



LEVELING THE PLAYING FIELD

For U.S. Airlines and Their Employees

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Our foreign competitors are exceptionally well-funded. One foreign airline has more money currently invested in new widebody airplanes than it would cost to buy the entire U.S. airline industry outright. Read ALPA's recommendations and proposed U.S. aviation policy that will allow U.S. airlines to compete globally.

ALPA WHITE PAPER

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Leveling the Playing Field for U.S. Airlines and Their Employees

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Introduction

The United States' airline industry and its employees operate in a hyper-competitive international marketplace. The U.S. airline industry has lost \$48.1 billion since 2000. In the last 12 years, there have been only 5 profitable years for the industry. This is an industry that has been unable to meet its cost of capital and is known for not generating healthy margins, even in the best of times. It is very clear that the airline industry continues to face significant challenges. Competition from foreign airlines, which are often state-owned or heavily state-sponsored and vertically integrated and operate from countries with low or nonexistent tax and regulatory burdens, is growing rapidly and impeding international growth for U.S. airlines. In addition, with virtually unlimited access to the U.S. market through the more than 100 Open Skies agreements the United States has signed with other nations, foreign airlines are stealing market share from U.S. airlines and threatening domestic carriers in our own backyard. As a result, U.S. airlines and their employees find themselves in survival mode, adapting to a global marketplace that for them is an unlevel playing field.

Around the world, the expansion of state-sponsored airlines, many from the Gulf region and Asia, threaten U.S. carriers on international routes. Many foreign carriers do not encounter tax and regulatory burdens like those faced by U.S. airlines. The taxes and fees currently endured by the U.S. airline industry are higher than those for nearly every other industry in the United States, adding to the financial burden on the airlines and the traveling public. Today, the commercial airline industry leads all other industries in America with 17 unique taxes and fees from the federal government, resulting in 20 percent or more of the total airline ticket price going to taxes. Further, the U.S. government's tendency to emphasize consumer interests over the financial viability of the industry has resulted in a series of passenger protection regulations that place a significant financial burden on U.S. airlines, exacerbating the cost disadvantages that U.S. carriers face in the international marketplace.

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**This paper explores
and offers policy
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marketplace.**

As taxes and regulatory burdens increase, airline revenue decreases. Given the record losses that U.S. airlines have experienced, this burden is only making the industry weaker and limiting its ability to thrive, directly impacting employment and the careers of professional pilots.

Another advantage for foreign carriers is their ability to buy new, American-manufactured airplanes with below-market financing rates subsidized by U.S. taxpayers, then use those same airplanes to compete against U.S. carriers on international routes, with significantly lower capital costs. With little or no financial transparency, state-owned airlines may lose money as they engage in seat dumping—selling airline seats below market prices. Their ultimate goal of driving U.S. airlines out of certain international markets is proving successful.

Further, while the United States has historically led the world in setting aviation safety and security standards, much of the rest of the world is not keeping up with our high standards. When our excellent safety and security standards are not adopted by foreign competitors, U.S. carriers are left at a competitive disadvantage, and international air safety and security as a whole is compromised. This paper suggests concrete actions to be taken through the International Civil Aviation Organization (ICAO), an international standards-setting body chartered through the United Nations, to level the international playing field with respect to airline safety and security.

As the U.S. industry continues to struggle financially and compete internationally, U.S. laws governing ownership of U.S. airlines, which are rooted in basic safety and security considerations, and laws governing cabotage operations—the transport of local traffic between two points in the same country by an airline of another country for compensation—are under attack. Foreign ownership of U.S. carriers could well result in the loss of flying opportunities for U.S. carriers and in a loss of U.S. pilot and airline worker jobs. Changes to these laws cannot be allowed to occur.

This paper explores and offers policy solutions that would create a better business environment for U.S. airlines, leveling the playing field in the international marketplace. Issues including the problem of excessive oil speculation; the low barriers to entry for new carriers, which can lead to undercapitalized and ill-prepared airlines that have distorted pricing before going out of business; the customer experience at the airport; the positive impact of tourism on U.S. airlines; and investment in NextGen are all explored as ways to level the playing field for U.S. airlines and their employees.

The United States' airline industry's extreme financial volatility, numerous bankruptcies and airline shutdowns, extensive employee pay concessions, pension terminations, job losses, and eroding infrastructure require that immediate and aggressive action be taken to change course and establish a roadmap for future industry and employee success. Given the strong competitive cost advantages of many foreign carriers, it is important that the U.S. government promote a business environment at home that allows a fair opportunity for U.S. carriers to compete and prevail in the international marketplace. U.S. airlines and their employees can win in the international arena. But to do so, they need to compete on a level playing field. This paper offers a roadmap for getting there.

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Section 1: Enhancing the Aviation Business Environment and Defending U.S. Aviation Jobs in the International Marketplace

Maintain Current Foreign Ownership and Cabotage Restrictions

Laws governing ownership of U.S. airlines are rooted in basic safety and security considerations, in particular the need to ensure that U.S. air carrier aircraft are available in times of national emergency. These rules also address a key concern of U.S. airline employees—that they receive a fair share of international flying opportunities.

Foreign ownership of U.S. carriers would likely result in the loss of flying opportunities for U.S. carriers, resulting in a loss of U.S. pilot and airline worker jobs as foreign air carriers allocate flying opportunities to their own workers rather than those of the U.S. carrier in which they would have a stake.

Additionally, ALPA remains concerned about proposals put forward in the past by the U.S. government to allow for third-country ownership and control of foreign airlines. ALPA believes that the United States should retain the right to object on a case-by-case basis to particular ownership structures of airlines that wish to serve the United States.

