

It's a Small World, After All

For most of human history, the idea of traveling across the globe was unimaginable. Until just a few decades ago, global transportation was expensive, slow, and uncomfortable. We've come a long way. 🌐 On June 2, a Delta Air Lines crew flew an 8,500-mile flight from Atlanta to Johannesburg—a more than 15-hour nonstop journey that connected two distant cities. Technological progress is rapidly shrinking the limits of geography and imagination. 🌐 While international air transport was born at a time when politics was going global, only now do we have the aircraft to properly achieve the dream. 🌐 Like it or not, issues on the other side of the world matter to all ALPA pilots—and simple awareness is no longer enough. The movement of goods and services—fueled by the movement of capital—is global. Yet labor remains local, tied to each country by geographic and political boundaries. We must change the *scope* of labor, including our assumptions about our jobs and ourselves. 🌐 This issue of *Air Line Pilot* is shining a spotlight on a host of issues that affect airline pilots across ALPA. No matter what you fly or where you fly it, these issues—and these reports—matter to you. 🌐



An Interview with DOT Secretary LaHood

By ALPA Staff

In late 2008, when the news media announced President-Elect Barack Obama's pick for secretary of transportation, ALPA's president, Capt. John Prater, praised Rep. Ray LaHood (R-Ill.), saying, "We congratulate Congressman LaHood and look forward to working with him and the new administration, to continue to advance aviation safety, make flying as secure as possible, and position the U.S. airline industry and its workers to gain strength and to prosper in the future." In June 2009, ALPA sat down with Secretary LaHood at the Department of Transportation offices in Washington, D.C., to get his feedback on topics important to the Association and its members.

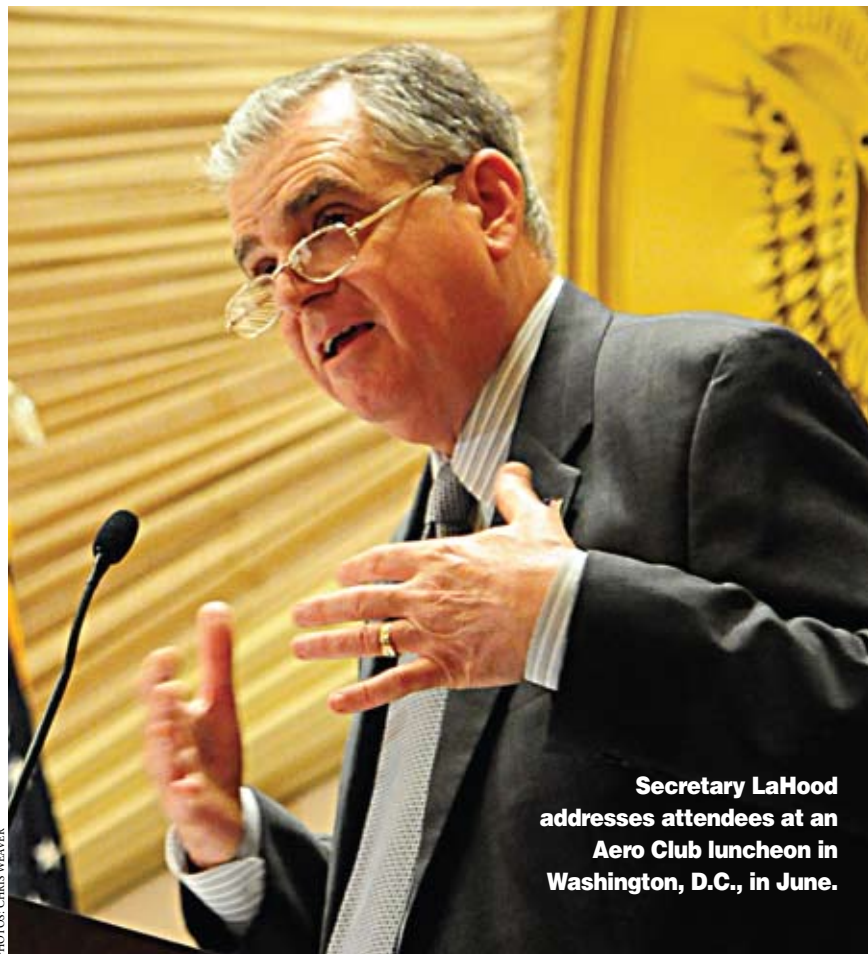
Q *Air Line Pilot:* As secretary of the Department of Transportation, what are your top priorities for the U.S. airline industry for the next 4 years?

