A bold voice for transportation workers

WRITTEN STATEMENT OF
EDWARD WYTKIND, PRESIDENT
TRANSPORTATION TRADES DEPARTMENT, AFL-CIO

BEFORE THE
HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON AVIATION
HEARING ON
"THE STATE OF AMERICAN AVIATION"

December 12, 2013

Chairman LoBiondo, Ranking Member Larsen, and members of the House Transportation and Infrastructure Subcommittee on Aviation, thank you for the opportunity to testify today on the state of American aviation.

As the President of the Transportation Trades Department, AFL-CIO (TTD), I am honored to speak on behalf of the workers who operate, maintain, service and build our nation's aviation system. By way of background, TTD consists of 32 affiliated unions that represent workers in every mode of transportation, including those who work in aviation[1].

Today, the U.S. aviation sector and its workforce are confronted with enormous challenges. Foreign states and carriers are aggressively pursuing liberalization agendas designed to increase their share of the world aviation marketplace – often at the expense of U.S. carriers and their workers. Our government must be vigilant in rejecting inherently unfair and anti-competitive accords and instead it must promote policies that ensure the competitiveness of U.S. airlines. The ability of U.S. carriers to operate domestically and compete internationally depends on having a fully functioning and efficient FAA with stable and robust financing for our aviation system and its workforce. We must also do more to ensure that important safety reforms are implemented and current rules are not needlessly reformed or revisited based simply on a broad anti-regulatory agenda.

The policy and trade decisions of our government and the business decisions of our air carriers in the next few years will determine the fate of this vital sector of the U.S. economy. We know that the expansion of international air transportation opportunities can offer lucrative business opportunities for U.S. airlines and, if done the right way, create and sustain good aviation jobs. But we also know that globalization without checks and balances can have devastating effects on

[1] A complete list of TTD affiliates is attached.

Transportation Trades Department, AFL-CIO

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entire industries and middle class American jobs.[2] TTD has always rejected efforts that seek aviation liberalization at any cost and without adequate protections for the men and women who work in our aviation industry. Decades of unfair trade policy have ravaged workers in many U.S. industries, and we will not relent in our commitment to ensuring that aviation liberalization does not have the same result for U.S. aviation employees.

What is clear is that globalization is moving fast, and how the U.S. handles and addresses an array of issues over the next several months and years will determine if a strong and vibrant U.S. aviation industry and middle class workforce are preserved.

A pending trade issue that is vital to our aviation sector is the U.S.-European Union (EU) negotiations over a Transatlantic Trade and Investment Partnership, better known as TTIP.

These negotiations encompass a wide variety of trade liberalization issues, yet despite the historical precedent of excluding air services in these types of broad trade negotiations, the EU is attempting to include aviation in these talks. We are strongly opposed to this approach, as it is an attempt by the EU to force changes to U.S. rules that limit foreign ownership of U.S. airlines and reserve domestic point-to-point service, or cabotage, to U.S.-controlled carriers. Because the EU has failed in its attempts to force unwanted reforms to these U.S. laws, it is attempting to do so in complex TTIP talks with hopes that somehow our aviation interests would be "traded away" for other trade objectives. This strategy must be rejected and we have communicated these views to the Administration and the EU.[3] Fortunately, many members of the House agree with us. In July of this year 158 Members – including the majority of this committee – signed on to a letter to Ambassador Froman asking that he exclude air transport services from TTIP. We were pleased that Mr. Froman responded to this letter by stating that he will consult with the Department of Transportation (DOT) and Department of State (DOS) as negotiations move forward. But we think that USTR needs to take a hard stance on this issue and state unequivocally that air transport services will not be included in TTIP.

The good news is that risking our aviation interests in a broader trade negotiation isn't necessary if the objective is opening aviation markets and expanding trade and jobs in a fair and balanced manner. Over 100 trade liberalization pacts, referred to as "Open Skies" agreements already exist between the U.S. and various governments, and new and expanded agreements are on the table. In other words, aviation trade is expanding through existing negotiating frameworks. There is no need for our government to throw aviation into a larger, more complex pot of trade issues.

