face between labour and management.

Balancing the rights and obligations of employees and management

42. I make no apologies for the considerable power that this proposal places in the hands of employee representatives. However, in doing so, I do recognise that such power could be used as a veto by employee representatives to frustrate airlines from exercising the right of investment "at any cost". I propose therefore that the agreement includes details of a fall-back, or 'default' Labour Chamber, that would apply in the event that no agreement can be reached by the temporary negotiating body within a reasonable period to be specified. For details of the content of these default Labour Chambers, see the sub-section '*What happens if there is failure to reach agreement on a Labour Chamber*' below.

Establishing a Labour Chamber

43. In order to negotiate the scope and functionality of the Labour Chambers, a temporary negotiating body should be established responsible for reaching a written agreement with management. The agreement might cover, for example, the composition of the Labour Chamber, as well as how often it would meet; the relationship with bodies constituted under the Parties' respective laws; and the date of entry into force of the agreement, when it should be reviewed, and the legal aspects, including the law of the state(s) governing the enforcement of the agreement. Agreement shall be reached when the management and a majority of employees vote in favour of the proposed written agreement.

44. The members of the negotiating body might be elected or appointed in accordance with the number of employees employed in the countries of operation of the combined company. Where possible, representation should be by the organisations appointed in accordance with the national laws and procedures of the Parties, including Member States' laws in the case of the European Union. The Parties should be allowed to determine the method to be used for the election or appointment of the members of the special negotiating body who are to be elected or appointed in their territories.

45. With a view to the conclusion of an agreement, the central management shall hold a meeting with the negotiating body. The negotiating body may request assistance from experts of its choice. Such experts may be present at negotiation meetings in an advisory capacity.

What happens if there is failure to reach agreement on a negotiated Labour Chamber

46. As explained above, it may not be possible for management and labour to reach an agreement on the scope and powers of the negotiated Labour Chamber. Should such a situation arise, then I propose that a default Labour Chamber should be established. In order to ensure that the composition of the default Labour Chambers does not provide an obvious incentive for airlines or employees to avoid reaching agreement so as to benefit from perceived advantages from the fall-back position, the scope and powers of these default Labour Chambers should be such that they provide a balance between the rights of employees and airline management. The constitution of such default Labour Chambers should therefore be similar to that set out for the temporary negotiating bodies. They would place certain obligations on management, including:

    - An obligation on management to consult employee representatives on issues likely to have a significant impact on their employees, such as restructuring or expansion plans.

    - An obligation to provide information on matters likely to have a significant effect on the workforce, at such time and in such fashion so as to enable employees to undertake an appropriate examination.

Some answers to the questions raised...

47. In orally presenting my ideas to the European and American delegations at the October 2009 meeting of the Joint Committee in Washington, I gained an appreciation of some of the issues that concerned members of both delegations vis-à-vis my preliminary proposals. I have therefore attempted to set out some brief answers to these questions below:

    Q. The recommendations depend heavily on employee representation for the establishment of the temporary negotiating body and Labour Chamber. What happens if there are no pre-existing labour representatives?

    A. If there are no pre-existing employee representatives, then these should be appointed.

    Q. Who would be responsible for enforcing the terms of the Treaty in this area?

    A. The Parties would be responsible for ensuring that participants follow the obligations set out in the Treaty, and for establishing whether the right procedures have been followed.

    Q. Who would be responsible for enforcing the agreements reached in the Labour Chamber?

    A. The agreements reached in the Labour Chamber should specify the law in which they are to be enforced.

    Q. How would an airline establishing a new subsidiary in the other Party's territory meet the requirements of the Labour Forum, given the absence of any existing employees at that subsidiary?

A. In the absence of subsidiary employees, the Labour Chamber would be made up of representatives of the existing company.

Conclusions

48. In concluding, it is worth remembering why I have drafted this report and why so much effort has been put in by participants on both sides of the Atlantic: change in the aviation industry is long overdue. The current structure of the industry is unsustainable and is undermining the long-term viability of the sector. Such waste could arguably have been tolerated in a domestic industry that was growing and employing increasing numbers of employees. However, the medium-term economic environment facing the industry on both sides of the Atlantic suggests that the industry and its employees can ill-afford a continuation of the *status quo*. Despite this, there is strong resistance from some to any change, to the extent that I believe a minority in the industry would prefer to risk the future viability of their sector than support reforms that would open up airlines to greater investment, opportunities and a more certain future. This position is, in my view, illogical and seriously flawed, particularly as there are solutions to the social concerns raised.