The United States has by far the largest domestic traffic market of any country. Allowing foreign air carriers to conduct cabotage operations—the transport of local traffic between two points in the same country by an airline of another country for compensation—would permit them to operate flights in this market in direct competition with U.S. carriers. The practice of cabotage would be contrary to the basic U.S. employment policy altogether, as no other industry permits foreign companies to operate in the U.S. domestic market with workers who are subject to the labor laws of that company's home country. During the U.S.–EU air service negotiations between 2003 and 2010, the European Union (EU) sought to include an exchange of cabotage rights in a new U.S.–EU agreement. From time to time, other negotiating partners have also proposed an exchange of cabotage rights with the United States. To date, the U.S. government has firmly rejected these proposals.

Foreign carrier cabotage is prohibited by U.S. aviation statutes, and ALPA has consistently and strongly opposed efforts to modify the prohibition.

The U.S. Trade Representative (USTR) is in the process of negotiating a bilateral free trade agreement with the EU known as the Transatlantic Trade and Investment Partnership (TTIP). The EU has indicated that it intends to seek to include air transport services in this trade agreement, including cabotage rights and changes to our foreign ownership and control laws. Adding air traffic rights to the TTIP negotiations is an attempt by the EU to circumvent the long-

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established process for negotiating an air services agreement because it is not satisfied with the current U.S.-EU air transport agreement.

Policy Recommendation: Maintain the current foreign ownership and control and cabotage restrictions in the United States. Congress should instruct the USTR to inform all parties with whom the United States is currently negotiating any trade or services agreement that air services is not a negotiable item, including the TTIP, and that matters pertaining to international air traffic rights will continue to be negotiated by the Department of State and Department of Transportation (DOT).

Ensure that Open Skies Agreements Give U.S. Airlines and Their Employees a Fair Opportunity to Compete

In 1992, the United States began negotiating Open Skies agreements with other countries to expand international passenger and cargo flights to and from the United States, and thereby increase U.S. aviation industry exports, foster U.S. tourism, and generate good U.S. airline and airline industry jobs.

Since then, the United States has negotiated over 100 Open Skies agreements, both unilateral and multilateral, including accords with the European Union and its member states, India, and Japan. Along with China, other major aviation markets where the United States does not currently have an Open Skies agreement in place include Argentina, Mexico, and Russia.

While ALPA supports expanding market access in international aviation markets where airlines compete on commercial merit, many of the countries with which the United States has sought or is seeking Open Skies agreements provide government support to their airlines. In addition, many of the U.S. partners and potential partners in air services agreements do not have labor laws that effectively protect airline workers.

It's clear that U.S. airlines are at a distinct disadvantage against foreign airlines in many Open Skies agreements. In the United Arab Emirates, for example, state-backed airlines benefit from their home country's tax-free business environment, pro-aviation policy, and national commitment to foster a strong airline industry.

Since the United States first began its Open Skies policy, the U.S. share of the international wide-body fleet decreased from 45 percent to 17 percent in June 2012. That share is forecast to shrink to 5 percent by 2025.

In 2010, ALPA played a central role in developing a history-making, stand-alone labor article in the U.S.-EU agreement that underscores the value of high labor standards. As a member of the U.S. delegation in the U.S./EU talks, ALPA helped bring the article forward, working together with the European Commission, the U.S. government, and the European Cockpit Association.

The labor article is critical because, unlike the United States, which has a single labor law that applies to all U.S.-certificated airlines regardless of where they are headquartered, the EU's 27 member states have 27 individual national labor laws. While the EU has created a common aviation area within which EU carriers can



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The United States should also make clear that while it will continue to be a proponent of Open Skies in aviation, it will not put U.S. airlines at a disadvantage in the global marketplace.

operate freely between points in Europe and can base their flightcrew members in any EU country, it is unclear which labor law applies to pilots who may be domiciled in one country, based in another, and fly routes to a third.

Labor protections in Open Skies agreements are especially important in connection with international alliances. An Open Skies agreement is a requirement for antitrust immunity. While the DOT has granted antitrust immunity to U.S. airlines and their foreign alliance partners for years, airlines are now seeking antitrust immunity that also covers revenue or profit-sharing joint ventures. And while airline partners in these agreements may share revenue and/or profits according to a predetermined formula rather than the flying performed, they have no economic reason to care which partner or which airline's employees do the flying.

For example, China's big three airlines are state-owned, and collective bargaining does not exist in China. In a joint venture, U.S. airlines could be tempted to allow Chinese partners to do the flying while they simply collect revenue, which would mean, in theory, that Chinese airline pilots could fly an airline's international routes while U.S. pilots provide the short-haul passenger supply to the hubs.

Policy Recommendation: ALPA believes that U.S. aviation policy must protect U.S. aviation jobs while permitting airlines to continue to benefit from Open Skies agreements. To do this, the United States must update its approach to Open Skies accords in the following ways:

- ALPA maintains that in all appropriate cases, Open Skies agreements should contain labor provisions that support the value of high labor standards and protect U.S. aviation jobs.
- In addition, ALPA urges the United States to identify unfair state-created competitive practices and use all appropriate means to address them.
- The United States should also make clear that while it will continue to be a proponent of Open Skies in aviation, it will not put U.S. airlines at a disadvantage in the global marketplace.

Reform Wide-Body Aviation Financing at the Export-Import Bank

ALPA supports the mission of the Export-Import Bank (Bank). We are pro-U.S. manufacturing and want the Bank to continue to finance export deals that make sense for American workers. However, some of the transactions that the Bank is undertaking related to wide-body aircraft financing are having unintended consequences, including the loss of U.S. pilot and other airline jobs and job opportunities in the international marketplace. The Export-Import Bank Reauthorization Act of 2012 is a step in the right direction to reforming the Bank, but more still needs to be done to ensure U.S. aviation jobs are not put at harm by Bank financing.

Over the past five years, the Bank has provided financing for hundreds of wide-body aircraft to foreign airlines. This financing is provided at rates and terms that are not available to U.S. airlines, and many of these Bank-subsidized wide-

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body aircraft are being used on routes that are, have been, and could be served by U.S. airlines. U.S. carriers have found that they have needed to withdraw from or not enter routes that might otherwise be economically viable.