"Open Skies" negotiations are overseen by dedicated experts at the DOS and DOT. This process, led by those with a deep understanding of the unique nature of this industry, has shown in the past to produce positive growth opportunities for U.S. carriers, passengers and aviation employees. When the U.S. and the EU negotiated the bilateral Air Transport Agreement (ATA)

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[2] Bivens, J. (2008, May 6). Trade, Jobs and Wages. *Economic Policy Institute.* Issue Brief #244.

[3] Attached are TTD's comments on the Transatlantic Trade and Investment Partnership, submitted to USTR docket number USTR-2013-07430 on May 10, 2013.

we were pleased to see the inclusion, for the first time ever, of a labor article and a process through which the parties can seek to address adverse effects of the agreement on aviation employees. The U.S. also wisely rejected efforts by the EU to force changes to our rules and regulations governing foreign ownership and control of U.S. airlines.

Foreign ownership and control rules, and prohibitions against foreign carriers engaging in cabotage have ensured a viable U.S. airline industry and have protected U.S. aviation workers against unfair competition, preserved workers' rights and ensured our nation's status as the world's leader in air transportation. Foreign states have long lobbied to loosen these restrictions in order to gain a foothold in the lucrative U.S. aviation market, the world's largest, and syphon away good middle class jobs. In rejecting these proposals, despite the heavy-handed tactics of the EU, the final U.S.-EU accord proved again that responsible liberalization agreements can promote international growth while also protecting a vital U.S. industry and good jobs.

While we supported the U.S.-EU agreement, we are concerned about a business model being developed by an EU carrier – Norwegian Air Shuttle (NAS) – that is designed to exploit aviation and labor laws in order to undermine the jobs and rights of its pilots and flight attendants. As the name suggests, Norwegian Air Shuttle is incorporated in Norway and holds an air operators certificate (AOC) from that country as well. Rather than register its 787 aircraft in its home country, NAS has registered them in Ireland and is seeking to obtain an Ireland-issued AOC. The airline is using pilots who will be based in Thailand and employed on individual employment contracts that are governed by the laws of Singapore to crew these flights. The pilot crew will not be employed directly by NAS but by a pilot recruitment company that will then contract, or more accurately "rent" them to NAS. A similar arrangement will apply to the flight attendants who will work on the 787s.

In addition, the airline apparently takes the position that because its aircraft are registered in Ireland it does not need to obtain Norwegian work permits for its Asian-based crew. While the union that represents the non-787 crew is challenging this assertion, the government of Norway has indicated that registration of the aircraft in Ireland will postpone the need for Norwegian work permits for the Asian-based pilots and has indicated that obtaining an Irish AOC may take those pilots completely out from under coverage by Norwegian social laws. It is also unclear whether Irish social laws will cover these airline workers, or if they will be required to obtain Irish work permits. An affiliate of NAS is now seeking an Irish AOC and, just this past week, that affiliate has applied to DOT for an air carrier permit.

The goal here is clear. NAS is using the unique nature of EU aviation laws to effectively shop around for the labor laws and regulations that best suit its bottom line. It's using a "Flag of Convenience" strategy at the expense of decent labor standards. We raise this, not just to complain about a foreign airline operator, but to demonstrate that what happens in the global aviation industry impacts U.S. aviation employees. It is significant that NAS has announced that it intends to serve routes from London to New York City and Fort Lauderdale, with plans to serve Los Angeles, Oakland and Orlando in the near future. By using a "Flag of Convenience"

operating model designed to chase cheap labor costs, NAS will undercut U.S. carriers and their employees that serve those same markets by as much as 50 percent.

The previously referenced labor article in the U.S.-EU ATA was drafted with this type of abusive conduct in mind. The evasive tactics taken by NAS remind us however, that even with certain safeguards in place, they must be effectively enforced. The NAS operating scheme must be derailed. Our government, and hopefully members of this committee must make it clear that these tactics run contrary to the faith and intent of the US-EU Air Transport Agreement.

The expanding web of aviation liberalization agreements throughout the world is making the global aviation system increasingly interconnected and integrated. With this come a host of regulatory issues and concerns that need to be addressed. One such issue is the impact of aircraft carbon emissions on the environment and global climate change. TTD is committed to working with U.S. carriers and the U.S. government in seeking a global solution to reducing aviation emissions, but we believe that any solution must be truly global in order to provide meaningful results and ensure competitive balance. Piecemeal unilateral attempts to curb carbon emissions would place an unreasonable financial burden on U.S. carriers and their employees and only further delay the process of reaching an international, consensus-based agreement. This includes the EU's Emissions Trading Scheme (ETS), a plan that if implemented would apply to all flights entering and leaving EU airspace.