A *Secretary LaHood:* Well, of course, at the Department of Transportation our highest priority in aviation is safety. Although the overall record of commercial airline travel has been excellent, we've had some recent wakeup calls that show that we can't take that record for granted. The DOT and the FAA will continue to work every day to ensure that we have the safest aviation system in the world. I am also committed to NextGen [the Next Generation Air Transportation System]. It's really crucial to increasing the capacity and efficiency of our airspace—and at the same time reducing energy needs, lessening environmental impacts, and improving the safety of flight. We have to move forward aggressively on that. Third, we need to retain at the FAA a world-class workforce to operate a safe and

efficient system, so I want to resolve the outstanding labor issues through agreements that are fair to both the government and the employees. Finally, at the DOT we hear complaints every day about lost baggage, canceled flights, tarmac delays, and so forth. Commercial aviation exists to serve its passengers and shippers. We have to work together to improve that service.

Q One of your stated goals in implementing President Obama's priorities for transportation is restoring economic health and creating jobs. What is the DOT doing to facilitate this?

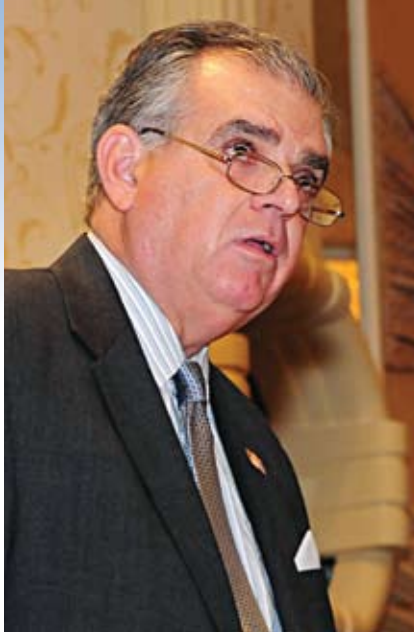
A I'm extremely proud of what the DOT has been doing to accelerate our nation's economic recovery. About \$38 billion of the \$48 billion in transportation-related Recovery Act funds have already been put to work by states, transit districts, and airports. For example, in the first six weeks after the Recovery Act became law, 4,300 highway and bridge projects were advanced to construction. The highway portion of our efforts alone will support 150,000 jobs. And nearly all of the \$1.1 billion in airport grants-in-aid have been approved for more than 250 airport infrastructure projects across the country. But we're not just throwing money at problems—we're committed



Secretary LaHood addresses attendees at an Aero Club luncheon in Washington, D.C., in June.

PHOTOS: CHRIS WEAVER

“NextGen is obviously among our highest priorities.... As we develop our NextGen plans, it’s crucial that we look at the capabilities and priorities of the aircraft operators to invest in the equipment they need to use NextGen and align that with our procedures and ground infrastructure investments.”



to maintaining accountability, transparency, and responsiveness in what we do. That means bringing in projects on time, under budget, and by the book.

Q What are your views on the current rules regarding airline cabotage and the foreign ownership of airlines?

A The answer is quite simple. Congress has enacted statutes that govern how, and to what extent, foreign interests can invest in U.S. airlines. It has also prohibited foreign airlines from carrying cabotage traffic. My responsibility is clear: it is to employ the DOT’s resources to enforce these laws—an obligation that I take most seriously.

Q Does labor play a role in DOT policymaking and, if so, how?

A Of course. Labor is one of the critical stakeholders in providing transportation services, and we can’t formulate the policies to improve those services without talking with—not at—labor in-

terests. Right now, unions serve important roles on advisory committees and provide useful public comment on proposed policies and regulations. Among other activities, ALPA participates in relevant aviation rulemaking advisory committees and RTCA [formerly the Radio Technical Commission for Aeronautics] forums, including a current one on NextGen implementation. This is also why I’m so pleased that we have [former ALPA president] Randy Babbitt as our new FAA administrator. His vast experience on labor issues will make him an invaluable member of our leadership team at the DOT.

Q Where do you rank the funding and implementation of NextGen in the current list of DOT priorities? What element of NextGen do you feel is most important?

A NextGen is obviously among our highest priorities, as I mentioned earlier. As we develop our NextGen plans, it’s crucial that we look at the capabilities and priorities of the aircraft operators

to invest in the equipment they need to use NextGen and align that with our procedures and ground infrastructure investments. The FAA is working through the RTCA to make sure that happens.

Q The American Recovery and Reinvestment Act of 2009 has allowed the DOT to channel hundreds of millions of dollars to improve aviation infrastructure. Are there limitations on the use of these funds, and how will airports use the bulk of this money?