The effect on U.S. pilot and airline worker jobs has been significant. Given the amount of financing the Bank has provided (more than 634 aircraft and \$34.5 billion in financing from 2005–2010 and \$23 billion in 2011–12 alone) and intends to provide in the future to foreign carriers, the potential for further incursion into U.S. airline market share by these carriers using Bank-funded wide-body aircraft could result in significant additional loss of U.S. airline worker jobs. Additionally, each airline job supports multiple jobs outside the aviation industry, so each U.S. job lost has a significant negative ripple on the broader U.S. economy.

ALPA has joined with Airlines for America (A4A) in a lawsuit challenging the Bank's proposed financing of Boeing 787 and 777 aircraft for Air India, arguing that the Bank failed to undertake the required economic and job impact consideration. The Bank did not conduct an economic impact analysis and did not consider the adverse effects on airline employment of this financing decision. ALPA has filed an additional lawsuit in federal court against the U.S. Export-Import Bank for approving loan guarantees to several foreign airlines while disregarding the adverse economic impact the financing has on U.S. airlines and their employees. The lawsuit challenges the Bank's approval of loan guarantees to Etihad Airways, Korean Air Lines, LATAM Airlines Group, and LOT Polish Airlines to purchase wide-body aircraft that would allow them to increase their fleets and gain access to key international routes. These loan guarantees would put U.S. airlines at a competitive disadvantage, possibly forcing them to cut market share, reduce flights, and trim American jobs. ALPA was joined by Delta Air Lines and Hawaiian Airlines as plaintiffs in that suit. ALPA, Delta, and Hawaiian also filed a suit challenging the Bank's new guidelines and procedures for assessing the economic effects of its financing practices on U.S. airlines and their employees.



Policy Recommendation: As directed by Congress in the Export-Import Bank Reauthorization Act of 2012, which was signed by the president on May 30, 2012, the administration should immediately enter into negotiations with the four European countries with export credit agencies supporting Airbus aircraft sales to eliminate export credit agency financing of all wide-body aircraft. We do not expect the Export-Import Bank to unilaterally disarm in the wide-body aircraft subsidy back-and-forth with Europe, putting our U.S. manufacturing workers at a disadvantage; however, both sides have an incentive to wind this financing down. Bank Senior Vice President for Transportation Robert Morin said as much in March 2012 when talking about aircraft loans stating, "Clearly it's not healthy in the long term for export credit agencies to be doing so much."

Congress has mandated that the Bank undertake an economic-effects analysis of each potential financing to ensure that, with respect to each transaction, the impact of wide-body aircraft financing for foreign carriers is in fact a net positive for U.S. industry and its employees. If the required economic impact analysis reveals that a financing deal would result in a net negative impact on U.S. jobs, then the rational and congressionally mandated outcome is that the transaction should not be supported by U.S. taxpayers.

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Further, Congress has required the Bank to operate in a more transparent fashion, providing the opportunity for the public and affected interests, including airlines and their employees, to review and offer comment on proposed airline financing deals in advance of their approval. Economic impact studies, which are required by Congress, should be done on every proposed wide-body aircraft financing deal beforehand to ensure that the impact on U.S. jobs is actually positive and not just assumed to be so. This is not currently being done. Congress requires the Bank to support foreign purchasers only after taking into "full consideration" "any serious adverse effect" that the exports, such as aircraft, might have on other U.S. companies and their employees (Id. §§ 635[b][1] [B], 635a-2; see also id. § 635[e][1]). The 2012 Bank Reauthorization Act requires 25 days of public notice of pending transactions and a provision requiring more information on those transactions. Most important, it allows for public comment to the Bank's Board of Directors on all proposed transactions by interested

parties such as ALPA and U.S. airlines. This transparency is important to ensuring full consideration of any adverse effects that Bank financing may have on the U.S. economy and jobs.

Finally, the Bank is also required to develop and publish "methodological" guidelines for conducting economic impact analyses. The Bank's methodology for calculating loan impacts on U.S. jobs is also to be critiqued by the Government Accountability Office (GAO). The administration, Office of Management and Budget (OMB), and Congressional Budget Office (CBO) must work together on new methodologies for economic and job impact studies. These analyses should be the cornerstone of the Bank's lending decisions.

Promote Taxation Policy that Fosters the Airline Industry's Viability and Growth

The U.S. airline industry finds itself increasingly burdened with higher taxes and fees. Today, the aviation industry leads all others in America with 17 unique federal taxes and fees. A4A estimates that about 20 percent of a \$300 ticket for a typical, domestic round-trip itinerary with a single connection in both directions is composed of taxes. The federal tax rates paid by airlines are higher than federal "sin" taxes paid on alcohol, tobacco, and firearms, which were originally intended to discourage use. Federal aviation tax policy discourages the use of commercial air transportation and impedes the industry's ability to grow and expand the U.S. economy, threatening jobs in an industry that helps carry our economy.

ALPA Decodes Ticket Costs

Pilot Costs 3.2% or \$10.87*



Base fare (excluding pilot costs) 86.9% or \$295.14



ALPA AIRLINE				Name	
Class WORLD CLASS		Gate	Seat	Seats & Class	
Flight & Date E193 July 27		A1	26B	26B	Y
Boarding time		To Point B			
From Point A		To Point B		Remarks	
Name Joe Passenger		Airline use 006175A ALP38720			
Boarding Pass					

Final ticket cost: \$339.64**

* Pilot salaries and benefits per ticket were calculated using Bureau of Transportation Statistics (BTS) Form 41 data for year-end 9/30/10 for narrowbody aircraft for the following airlines: American, Continental/United, Delta, and US Airways. Estimated average of 2.78 block hours per flight.