I would like to thank members of this Committee for leading the effort last year to pass legislation that allowed the Secretary of Transportation to combat the harmful effects[4] of the EU ETS and ensured that U.S. airlines were not subject to the EU cap-and-trade tax penalties. Because of this legislation, and other international pressure, the EU postponed implementation of ETS for a year to give the International Civil Aviation Organization (ICAO) an opportunity to draft a global plan. We were pleased, then, when earlier this month ICAO's general assembly approved a plan that will provide for the development, over the next three years, of a global framework for addressing aviation's impact on climate change, with the goal of implementing the plan worldwide by 2020. The ICAO action was an important step toward implementing a global solution to this problem, and we look forward to working with ICAO to develop a framework that will substantially reduce global emissions, improve the efficiency and cost-effectiveness of our aviation system, and promote sound environmental stewardship while maintaining competitive balance and fairness in the international aviation marketplace.

We are concerned, however, that despite the international commitment to a global framework for reducing carbon emissions, EU officials have expressed disappointment with the ICAO agreement and continue pushing the misguided ETS scheme. In the aftermath of the ICAO general assembly meeting, the European Commission (EC) proposed revising the EU law so that the ETS would cover all flights over EU airspace, including those flown by international carriers. The latest EU proposal only complicates international negotiations, and we hope that the U.S. government continues to work toward a truly global solution through ICAO. I want to thank the

[4] Attached is TTD's policy statement "Supporting a Global Solution to Aviation Emissions," which was adopted by the TTD Executive Committee on October 29, 2013.

Chairmen and Ranking Members of both the full and subcommittee for writing to Secretary Foxx on November 22, 2013 and asking that he work to resolve this issue. Your diligence and leadership in pushing back against the EU is critical to our success moving forward.

We also must ensure that the more than 700 foreign-based aircraft repair stations certified by the FAA to work on U.S. aircraft are held to the same safety and security rules that we require for work done in this country. Too often this has not been the case. For example, aircraft mechanics working in the United States either employed at air carriers or at domestic contract repair stations are required to undergo various drug and alcohol screenings to ensure their ability to perform safety-sensitive repairs. Yet employees working at repair stations based overseas are exempt from these tests despite the fact that they work on the same U.S. aircraft and at repair stations certified by the FAA. The FAA Modernization and Reform Act of 2012 included a number of reforms to aircraft repair station regulations designed to address safety loopholes. Specifically, the final law included a provision (Section 308(d)(2)) directing the FAA, within one year of enactment, to issue a proposed rule requiring all repair station employees responsible for safety-sensitive maintenance on U.S. aircraft to be subject to an alcohol and controlled substance testing program.[5] While we are pleased that Congress moved to address this safety issue, the FAA is now almost nine months late in fulfilling this mandate and the provision will have no impact until it is formally implemented by the FAA. This delay is unacceptable and particularly grievous since additional time will be needed to implement the final regulations after the proposed rule is finally released.

Furthermore, we continue to wait for the Transportation Security Administration (TSA) to issue security rules – now nine years late – that govern foreign and domestic repair stations. While the TSA finally did issue an NPRM in 2010, we have significant concerns that the proposal does not go far enough to address the security questions that have been raised. As we stated in our 2010 comments that we agree with TSA's assessment, noted in the NPRM, that as the agency "tightens security in other areas of aviation, repair stations increasingly may become attractive targets for terrorist organizations attempting to evade aviation security protections currently in place." With this in mind, we are disappointed that nothing in the proposed rule requires stations to determine if a worker is a security threat; instead, stations are only required to "verify background information through confirmation of prior employment …" (Section 1554.103(a)(6)). This stands in stark contrast to the extensive criminal background checks and threat assessments imposed on in-house U.S. carrier mechanics.