49. One should not underestimate the substantial step that this proposal represents or the substantial obstacles that it faces. When Member States and the Community addressed the issue of how to ensure proper representation in trans-national companies operating within the European Single Market, the discussions were long and difficult. Achieving a breakthrough in the context of transatlantic aviation will also be hard. We should realise, for example, that my proposals for transatlantic aviation could be difficult for many in the industry to accept. And for the US Government, I recognise that it would represent a different and unfamiliar approach to the Railway Labor Act, though I believe one which would be compatible with this and other domestic laws. Furthermore, EU Member States themselves will undoubtedly think hard before accepting this sort of approach in an international trade agreement. It is for this reason that I believe it will take effort from all sides to deliver any solution. However, if all sides are prepared to approach this issue constructively and with an open mind, then I am confident that this valuable and important complement to the liberalisation of investment rules can be delivered successfully to the benefit of everyone in the industry.

50. Furthermore, I do not claim to have a monopoly over the right course of action. And I accept there may be other ways of solving the issue than that set out in this report. However, I am convinced by my discussions with stakeholders that the focus of my recommendations is right: the key issue is how to ensure appropriate employee representation at the holding company level of the rapidly emerging trans-national aviation companies. Other concerns, which could have been expected from social partners, such as worries about how work would be divided between the subsidiary companies of a trans-national airline, have not been raised with me as a reason for not pursuing the reform of investment rights in the sector, perhaps because social partners believe that by solving the problem of representation, these issues will also be addressed.

51. It is worth remembering that the recommendations I have put forward are a solution to the specific dilemma of employee representation in transatlantic trans-national companies exercising ownership and control rights. It would not apply to alliance arrangements, for example. Labour's concerns about one set of employees being played off against another are most acute in situations where, in the absence of a collective agreement governing all mobile employees, the holding company's management has the ability to transfer work

(and hence employment) from one carrier to another. In contrast, there appear to be situations where these concerns should not arise, for example because the foreign owner is not an airline or because it does not operate subsidiaries in the same market. Because these forms of investment raise fewer concerns, progress in these areas may even be possible whilst the specific issues of representation associated with trans-national companies are being solved.

52. I believe that my recommendations would enable companies to make use of the ownership and control provisions in the Second Stage agreement whilst enabling labour concerns to be met within the companies taking advantage of the full freedoms granted. The avoidance of an overly prescriptive approach also means that the remit of the Labour Chamber can be tailored to the specifics of the company involved. By providing a forum in which employees and management of these trans-national airlines can interact, these recommendations provide an appropriate vehicle to manage the transition from national to trans-national airlines in the transatlantic market.

53. The EU-US second stage negotiations provide an opportunity for change. Not just for companies wishing to make use of greater commercial opportunities and sounder finances, but also for stakeholders wary of reform. It is my belief that if this opportunity is wasted, the prospects of social partners improving their situation will suffer as much as the airlines on which they depend.

EXHIBIT 23

ECA

'Piloting Safety'

10 December 2009

Mr. Daniel Calleja Crespo
Director
Directorate F – Air Transport
DG Transport
European Commission
24 Rue de Mot
1049 Bruxelles

Mr. John Byerly
Deputy Assistant Secretary of State
for Transportation Affairs
U.S. Department of State
EEB/TRA, Room 3425
2201 C Street, NW
Washington, DC 20520

Re: "Transatlantic Transnational Airline Companies: Taking Account of Social Issues" – a report by Claude Chêne, Special Advisor to the European Commission

Dear Mssrs. Byerly and Calleja:

This is to convey our initial response to the above-referenced report submitted to you by Mr. Claude Chêne on November 9.

First, we would like to say that we appreciate the European Commission holding two labour forums to consider the concerns of airline employees arising out of both the "stage 1" air services agreement between the U.S. and the EU and the proposals that have been made in connection with the "stage 2" negotiations. We also appreciate that the Commission appointed Mr. Chêne to examine those concerns in more depth and to consider possible responses to them. Further, Mr. Chêne is to be commended on the efforts he made in a very constricted time frame to reach out to a wide range of groups who are interested in the topic he was asked to address.