** Final ticket price based on BTS average for 3Q10 for domestic round-trip or one-way fares.

Sources: ALPA E&FA Department analysis of FAA, Air Transport Association, FareCompare.com, USA Today, Government Accountability Office, and BTS Form 41 data.



Taxes 9.9% or \$33.63

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Policy makers should strive to reform our aviation tax policy with a goal of leveling the playing field to increase U.S. international competitiveness and advance U.S. leadership in aviation safety.

As taxes increase, airlines must pass the cost along to consumers in the form of higher fares, reduce service, or expect to see their revenue decrease. In a pricing environment that is highly volatile and subject to competitive response and public outcry, raising fares is often not possible, which means airlines are forced to swallow the tax burden or cut service. Reduction of service by airlines often impacts small communities particularly hard, as service reductions usually begin in these less profitable small and rural communities. Given the record losses airlines have experienced, the current tax burden is only making the industry weaker and limiting its ability to thrive, directly affecting employment and the careers of professional pilots and other airline employees.

Furthermore, the tax burden is anticipated to increase in the coming years. The executive branch's 2013 budget proposal includes a \$100-per-departure tax on every flight and triples the passenger security tax. Imposition of these additional taxes would be devastating to an industry that is still recovering from years of losses.

In 2010, the DOT Future of Aviation Advisory Committee (FAAC), which was appointed to develop recommendations on initiatives that would be of particular importance to the future health and sustainability of the industry, highlighted the heavy tax burden borne by aviation. The FAAC noted that not only does this tax burden make travel and shipping less affordable, it also could very well inhibit airlines from making needed investments to achieve sustained profitability and competitiveness. The FAAC recommended commissioning an independent study to evaluate the federal aviation tax burden on passengers, airlines, and general aviation. The results of this evaluation could be used to pursue appropriate legislative and regulatory actions consistent with the findings of the study.

3744	8:15A	D	ON TIME
4163	9:46A	C	ON TIME
3167	7:59A	B	ON TIME
1434	8:48A	D	ON TIME
270	8:26A	D	ON TIME
31	9:20A	D	ON TIME
	8:08A	D	ON TIME
	10:14A	D	ON GROUND
	7:58A	B	CANCELED
	10:11A	B	CANCELED
	8:36A	D	ON TIME
	7:53A	D	ON TIME
	8:27A	C	ON TIME
	28A	C	ON TIME

Policy Recommendation: All new or increased existing fees and taxes on the airline industry should be summarily rejected. The DOT should immediately conduct the FAAC-recommended independent study to evaluate the federal aviation tax burden on passengers, airlines, and general aviation. Policy makers should strive to reform our aviation tax policy with a goal of leveling the playing field to increase U.S. international competitiveness and advance U.S. leadership in aviation safety.

Reform Passenger Protection Regulations

Since December 2009, the DOT has promulgated a series of costly consumer rights protections for passengers. ALPA is committed to providing the flying public with a positive travel experience. The vast majority of the DOT's new consumer rights regulations, however, are misguided and provide little, if any, benefit to passengers. With more than \$50 billion in losses since 2001, skyrocketing jet fuel costs, and a 0.1 percent net profit margin in 2012 (which amounts to one cent in profit for every \$10 in revenue), the rising burden of such regulations is undermining the U.S. airline industry's ability to compete globally, become sustainably profitable, and expand its U.S. workforce.

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DOT issued a second set of rules, commonly known as “Enhancing Airline Passenger Protections II,” in April 2011.

The first set of rules, the “Enhancing Airline Passenger Protections,” took effect in April 2010. A costly and burdensome element of the requirements, the so-called “tarmac delay rule,” allows passengers on domestic flights to deplane after a three-hour tarmac delay. Unfortunately, the rule does not address the many root causes for tarmac delays, most of which are beyond an airline’s control, including inclement weather, air traffic control delays and technical problems, airport gate availability, inadequate customs and immigration staffing levels, and runway or taxiway closures.

According to a September 2011 study by the U.S. Government Accountability Office (GAO), while the tarmac delay rule has nearly eliminated delays of more than three hours, the likelihood of cancellation increases with the time a plane stays on the tarmac. GAO found that airlines were 24 percent more likely to cancel a flight before leaving the gate during the most delay-prone months of the year. By simply fining airlines up to \$27,500 per passenger for noncompliance with the rule instead of seeking to address the root cause of tarmac delays, the GAO found, DOT has effectively changed airline decision making to make cancellations more likely. According to the American Aviation Institute (AAI), the tarmac-delay portion of the rule will cost airlines \$250 million annually. This is not a positive outcome for passengers, airlines, airline workers, and the overall U.S. economy.

DOT issued a second set of rules, commonly known as “Enhancing Airline Passenger Protections II,” in April 2011. One of the most costly and troublesome components of the rule is the Full-Fare Advertising requirement. AAI demonstrates that this requirement forces airlines to display the worst-case scenario for the taxes and fees that may apply to any possible routing for a trip before a passenger or travel agent has selected the routing to be flown (such display changes are costly to implement as well). Thus, according to AAI, the requirement makes the advertised price of a ticket artificially higher, which will dampen demand. Another part of the requirement stipulates that those taxes and fees not be displayed more prominently than the fare (which also involves costly reworking of displayed information), thus deliberately masking the federal aviation tax burden to consumers that drive up the ticket price. That burden has doubled over the last two decades to over 20 percent of the total ticket cost—putting airline tickets in a tax bracket higher than alcohol, tobacco, and firearms. In this respect, the “Full-Fare Advertising” rule provides no consumer benefit and imposes enormous new costs on airlines—approximately \$108 million in direct compliance costs and \$10.2 billion in lost revenue from dampened demand—spanning 2011 to 2021, according to AAI.

DOT has announced that it intends to promulgate a third and fourth set of rules, “Enhancing Airline Passenger Protections III and IV,” in 2013 and beyond. Those rules are expected to cover, among other topics, additional consumer protection requirements for code-share flights, expanded reporting on customer service information, disclosure of substantial fees, display of ancillary fees through all sales channels, and several proposals aimed at travel agents.