We are also concerned that security plans submitted by contract repair stations would not be approved or even filed with TSA. This problem is compounded by the fact that the mandates of the security plan appear ambiguous and will change based on the perceived risk of each repair facility. We noted that TSA must have the ability to conduct unannounced inspections to ensure compliance with security rules in place and that the NPRM offered a conflicting statement on whether and how inspections would occur. The absence of unannounced inspections at foreign

[5] Separately, Section 308(d)(1) directs the Secretary of Transportation and the Secretary of State to request that member countries of ICAO establish international standards for alcohol and controlled substance testing of persons that perform safety-sensitive maintenance functions on U.S. commercial aircraft.

stations would again create a double standard with domestic facilities. More to the point, unannounced inspections make good sense as part of a comprehensive aviation security oversight program.

Under current law, the FAA is barred from certifying any new foreign repair stations until the security rule is finalized. We strongly support continuation of this ban and urge TSA to make needed changes to its proposed rule before a final rule is issued.

Beyond TTIP, Open Skies negotiations and ICAO global aviation emission issues, the U.S. government must embrace policies that promote the competitiveness of U.S. airlines and protect and expand U.S. airline jobs. It also must not advance policies that provide a competitive advantage to foreign airlines, particularly state owned or subsidized airlines. Unfortunately the Department of Homeland Security (DHS) has been doing the latter. Earlier this year DHS announced plans to open a Customs and Border Protection (CBP) pre-clearance facility at the Abu Dhabi International Airport in the United Arab Emirates (UAE). This facility will be staffed by U.S. customs agents at significant cost to the U.S. taxpayer. CBP pre-clearance facilities are popular with passengers and can help relieve congestion at customs check points in U.S. airports. However, no U.S. carrier currently flies between the U.S. and Abu Dhabi. A preclearance site in Abu Dhabi would benefit only Etihad – the state-owned air carrier of the UAE – and is a significant departure from the current construct of preclearance operations, which is to facilitate U.S. air carrier travel and to benefit U.S. travelers. Preclearance should not be a vehicle to put U.S. air carriers and U.S. airline jobs at risk by exclusively advantaging a foreign competitor. Given that Etihad only operates three routes between Abu Dhabi and the U.S., we believe CBP resources and personnel would be better used here at home to relieve overburdened customs lines in U.S. airports. I would like to thank two members of this committee, Reps. Patrick Meehan and Peter DeFazio for introducing H.R. 3488, which would prevent DHS from opening this preclearance facility, and I urge Congress to move to quickly pass this bill into law. Members of the House Homeland Security Committee, led by Reps. Sheila Jackson Lee and Bennie Thompson have introduced similar legislation (H.R. 3575). Absent legislative action, we urge DHS to reconsider the planned pre-clearance facility and hope that committee members will oppose this plan.[6]

In order to remain competitive in the global marketplace and continue in our commitment to serving the flying public, the U.S. must invest in the FAA's workforce and aging infrastructure, stabilize the FAA's operating budget, ensure enhanced oversight of the industry and airspace, and continue modernizing the National Airspace System (NAS) through the Next Generation Air Transportation System (NextGen) initiative. We've already witnessed the impacts that government shutdowns have had on these programs and each time this occurs, these initiatives, designed to make air travel safer and more efficient and to expand capacity, are grounded or idled. The government shutdown is just the latest disruption for the FAA. Passage of the 2012 FAA Reauthorization Act was delayed over three years with 23 extensions before finally being signed into law. In fact, when an agreement could not be reached on the 21st extension, the FAA

[6] Calio, N., Moak, L., Wytkind, E. (2013, July 22). Why Preclearance in Abu Dhabi is a Bad Deal for America. *The Hill's Congress Blog*.

was partially shut down for two weeks during the summer of 2011, costing the government nearly $30 million a day. More recently, in April 2013, sequestration forced the FAA to furlough every employee, including air traffic controllers and safety inspectors, and look at closing towers in order to achieve the mandated spending cuts. This year, Congress did not pass a stand-alone Transportation, Housing and Urban Development (THUD) Appropriations bill, and is now only able to pass temporary, short-term, stopgap continuing resolutions to keep our government funded. This must end. Under the current budgetary constraints we have serious concerns regarding the FAA's ability to fully function and operate. Sufficient and predictable long-term funding is desperately needed to ensure that our aviation system is as safe and efficient as possible.

This lack of stable funding has already caused damage, some of which will be difficult if not impossible to reverse. For example, stop-and-start funding means that the FAA can't plan for the future, making long term improvement and modernization projects even more difficult. In addition, restarting modernization projects is very expensive and some projects may need to begin again from square one. The April 2013 furloughs caused delays to modernization projects like En Route Automation Modernization (ERAM) that are costing $6 million per month of delay (currently estimated to be about $42 million).