Although Mr. Chêne seemed to grasp the problems reasonably well, we are disappointed in a number of Mr. Chêne's conclusions and believe that his recommendation for addressing one of our specific concerns falls far short of the mark.

At the two labour forums, ECA and ALPA noted that one of our primary concerns arises out of the stage 1 agreement. That agreement permits EU carriers to provide air transportation from any point in the EU to any point in the U.S. Essentially the agreement allows the creation, for EU – U.S. purposes, of a "European airline." Unlike the U.S., however, which has a single statute that governs collective bargaining between airline labour and management, the EU retains a legal structure under which collective bargaining rights are governed by as many labour laws as there are Member States. This presents a number of challenges to airline labour, particularly flight crew, as was discussed at length in the labour forums.

Mr. Chêne appears to recognise the legitimacy of our concerns about the lack of harmonization of European national laws. Indeed, he suggests that "in the abstract" the notion that those laws should be harmonized is "personally attractive." However, he concludes that harmonization is not workable because it would face "considerable political and legal challenges" and, even if carried out, would still leave a legal regime with differing laws on each side of the Atlantic. Accordingly, he declines to offer any solution to a very real problem created by the stage 1 agreement.

Another principal concern we raised at the labour forums arises out of the EU proposal to eliminate restrictions on the ownership and control of the airlines of the parties. Mr. Chêne does recognize our core concern: a holding company that owns airlines on both sides of the Atlantic. However, his proposed solution to this concern – the creation of labour chambers that would have a voice at the holding company level – simply does not offer an adequate response. Rather than recommend a specific harmonized standard for how such a body would resolve labour-management disputes in a transnational airline setting, Mr. Chêne proposes that labour and management bargain over the composition and powers of labour chambers on a case-by-by case basis, being "careful to preserve the unique culture of the companies involved." He further proposes that if labour and management are not able to agree on these most essential matters, that "the agreement" (presumably the U.S. – EU air services agreement) include the details of a default labour chamber. This default body would place an obligation on management to consult employee representatives on certain issues and to provide information on matters likely to have a significant impact on the workforce of the airline(s).

The labour chamber proposal does not meet the criteria set out by ECA and ALPA at the second labour forum for a legal framework that might address our groups' concerns. Rather, the formation and functions of the proposed labour chambers seem to depend entirely on the goodwill of management. In fact, it is difficult to see why management would agree to any obligations above those that would be imposed on them by a default body that, at least according to Mr. Chêne's proposal, would appear to function much like the sorts of European works councils that the presenters at the second labour forum generally agreed were ill-suited to address disputes over job security, wages and working conditions. In sum, the stage 1 agreement has posed considerable real-world practical challenges to flight crew employees and, in our view, has shifted the balance of bargaining power from airline workers to airline management. We believe that it is imperative that the U.S. and EU address these concerns in a meaningful way. This includes meeting criteria set forth by ECA and ALPA at the second labour forum. We understand that there will be, in the words of Mr. Chêne, "considerable political and legal challenges" that will have to be met. But we believe that Mr. Chêne effectively proposes to avoid addressing the concerns at all. With respect to the bargaining challenges that are presented

by transnational airlines and which were acknowledged and described in his report, we regret that his solution is one that we find insufficient to address the magnitude of the challenge.

We appreciate your consideration of our views and look forward to continuing to work with all participants on identifying and considering practical and effective solutions to the labour implications of the U.S.-EU air services relationship. In particular, we would strongly encourage the European Commission to commit to work with ECA to identify how the EC Treaty provisions for the coordination of collective bargaining in Europe can be used to ensure that mobile workers in European civil aviation have the ability to organise, negotiate, agree and enforce agreements at the enterprise decision making level. This is both a necessary step for the EU, independent of the U.S. negotiations, and integral to solving the transatlantic labour questions.