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As DOT has acknowledged, “matters that maintain and improve the health of the aviation industry,” including encouraging airlines to “earn adequate profits and attract capital,” are in the public interest.

Policy Recommendation: Congress should repeal the Full-Fare Advertising rule and place a moratorium on new consumer regulations (except for safety-related rules) until DOT conducts a review of existing protections, submits its findings for peer review by neutral academic experts, and collects information from airlines about the cost of compliance. In conducting its review of existing consumer regulations, and when considering new consumer regulations, DOT should give greater weight to the economic impact the rule will have on U.S. airlines and their workers rather than focusing exclusively on the impact on consumers. As DOT has acknowledged, “matters that maintain and improve the health of the aviation industry,” including encouraging airlines to “earn adequate profits and attract capital,” are in the public interest.

Enhance the Airline Customer Experience at the Airport

The airline industry’s health and sustainability relies, in large measure, on creating and maintaining a positive travel experience for the public from the moment they arrive at the airport for departure until the time that they arrive at their destination. Since the intrinsic value of air travel is its ability to save customers time, the amount of money that passengers will spend on airline tickets is related to how much time is lost during security- and customs-screening activities at the airport.

A significant impediment to the travel experience can be seen in the form of certain passenger-security-related processes and procedures that are viewed very negatively by the majority of travelers. These can include long lines and wait times, the need to remove articles of clothing, and the loss of personal privacy.

The United States’ philosophical approach and security culture, much

more than the types and amounts of resources deployed, must adapt to today’s threat with risk-based screening. Screening processes need to continue to interdict harmful objects carried into airports, but they also must be enhanced to do a better job of screening for individuals with hostile intent, and they must do so in a manner that is acceptable to the vast majority of air travelers.

In 2011, ALPA and A4A collaborated with the Transportation Security Administration (TSA) on the development of a program called Known Crewmember (KCM) to screen authorized airline personnel using available technology and airline



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A pilot passing through a KCM access point at IAH.

data. KCM is designed to confirm an airline flightcrew member's identity and current employment status, expedite his or her access to sterile areas of airports, reduce backlogs, increase throughput at passenger-screening checkpoints, and make more efficient use of TSA screening resources. It also is intended to enhance security for the traveling public and the airline industry. All of these benefits provide a win-win result for the security of the traveling public and efficiencies for airlines and their employees. Risk-based security protocols such as KCM, TSA's Precheck, and Customs and Border Protection's (CBP) Trusted Traveler programs are a smart use of federal security resources and a benefit to the traveling public.

However, ALPA is concerned that the Department of Homeland Security's (DHS) intent to shift already constrained CBP resources overseas to the United Arab Emirates (UAE) not only represents a questionable policy modification, but also threatens the economic viability of our U.S. airline industry. In April 2013, in conjunction with a visit from the crown prince of Abu Dhabi, the United States signed an agreement to establish a CBP pre-

clearance facility at Abu Dhabi International Airport—in direct contradiction of Congress's opposition as set forth in the Consolidated and Further Continuing Appropriations Act of 2013 (P.L. 113-6, Section 560[f]). ALPA, along with aviation industry stakeholders, including airlines, airports, and consumer groups, adamantly opposes this preclearance facility.

CBP currently oversees preclearance sites at 15 foreign locations that allow U.S.-bound air passengers to obtain advance approval to enter the United States from established locations in airports outside the country. These sites are strategically located at airports where U.S. carriers constitute a considerable amount of the air traffic (e.g., Dublin and Montreal) or all of the air service (as is the case in Bermuda).

No U.S. carrier currently flies between Abu Dhabi and the United States. The only carrier with such service is Etihad Airways, the state-owned national airline of the UAE. A preclearance site in Abu Dhabi would benefit only Etihad, which is already benefiting from numerous advantages over U.S. airlines, such as freedom from local taxes, the absence of transparency requirements with respect to corporate finances, and the ability to purchase wide-body aircraft from Boeing and Airbus at reduced rates through export credit agencies.

The preclearance site in the UAE is a significant departure from this paradigm and would put U.S. air carriers and U.S. airline worker jobs at risk by advantaging foreign airline competitors exclusively. In ALPA's view, U.S. Customs preclearance should benefit U.S. citizens and facilitate travel on U.S. airlines. ALPA opposes a preclearance site in the UAE for these reasons.

Policy Recommendation: DHS should abandon any plans to open a preclearance facility in the UAE, or any country where U.S. carriers do not do at least a majority of the flying. Congress should prohibit DHS from spend-

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**... every penny increase
in jet fuel prices on an
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airline industry.**

ing any funds on preclearance facilities where U.S. carriers are not doing at least a majority of the flying and should prohibit DHS from accepting independent funding of preclearance facilities from any third parties, including cities, countries, and carriers. The U.S. should also prioritize adequate resources to fully and appropriately staff domestic CBP operations.

The government should continue to promote and expand risk-based security to focus greater attention on identifying those very few persons who pose a threat to air travel instead of utilizing a one-size-fits-all approach. The government should increase investment in the Known Crewmember, Precheck, and Trusted Traveler programs, which enhance security and reduce airport wait times for all customers, improving the airline customer experience.

Promote Fuel Price Stability Through the Reduction of Oil Speculation and the Evolution of Advanced Biofuels to Market

Fuel is the largest and certainly the most volatile expense item for the airline industry. Dramatic price swings have added significant stress to an already beleaguered industry and make long-term financial planning very challenging. In today's marketplace, the price of oil is increasingly driven by speculators, not by producers and consumers of oil.