Due to sequestration cuts – which are set to continue into fiscal year 2021 unless Congress takes action – preventative maintenance has been halted, and engineers and systems specialists must contend with a fix-on-fail policy, meaning they must wait until equipment actually breaks before replacing it. This creates an obvious safety concern and may also result in excessive and avoidable air traffic delays. Sequestration-mandated furloughs in April 2013 caused severe delays: during the week of April 21-27 2013, delays nearly tripled at our nation's airports, from 5,103 delays to 13,694. These funding cuts are problematic, and will continue until Congress finds a responsible way to end sequestration. Until then, our NAS is in jeopardy of falling behind on efficiency, safety, and capacity.

The FAA also continues to operate under a hiring freeze and one-third of its workforce, including air traffic controllers, aviation safety inspectors and systems specialists, will be eligible to retire starting in 2014. With a hiring freeze in place, the FAA lacks the ability to replace retiring employees and respond to the influx of future retirements. Furthermore, even when the FAA is permitted to hire new employees, the training for employees throughout the agency is extensive and it can take two to five years to fully train new hires. In addition, FAA operations within the current budget environment are presenting major challenges for the FAA workforce and the aviation system, which is resulting in limited funding for travel, challenges performing inspections and other surveillance activity, reduced or delayed maintenance of critical systems and equipment, and difficultly in meeting growing industry demands with its manufacturing and certification process. Without clear funding in place to ensure the current workforce remains on the job and a new generation of employees is in place with access to thorough on-the-job training, there is no way the FAA can guarantee there will be enough aviation safety inspectors, air traffic controllers, systems specialists and other employees in place to secure the safety and efficiency of the system.

Investment has been severely reduced at the FAA for new and existing manufacturing certifications. Current reductions in the FAA's certification process are expected to have serious economic impact on the aviation industry and ongoing aircraft and part manufacturing products. In fact, the FAA estimates that as many as 1,480 ongoing aircraft and parts manufacturing projects will be impacted as long as sequestration remains in place. Adequate FAA staffing must be in place to support a robust certification process. The global aviation marketplace is expanding at a rapid pace and the FAA must continue to move forward confidently without the continuing uncertainty associated with threatened shutdowns and sequestration.

Finally, as this Committee and Congress as a whole develop and consider legislation that impacts our nation's aviation system, it is critical that it continue to promote safety in the workplace. The 2012 FAA Reauthorization made many significant reforms to improve the health and safety of our aviation works both on the ground and in the cabin. More work needs to be done both in implementing these reforms and developing new legislation, but Congress must also not pursue a recklessly anti-regulatory agenda that undermines existing safety rules or inhibits progress in making our aviation system the safest and most efficient in the world.

The U.S. aviation industry and its workers face significant challenges and opportunities in the months and years ahead. Already, U.S. aviation crews have seen their jobs threatened by corporate schemes such as alliances between U.S. and foreign air carriers, and the "flag of convenience" scheme being advanced by Norwegian Air Shuttle. Similarly, foreign outsourcing of aircraft maintenance and passenger service functions is sending good U.S. aviation jobs overseas, while our own FAA remains paralyzed by sequestration and budgetary uncertainly. The U.S. aviation system remains the best and safest in the world, however, and through smart government policy that promotes U.S. competitiveness we can thrive in the international marketplace while creating and protecting high quality U.S. aviation jobs.

Thank you for the opportunity to testify today, and I look forward to working with the committee to promote the health of the U.S. aviation industry and to protect and expand our middle class aviation industry workforce.