Sincerely,

Martin Chalk
President
European Cockpit Association
Rue du Commerce 41
Box 9 – B – 1000 Brussels
Belgium

John Prater
President
Air Line Pilots Association
1625 Massachusetts Ave., NW
Washington, DC 20036
United States of America

cc: Paul Gretch
Dan Edwards

EXHIBIT 24

TTD A BOLD VOICE FOR TRANSPORTATION WORKERS

January 11, 2010

Mr. John Byerly
Deputy Assistant Secretary of State
for Transportation Affairs
U.S. Department of State
EEB/TRA, Room 3425
2201 C Street, NW
Washington, DC 20520

Mr. Paul Gretch
Director, International Aviation
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: Report by Claude Chêne on social issues raised by transatlantic airline companies (submitted November 9, 2009)

Dear Mssrs. Byerly and Gretch:

On behalf of the Transportation Trades Department, AFL-CIO (TTD) I wanted to express concerns with the conclusions reached and the recommendations offered by Mr. Claude Chêne in his report on the labor issues presented by the creation of transatlantic airline companies. In a letter dated December 10, 2009, the Air Line Pilots Association and the European Cockpit Association expressed their specific disappointment with the report. TTD fully concurs with the concerns and issues raised in that letter and wishes to emphasize several specific points.

As the TTD and its member labor organizations have pointed out on several occasions, including at the two EU-U.S. labor forums, the changes in regulatory structure made by the 2008 U.S. – EU air services agreement (ASA) and those proposed by the EU in the ongoing negotiations, raise a number of serious concerns for U.S. airline employees. The ASA allows any EU airline to operate from any point in the EU to any point in the U.S. This right essentially allows the national airlines of individual European countries to operate as "European" airlines, at least for the purpose of the ASA. Rather than be subject to a single European labor law, however, the labor-management relations of these airlines continue to be subject to the national labor laws of particular European countries. This framework thus raises the possibility that EU airlines may seek to compete with one another on the basis of differences in those national labor laws and in the process secure an unfair advantage with the U.S. carriers providing transatlantic service.

Transportation Trades Department, AFL-CIO
888 16th Street, NW • Suite 650 • Washington, DC 20006 • tel: 202.628.9262 • fax: 202.628.0391 • www.ttd.org
Edward Wytkind, President • Patricia Friend, Secretary-Treasurer

In the ongoing round of negotiations, the EU is proposing to eliminate limitations on ownership of U.S. and EU airlines by investors on the two sides. Our opposition to this proposal is well-known and I will not reiterate our many objections to this approach. I would add that such a proposal, if adopted, would open the door to the creation of holding companies that could own airlines on both sides of Atlantic and use the lack of a common labor law to play the workers of the airlines against one another.

Mr. Chêne acknowledges the concerns that arise out of the ASA but finds that meaningful solutions would be too politically difficult to accomplish. With respect to the challenges posed by the creation of holding companies he does offer a proposed solution: the creation of "labor chambers" that would provide employees an opportunity to be represented at the holding company as well as at the national level. For the ample reasons set out in the ALPA/ECA letter, however, this proposal falls far short of providing an acceptable solution to the myriad labor-management problems that would be spurred by the elimination of the ownership and control rules. Rather, because the labor chambers would apparently be set up under national laws, Mr. Chêne's recommendations could actually exacerbate the problem created by the ASA, i.e., airlines might be able to realize competitive advantages by exploiting differences between those various laws.

We appreciate that Mr. Chêne took the time to meet with TTD and to discuss our concerns about the possible effects of the U.S.-EU air services negotiations on labor-management relations. We recognize that the issues he was asked to examine are complex and might require solutions that would be both novel and politically difficult. Mr. Chêne is to be commended for the considerable efforts he made to identify and attempt to understand many of our key concerns. Unfortunately, we believe his recommendations fall well short of offering solutions that would sufficiently address either the labor issues posed by the ASA or by the proposals being made in the ongoing negotiations.

We urge you to encourage the EU to address the labor concerns that are presented by the ASA. In addition, we urge that you continue to reject the EU proposal to eliminate restrictions on the ownership of U.S. and EU carriers by each other's investors.

Sincerely,

Edward Wytkind
President

cc: Susan Kurland, Assistant Secretary for Aviation and International Affairs
Christa Fornarotto, Deputy Assistant Secretary for Aviation and International Affairs