In the last decade, the level of speculative trading in crude oil futures contracts on the New York Mercantile Exchange has risen by 600 percent. According to the Congressional Research Service, during 2008, the cost of oil doubled to more than \$145 per barrel and then fell by 80 percent. In early 2011, there was a run-up of about 20 percent, sending gasoline prices to near 2008 highs. At the same time, gasoline prices have skyrocketed from \$1.56 per gallon to more than \$3.65 per gallon, increasing costs for airlines and other industries. An analysis by Deutsche Bank estimates that every penny increase in jet fuel prices on an annualized basis equals additional fuel expense of \$170 million for the U.S. airline industry. In turn, these costs are passed on to consumers or drive businesses into debt or, worse, bankruptcy.

Pilots have seen firsthand the destructive effect that oil speculation can have on the airline industry. Given what the airline industry already endured at the beginning of the decade, the oil speculation bubble compounded the financial woes of several airlines, forcing them to declare bankruptcy, liquidate, and lay off thousands of airline workers.

Additional oversight of oil speculation in the derivatives market is needed without hindering legitimate hedging practices utilized by end users, such as airlines.

ALPA recognizes that the commercialization of advanced biofuels potentially will have a significant and positive impact on the aviation industry. As the largest single purchaser of oil in the world, the U.S. Department of Defense (DOD) has taken the position that its reliance on a single source of fuel presents a threat to our national security. In 2006, the DOD began an effort to develop advanced biofuels capable of powering aircraft and maritime

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vessels. DOD has worked with the Department of Energy (DOE) and the U.S. Department of Agriculture (USDA) to purchase and refine hundreds of millions of advanced biofuels, and preliminary data indicates that advanced biofuels burn cleaner, decrease fuel burn by approximately 3 percent, and reduce maintenance costs. This is a beneficial program that will help bring advanced biofuels to commercial-scale production for use by U.S. airlines.

Policy Recommendation: Congress should reject all legislation that seeks to alter Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203). Congress should grant the DOD, the DOE, and the USDA the ability to reprogram funds to meet their obligations related to the construction of biofuel refining facilities. Congress should also provide increased funding to the U.S. Commodity Futures Trading Commission (CFTC) to ensure proper oversight of the \$300 trillion derivatives market for which CFTC is responsible. Failure to adequately fund CFTC will have a negative financial impact on the airline industry, other legitimate end users, and consumers.

Congress should reject all attempts to limit the ability of DOD, DOE, and USDA to procure and refine advanced biofuels. Congress should also oppose all legislation that would decrease funding for procurement, refining, and investment of advanced biofuels. Congress should incentivize private investment and public-private partnerships with the goal of bringing production of advanced biofuels to commercial scale and price parity with current fuel sources.

Strengthen New Entrant and Certificate Transfer Requirements for Start-Up Airlines

The combination of relatively low barriers to entry, the availability of capital, and the ability to reach and sell products to consumers via the Internet has made it much easier for start-up airlines to enter the airline industry.

This has led to new entrants that have been undercapitalized and ill-prepared to execute long-term business plans. These carriers have had a dramatic effect on industry pricing and have forced their established competitors to price irrationally in order to stay in the market. Over time, these new entrants have gone out of business, but their irrational pricing practices left the industry in worse financial condition as they forced other carriers to cut prices at the expense of profitability. Since deregulation, more than 200 air carriers have come and/or gone. Between 2000 and 2010, there were 50 bankruptcy filings by U.S. air carriers, with 29 of those carriers ceasing operations. An average of 12 percent of U.S. carriers' capacity was associated with a bankruptcy between 2000 and 2009, with a high of 32 percent in 2005.

Many communities have been hurt when new entrants have gone out of business. Skybus, for example, began service out of Columbus, Ohio, in May 2007 and shut down less than a year later. During that time, Skybus was beset with a myriad of operational problems and economic challenges. Despite its unsustainable business model, the airline kept fares at \$10 and was forced to cancel routes within five months of starting service. Once Sky-



... Skybus was beset with a myriad of operational problems and economic challenges.

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The DOT should look to strengthen its requirements for new entrants and increase scrutiny of the transfer of certificates to new carriers.

bus failed, Columbus no longer had a large carrier serving multiple destinations, and the company's former competitors were left with bruised balance sheets as a result of its disastrous pricing policy.

Policy Recommendation: The DOT should look to strengthen its requirements for new entrants and increase scrutiny of the transfer of certificates to new carriers. These requirements should set higher standards of viability for financial wherewithal (i.e., proper capitalization, well-thought-out business plans) and require that new entrant applicants and carriers seeking transfer certificates have sound business plans.

Liberalize Foreign Tourist Visas

The U.S. travel and tourism industry represents 2.7 percent of GDP and employs one in eight Americans. The average overseas tourist spends almost \$4,500 per visit supporting the U.S. economy. Travelers to the United States fly on U.S. airplanes with American crews and help to support thousands of U.S. airline jobs. We must work to grow in this vital sector to benefit our economy and our airline workers.

Unfortunately, current law actively discourages tourism from international visitors. More than 40 percent of international travelers to the United States require a visa for entry; due to current regulations and the limited number of U.S. consulates, obtaining a visa can cost a family as much as \$1,800, severely limiting the number of potential overseas tourists. Those who do reach our shores are met with inefficient, excessive, and frustrating customs and entry processes that resulted in 43 percent of travelers recommending against visiting the United States.

Policy Recommendation: The U.S. government should promote U.S. tourism from abroad by:

- Modernizing and expanding the visa waiver program in order to increase the number of potential travelers to the United States;
- Reducing the cost of obtaining a visa by facilitating the use of secure video conferencing and reducing visa wait times; and
- Expediting the customs and entry process through better staffing, improved metrics, and focusing on risk-based security measures like the Global Entry program.

Congress should act on all of these points by passing the JOLT Act (H.R. 1354), which legislates action on all of the above goals.

Invest in NextGEN to Improve Safety and Increase Efficiencies While Decreasing Costs to Airlines

To maintain a competitive advantage in the international marketplace, the United States' national airspace system (NAS)—which includes the air- and ground-based infrastructure, including air traffic control surveillance, communication, navigation, airports, aircraft, and more—must be modernized.