Attachment 1

TTD MEMBER UNIONS

The following labor organizations are members of and represented by the TTD:

Air Line Pilots Association (ALPA)
Amalgamated Transit Union (ATU)
American Federation of Government Employees (AFGE)
American Federation of State, County and Municipal Employees (AFSCME)
American Federation of Teachers (AFT)
Association of Flight Attendants-CWA (AFA-CWA)
American Train Dispatchers Association (ATDA)
Brotherhood of Railroad Signalmen (BRS)
Communications Workers of America (CWA)
International Association of Fire Fighters (IAFF)
International Association of Machinists and Aerospace Workers (IAM)
International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers (IBB)
International Brotherhood of Electrical Workers (IBEW)
International Longshoremen's Association (ILA)
International Organization of Masters, Mates & Pilots, ILA (MM&P)
International Union of Operating Engineers (IUOE)
Laborers' International Union of North America (LIUNA)
Marine Engineers' Beneficial Association (MEBA)
National Air Traffic Controllers Association (NATCA)
National Association of Letter Carriers (NALC)
National Conference of Firemen and Oilers, SEIU (NCFO, SEIU)
National Federation of Public and Private Employees (NFOPAPE)
Office and Professional Employees International Union (OPEIU)
Professional Aviation Safety Specialists (PASS)
Sailors' Union of the Pacific (SUP)
Sheet Metal, Air, Rail and Transportation Workers (SMART)
SMART-Transportation Division
Transportation Communications Union/ IAM (TCU)
Transport Workers Union of America (TWU)
UNITE HERE!
United Mine Workers of America (UMWA)
United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW)

December 2013

A bold voice for transportation workers

Attachment 2

May 10, 2013

Ms. Yvonne Jamison
Office of the United States Trade Representative
600 17th Street, NW
Washington, DC 20508

RE: Request for Comments on the Transatlantic Trade and Investment Partnership
Docket No. USTR-2013-07430

Dear Ms. Jamison,

The Transportation Trades Department, AFL-CIO (TTD) appreciates the opportunity to submit its views on the proposed Transatlantic Trade and Investment Partnership (TTIP) between the United States and the European Union. TTD has previously submitted comments during the United States European Union High Level Dialogue process, and I gave an oral presentation of TTD's views at the US-EU High Level Regulatory Cooperation Forum on April 11, 2013. TTD's comments today will reflect those previously stated positions.

We understand that the EU has asked that the ownership and control rules that pertain to airlines, the right of the carriers of two sides to operate in each other's domestic markets ("cabotage operations"), and maritime transport services be included as topics in the TTIP negotiations. For the purposes of air transport services, TTD's comments here are limited to whether or not air traffic rights and services directly related to those rights should be included in TTIP. TTD strongly believes that they should not. Likewise, TTD believes that maritime transport services and U.S. maritime laws such as the Jones Act should not be included in these negotiations.

Air transport services have historically been excluded from general trade agreements such as GATS and bilateral and multilateral free trade agreements. Rather, such services have been subject to a separate administrative regime, under which the U.S. has negotiated air service specific agreements with foreign countries. These negotiations have been led by the Department of State and the Department of Transportation, two agencies with dedicated experts on air transport services. This regime has led to the steady and dramatic removal of barriers to trade in the air transport services sector and since 1993 the U.S. has entered into "open skies" agreements with 107 countries – agreements that have eliminated virtually all restrictions on the ability of carriers to select routes, to establish frequencies and to set prices.

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The U.S. and the EU have recently entered into such an open skies Agreement ("Agreement"). During the comprehensive discussions that resulted in the Agreement, the EU sought the exchange of cabotage rights and the elimination of restrictions on the ownership and control of airlines by the nationals of the parties. In fact, it is fair to say that consideration of altering the ownership and control rules was one of the central topics in the negotiations. Ultimately, the Agreement left in place the restrictions on cabotage. With respect to ownership and control, the Agreement left in place the statutory restrictions but did establish a Joint Committee (consisting of representatives of the two sides) that meets on a regular basis and is tasked, among other things, with considering possible ways of enhancing the access of U.S. and EU airlines to global capital markets.

In TTD's view the existing administrative framework has been successful in opening markets and liberalizing trade in air transport services while at the same time taking into account the legitimate concerns of airline labor. The regime has also created an open market environment that has permitted the airlines of the two sides to receive antitrust immunity for ever-deeper alliance arrangements. Almost all major U.S. and EU passenger airlines are now members of immunized alliances that permit them to operate as virtually single entities in the international markets that are covered by the immunity grants. Additionally, the Agreement contains provisions that recognize the value of "high labour standards" and establishes a mechanism for considering and addressing adverse effects on airline workers that may result.