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The current system of air traffic management is based on technologies, techniques, and processes that date back decades. The infrastructure continues to deteriorate, and the ability of the FAA and operators in the NAS to guarantee the safest and most efficient travel possible is being diminished.

Existing and emerging technologies and innovative procedures hold the promise of significant increases in the ability to improve the level of safety while also improving system capacity and efficiency, allowing our airlines to grow and ultimately save on costs, resulting in a better business environment and a more level playing field for U.S. airlines. However, without a firm commitment of appropriate, planned, and continuing resources, these efficiencies will never materialize.

NextGen will improve efficiency of operations, enhance both the accuracy of navigation and the ability to pinpoint the position of aircraft in flight and on the ground, streamline communications, and provide sophisticated automated tools for both pilots and controllers. This will result in increased capacity, reduced delays in the air and on the ground, and diminished greenhouse gas emissions. Less fuel will be consumed, resulting in immediate cost savings. Reduced taxi and flight time also translates into less noise and fewer emissions. Better knowledge of exactly where the aircraft is translates into reduced risk, more efficient traffic management and aircraft utilization, reduced delays, and fewer runway incursions. All of these benefits lead to profitability and growth of our airlines and our nation's economy, as well as a better customer experience.

The upgrade from the current outdated system to a modern, more efficient one is as complex as the technologies themselves. It is simply impossible to "turn off" the current system while changes are made. Every major upgrade to the system must be undertaken while the system is in full operation, with the existing workforce, without significantly impacting the current capacity of the system, and with no degradation in safety. Thus, development of equipment and procedures, acquisition and deployment strategies, and training for pilots, controllers, and technicians must all be fully integrated as part of a comprehensive plan. The mixture of aircraft with differing capabilities increases the complexity of the effort to modernize. We have to continue to service existing technologies and procedures while implementing new technologies and innovative procedures to be utilized in the future.

Policy Recommendation: The U.S. government can help level the playing field for U.S. airlines and their employees by investing in NextGen to promote greater safety and efficiency. Congress and the administration rightly rejected automatic cuts to essential FAA operations and investments and now must work to accelerate the FAA's NextGen plan. The scope, duration, and cost of NextGen require that decisions on critical aspects, such as funding and equipage, must be timely, accurate, and focused on the overall needs of the public. Strong government leadership, consistent long-term funding, and cooperative planning are all needed in establishing standards and requiring minimum levels of equipage.

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U.S. airlines actually get “taxed” twice for NextGen, paying taxes on fuel and tickets, landing fees, and numerous other fees, while also bearing the cost to install mandated technologies on their aircraft that will enable them to participate in the NextGen environment.

NextGen Taxes

While most aviation taxes go toward maintaining the current aviation infrastructure in this country, some of the revenue from taxes also goes toward developing and implementing technologies and procedures that lead to NextGen. U.S. airlines actually get “taxed” twice for NextGen, paying taxes on fuel and tickets, landing fees, and numerous other fees, while also bearing the cost to install mandated technologies on their aircraft that will enable them to participate in the NextGen environment.

NextGen benefits all users of the national airspace system, not just airlines. Ironically, the most immediate economic benefit of many of these technologies, ADS-B for example, is to reduce the cost to the federal government to maintain and operate the national airspace system. ADS-B implementation enables the government to shift away from a ground-based surveillance infrastructure to a satellite-based system. This significantly reduces the cost burden on the government to maintain antiquated ground-based radar systems.

Policy Recommendation: Given that the savings of NextGen investments by the airlines benefit the federal government at the front end, these savings should be passed to the airlines in the form of grants, tax credits, subsidies, or other incentives to encourage aircraft equipage.

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Section 2: Enhancing International Aviation Safety and Security Regulations to Level the Playing Field

Historically, the United States has led the world in setting aviation safety and security standards. Problems arise when the safety and security field is not level, and foreign airlines do not keep up with the United States' high standards. When the United States' excellent safety and security standards are not adopted by foreign competitors, U.S. carriers are left at a competitive disadvantage, and international air safety and security as a whole are compromised.

ICAO is an international standards-setting body chartered through the United Nations. Many developing states use the ICAO standards as their own body of aviation regulations, making the ICAO guidance the *de facto* "minimum acceptable standard" worldwide.

States with aviation safety and security regulations more restrictive than those of ICAO, such as those of the United States, run the risk of being at an economic disadvantage since manufacturing, operating, and infrastructure costs may be driven up by the need to comply with the higher standards. It is thus in the United States' best interest, both in economic terms and from the standpoint of a safer global aviation system, to endeavor to continually influence the development of ICAO standards using U.S. regulations as a baseline to level the playing field. In other instances, establishing higher ICAO standards than exist in U.S. federal aviation regulations can prompt the U.S. government to meet those standards.

Flight-/Duty-Time Requirements

ALPA views the establishment of improved flight and duty rules as among the most important flight safety undertakings in modern times. In December 2011, the U.S. government published a final rule on flight-/duty-time regulations for passenger-carrying airlines (FAR 117), which implemented much-needed and long-awaited safety improvements. The new rule is a significant improvement over the antiquated rules established five decades ago. Unfortunately, cargo operations were not included in the new pilot fatigue rule. For decades, ALPA has demanded "One Level of Safety" for the simple reason that fatigue affects all pilots. All safety regulations should follow suit.

Policy Recommendation: Congress should direct the FAA to amend FAR 117, the pilot fatigue rule, to include cargo operations under the same fatigue standards as those of passenger airlines. ALPA supports the Safe Skies Act (H.R. 182), which would accomplish this goal.

Further, the United States should pursue a vigorous effort at ICAO to adopt a new international standard for flight/duty time that will increase aviation safety around the globe and create a level playing field for U.S.

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airlines that compete globally. The rule should cover all airline operations and be based on FAR 117.

Mandate FRMS

A fatigue risk management system (FRMS) supplements prescribed flight- and duty-time regulations and other validated, independent, scientific, research-based software tools by applying SMS principles and processes to proactively and continuously manage fatigue risk through a partnership approach involving management and crewmembers. The purpose of an FRMS is to ensure that flightcrew members are sufficiently alert so that they can operate to a satisfactory level of performance and safety under all circumstances.

In December 2011, ICAO adopted new standards for pilot fatigue management and included the use of FRMS as one means of mitigating the risk of fatigue. Despite the fact that FRMS are contained in ICAO standards, states' acceptance and implementation of these standards have been irregular at best. In the United States, most airline operators have a considerable amount of work to do to create both programs on their respective properties.

Policy Recommendation: The United States should advocate adoption of FRMS for all aspects of flight operations to ensure that flightcrew members are well rested and alert.

Pilot Training, Licensing, Mentoring, and Screening

The best and most important safety feature on any airplane is a well-trained, highly motivated, professional pilot. Despite great advances in aircraft tech-

nology that have immeasurably improved safety, the flight crew is still responsible for making hundreds of decisions on each and every flight in order to operate in the safest manner possible.

Flying today's complex airline aircraft in very congested and complicated airspace is a challenging undertaking, even for experienced pilots. Yet around the world, entry-level pilots hired by airlines over the past few years generally have less experience than pilots hired in prior years. In some cases, pilots barely meet the qualifications and competencies established as the accepted minimums for commercial pilots. In some cases, the hiring requirements have been lowered to the minimum allowable in order to acquire a commercial pilot license.

Recent accidents in the United States have led Congress and the FAA to recognize the inherent shortcomings in today's training regulations. Numerous aviation rulemaking committees met in 2010–2011



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and developed many recommendations that the FAA is presently compiling into a final rule to amend the flight training, screening, and mentoring requirements of the next generation of airline pilots, as mandated by the Airline Safety and Federal Aviation Administration Extension Act of 2011 (P.L. 111-216).

Policy Recommendation: The United States should pursue a vigorous effort at ICAO to adopt new international standards for pilot flight screening, training, and mentoring around the globe.

Carriage of Hazardous Materials Including Bulk Shipments of Lithium Batteries



ALPA has long advocated for improved transport requirements for hazardous materials. Shipment of lithium-ion and lithium-metal batteries aboard aircraft is currently the most pressing hazmat issue that the aviation community needs to address. Lithium batteries are more volatile than many goods that are currently shipped as hazmat; they can self-ignite when damaged, defective, or exposed to a heat source. They also burn incredibly hot, and FAA testing has shown that fires involving lithium-metal batteries are unresponsive to halon, the traditional extinguishing agent used aboard aircraft.

The United States has proactively banned the shipment of lithium-metal batteries on passenger aircraft. Despite the same risk that these batteries pose on cargo aircraft, lithium metal is still allowed on all-cargo aircraft. At this time, lithium-ion and lithium-metal batteries are exempt from many federal hazardous material regulations, such as the requirement to place a dangerous goods label on the package, the requirement to notify the pilot-in-command of their presence, the requirement that airline personnel perform an acceptance check of the package, or any of the cargo compartment quantity limitations normally applied to hazardous materials. Further, there is no international prohibition on the shipment of lithium-metal batteries.

The FAA reauthorization bill of 2012 (P.L. 112-95) prohibits any new federal regulation on the shipment of lithium-metal or lithium-ion batteries (except the current metal ban on passenger aircraft) that is more stringent than the standards set by ICAO. There are exceptions if there is a “credible report” from a national or international governmental regulatory or investigating body that lithium batteries substantially contributed to an onboard fire resulting in a safety incident.

ALPA has been working through ICAO’s Dangerous Goods Panel to improve international technical instructions for shipment of lithium batteries for more than a decade. In early 2013, ICAO issued new provisions that incorporate new requirements for packages containing more than eight cells or two batteries, including training



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for the shipper and operator, dangerous goods labels, acceptance checks, preloading and unloading inspections, and inclusion on the information given to the pilot-in-command. Current U.S. regulations allow exceptions for a large number of consumer batteries in a single package and any number of packages on an airplane. These batteries could be transported without a flight crew's knowledge of the potential risk.

Policy Recommendation: The United States should adopt more stringent regulations over the air transportation of lithium batteries and align them with current ICAO standards and recommendations.

Establishing Global Carbon-Emission Levels

Most states are concerned about the potential effect on the climate caused by greenhouse gases, carbon dioxide in particular, as a result of burning jet fuel. To this end, the European Union created an emissions trading scheme (EU ETS), which is a unilaterally imposed scheme that charges airlines for their aviation carbon emissions into and out of the EU. This ETS has been the target of much criticism by states around the world, as it is in contravention of the Chicago Convention and violates the basic principles of state sovereignty set forth in that convention and the relevant provisions of the United Nations Framework Convention on Climate Change. Further, just as with the UK environmental departure fee, there is no requirement that ETS receipts be applied toward mitigating climate change or decreasing aircraft emissions through technological innovation of equipment or fuel.

The EU ETS was scheduled to take effect in April 2013. Implementation of the scheme as it pertains to aviation was postponed for one year by the European Union, as it became apparent that the U.S. Congress would pass the EU Emissions Trading Scheme Prohibition Act (P.L. 112-200), which provides the secretary of transportation with the authority to prohibit U.S. air carriers from participating in the EU ETS.

ALPA and the airline industry support a global sectorial approach to curbing aircraft emissions through ICAO. The global aviation industry must have a global standard that does not simply punish emissions, but increases investment in the global aviation industry and promotes the sustainable growth of our industry.

Policy Recommendation: The United States should support the effort at ICAO to reach a global agreement pertaining to airline emissions. The secretary of transportation should prohibit participation in the EU ETS by U.S. air carriers, should the EU apply the EU ETS to those carriers.





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