While restrictions on cabotage and on ownership and control remain, there are good reasons for this. With respect to cabotage, the operation of foreign airlines in U.S. domestic markets would be at odds with a host of U.S. laws, including visa and labor laws. It would also be inconsistent with the treatment of other business sectors. For example, if a foreign automobile company wishes to set up a manufacturing operation in the U.S., that facility and its workforce are subject to U.S. laws and regulations. Granting cabotage rights to EU airlines, however, would allow these airlines to operate in the U.S. domestic market with a workforce that remains technically based in their home country and subject to that country's laws. This would allow the airlines to bypass U.S. laws and displace U.S. aviation employees. Additionally, given that the U.S. represents about half of the world's aviation market, it is unreasonable to argue that opening the U.S. domestic point-to-point market to foreign carriers would represent an even exchange of benefits with our EU trading partners.

The request to eliminate the ownership and control restrictions raises its own set of difficult issues. If an EU airline were able to own a U.S. airline, it would be able to place the air crew of the U.S. carrier in competition with the air crew of the EU airline for the international routes flown by the previously U.S-owned carriers. If the foreign owner sought to eliminate U.S. jobs and move this work to a foreign crew, it is unlikely that U.S. labor laws would provide an adequate remedy or protection for these workers. This is a very real threat, and the consequences of a similar arrangement are currently being felt by aviation workers in Europe where several airlines have taken advantage of the lack of a comprehensive labor law in the European common aviation area to undermine the ability of European flight crews to bargain over the flying done by their companies. We would be happy to provide specific examples of these actions if you wish to consider the issue in more depth.

Changes to our ownership and control laws would have a negative impact on U.S. aircraft maintenance workers as well. If foreign carriers are allowed to take over U.S. airlines, the practice of outsourcing aircraft maintenance to foreign countries will only accelerate. This is already a major problem that has cost thousands of skilled U.S. jobs and lowered safety standards. And while there is currently a congressionally mandated moratorium on certifying new foreign repair stations, we are still awaiting long overdue security rules governing contract repair stations and drug and alcohol testing at foreign repair stations. Any actions that would further promote the outsourcing of aircraft maintenance work, particularly without adequate rules governing the oversight of these foreign repair stations, should be rejected by this administration. The U.S. government should be pursuing market-opening aviation trade opportunities that create and sustain U.S. jobs both in the air and on the ground, not those that leave the future of U.S. aviation to foreign carriers (and their respective governments) that may have different economic agendas.

In addition to the problems that relaxing foreign ownership and control rules would cause for our domestic aviation workforce, this proposal would strain our government's ability to mandate and enforce critical security standards. With a foreign interest so integrally involved in controlling the operations of a U.S. air carrier, it would be impossible to assert U.S. security interests. Moreover, the ability of our government to manage the Civil Reserve Air Fleet (CRAF) program, which assures U.S. air carrier capacity for our military's air transport needs during wars and conflicts, would be undermined. Under relaxed foreign ownership and control rules we question how a foreign executive that controls the commercial aspects of a U.S. carrier but does not support our military strategy would be compelled to provide CRAF air transport services during a war or conflict.

Finally, we would note that the Bush Administration in 2005 proposed a rule change to allow foreign entities to exercise actual control over U.S. airlines. This proposal was subject to fierce opposition in Congress and eventually had to be withdrawn by the Administration. It is clear that there remains little support in Congress for changing our current ownership and control standards at the demand of an international trading partner when there is no identifiable benefit to U.S. interests.

The same principles noted above apply to any consideration of U.S. maritime transport laws and policies. The Jones Act has been a successful part of our nation's national security and economic policy since 1922, and serves a critical economic role for our nation, sustaining over 500,000 good-paying American jobs and generating $100 billion in total annual economic output. This law has ensured that the U.S. continues to have a reliable source of domestically built ships and competent American crews to operate them. Overall, the U.S.-flag maritime industry has played a vital role in supporting our armed forces, our trade objectives, food and other aid to other countries, and our national security. We should be promoting the growth of the U.S. merchant marine, not pursuing changes in our maritime policies through trade negotiations that weaken this vital segment of our transportation system.

Any limitation of the Jones Act would harm American mariners, increase the unemployment rate, accelerate the decline of U.S.-flag operators and seriously damage our economic recovery and national security. This would also permit foreign entities that do not employ U.S. workers and do not pay taxes to our treasury to operate with impunity on our inland waterways and along our coasts. Any efforts to include maritime transport services in these negotiations or to otherwise weaken or infringe upon the Jones Act should be rejected by U.S. negotiators.

TTD looks forward to working with the U.S. Government as it considers how to proceed with respect to the proposed TTIP. Thank you for your consideration of our views.

Sincerely,

Edward Wytkind
President

cc: Susan Kurland, Assistant Secretary for Aviation and International Affairs, DOT
Paul Gretch, Director, Office of International Aviation, DOT
Kris Urs, Deputy Assistant Secretary for Transportation Affairs, DOS

Attachment 3

SUPPORTING A GLOBAL SOLUTION TO AVIATION EMISSIONS

Earlier this month the International Civil Aviation Organization's (ICAO) general assembly approved a plan that will provide for the development, over the next three years, of a global framework for addressing aviation's impact on climate change, with the goal of implementing the plan worldwide by 2020. TTD applauds the adoption of this plan, and looks forward to working with ICAO to develop a framework that will substantially reduce global emissions, improve the efficiency and cost-effectiveness of our aviation system, and promote sound environmental stewardship while maintaining competitive balance and fairness in the international aviation marketplace.

The U.S. aviation system plays a critical role in our national economy. It employs millions of workers both directly and indirectly, generates nearly $900 billion in economic activity annually, and is responsible for nine percent of our GDP. The aviation industry also faces significant financial head winds as profit margins remain thin and job losses continue at some carriers. Rising fuel costs have contributed greatly to these hardships. Despite technology driven reductions in jet engine fuel consumption and airline fuel conservation practices, jet fuel expenses have become the airlines' largest operating cost. As a result, U.S. airlines have acted proactively to both decrease their environmental footprint and combat volatile fuel expenses. The industry has improved fuel efficiency and lowered emissions, including a 1.5 percent annual average fuel-efficiency gain through 2020, carbon-neutral growth from 2020, and a 50 percent net reduction in emissions by 2050. The U.S. was also actively engaged in negotiating the ICAO global emissions plan.

The ICAO agreement comes on the heels of a contentious period revolving around aviation emissions. In November of last year President Obama signed legislation that allowed the Secretary of Transportation to combat the harmful effects of the European Union's Emissions Trading Scheme (EU ETS) and ensured that U.S. airlines are not subject to the EU cap-and-trade tax penalties. TTD endorsed this legislation, the purpose of which was not to turn a blind eye to the effects of aviation emissions on global climate change, but to reaffirm our commitment to finding a global solution to reducing aviation emissions through ICAO.

The U.S. and EU share the common goal of reducing carbon emissions in the aviation industry. However, while the U.S. was committed to working through the ICAO process, the EU moved forward by unilaterally subjecting all international flights arriving and departing from the EU to emissions standards mandated by the EU ETS. This would have placed an unreasonable financial burden on U.S. carriers and their employees, and would have only further delayed the process of reaching an international, consensus-based agreement. Fortunately, in the face of deep criticism from the international community including the legislation signed by President Obama, the EU delayed implementation of the EU ETS for one year to allow the ICAO process to deliver a global plan.

A global solution is not only the most effective way to reduce aviation emissions in the environment that we all share, but also the most economically sound solution. Rather than a patchwork system of environmental standards set by various governments, a global system will address this problem without putting U.S. carriers and their workers at a competitive disadvantage. The emission payments under the EU ETS, for instance, were expected to cost the U.S. aviation industry over $3 billion dollars in the next several years – a prohibitive expense that could have cost thousands of jobs.

Despite the international commitment to creating a global framework for reducing carbon emissions, EU officials have unfortunately expressed disappointment with the ICAO agreement and are pushing to implement the misguided ETS scheme regardless. In the aftermath of the ICAO general assembly meeting, the European Commission (EC) proposed revising the EU law so that the ETS would cover all flights over EU airspace, including those flown by international carriers. While we continue to support the responsible reduction of carbon emissions, the latest EU proposal only complicates the goal of reducing emissions on a truly global scale.

TTD and its affiliated unions oppose the heavy handed, unilateral approach being taken by the EU and believe that these actions only harm the international community's ability to find a meaningful and permanent solution. We remain committed to working with U.S. carriers, the U.S. government, and ICAO to build an international framework for combating global carbon emissions in the aviation system, but will oppose unilateral action by other governments that undermine U.S. airlines and their workers.

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