A The Recovery Act provides a total of \$1.1 billion for discretionary grants to airports, with the federal share of the grants at 100 percent. This funding is treated as purely discretionary, not subject to Airport Improvement Program (AIP) formulas, apportionments, or minimum set-asides. That said, regular AIP grant conditions, certifications, and assurances, such as those related to Disadvantaged Business Enterprises, do apply. Funds are intended to supplement and not supplant existing appropriations for the airport grants program. The Act requires that priority be given to projects that will be completed in two years. Half of the funds must be obligated within 120 days of enactment, with the remaining 50 percent obligated within one year. As a result, preference was given to those projects that were “ready to go,” which is defined as projects that have already completed a variety of prerequisites, such as environmental reviews, and can start construction within 30 days of grant award. Also, the vast majority, more than 85 percent, of the projects are high-priority airside projects to preserve critical runway, taxiway, and apron capacity or to address safety and security concerns. 🌐

Pay No Attention to the Foreign Owners Behind the Curtain

By John Perkinson, Staff Writer

Healthy competition in any given marketplace requires participants to play by the rules. So when Alaska Airlines petitioned the U.S. Department of Transportation (DOT) on Feb. 10, 2009, asking for a public inquiry to determine if Virgin America still meets foreign ownership and control restrictions on U.S. airlines, Alaska was asking for a regulatory instant replay. It's true that the Virgin America and Alaska Airlines markets overlap by approximately 25 percent, but there is more to Alaska's petition than concern about marketplace competition. "The Alaska Air Group Labor Coalition, which represents more than 9,000 unionized employees at Alaska Airlines and Horizon Air, believes there is more than enough compelling evidence for a public review of Virgin America's citizenship status," said Capt. Sean Cassidy, the Alaska pilots' Master Executive Council vice-chairman and a member of the Labor Coalition. "It is critical that the Department of Transportation ensure all domestic carriers fully and openly comply with U.S. law regarding foreign ownership and control. A failure to do so creates an uneven playing field that jeopardizes American jobs."

At issue is the law that requires U.S.-based airlines to limit foreign ownership of their voting interest to 25 percent and to be under the actual control of U.S. citizens, and whether Virgin America can clearly demonstrate that it's complying. A series of news articles have suggested that the airline's two majority holding U.S. private equity funds have sold their economic interests, perhaps overseas.

Since the privately held Virgin America opened its doors 2 years ago, hedge funds Cyrus Capital Partners LP and Black Canyon Capital LLC have held

approximately 75 percent of the airline's voting stock. London-based Virgin Group, Ltd., has controlled the bulk of the airline's remaining equity. What's baffling about this arrangement is that, under the terms of the British group's agreement with the U.S. investors, these latter shareholders, after a period of time, can exercise the option to "put" their interest—i.e., sell their stakes—back to the Virgin Group. The DOT approved this odd arrangement during the previous presidential administration. However, if the option is exercised, it would directly conflict with foreign ownership and control laws.

"Virgin America has been losing money at a rapid rate since beginning operations in August 2007," asserted Russ Bailey, senior attorney in the Association's Legal Department, in ALPA's February 20 answer to the Alaska Airlines petition. "The airline would likely have run out of money last year had it not received loans for \$112 million. While the source of the loans

has not been disclosed, news accounts suggest that they were at least in part from a British investor." The Association of Flight Attendants-CWA and the Aircraft Mechanics Fraternal Association made similar filings to the DOT.

Responding to these concerns, counsel for Virgin America noted, "As Virgin America stated in its answer, and as


It appears that Virgin America's U.S. citizenship is a fairy tale....

the Department is aware, a decision to exercise the puts (or the right to transfer financial interest back to the Virgin Group) does not disqualify Virgin America as a U.S. citizen."


In a March 10 article, *The Wall Street Journal* announced that "the U.S. investors last week exercised their option to sell, and Virgin Group has already paid them...."

"This scheme, if allowed, would permit Virgin America to operate under a completely different set of ownership rules, giving it a significant unfair and unlawful advantage over U.S. airlines, thereby jeopardizing U.S. jobs," ALPA's first vice-president, Capt. Paul Rice, told the Association's Executive Board at its April 28 meeting.

And there's no denying the Virgin Group's influence over the U.S. airline. The Virgin Group funded the start-up, sought investors, and licenses the Virgin brand to Virgin America.

The bottom line is that it appears that Virgin America's U.S. citizenship is a fairy tale and that the airline is not in full compliance with the laws that govern its domestic operation. ALPA and its co-petitioners do not intend to let this injustice stand. Virgin America can seek other U.S. investors, but it cannot continue to play by its own rules. 

THE SQUEAKY WHEEL

Following the ALPA and Alaska filings, Rep. James Oberstar (D-Minn.), chairman of the U.S. House Committee on Transportation and Infrastructure, wrote to the U.S. Department of Transportation stating his concerns about Virgin America's citizenship status and requesting a comprehensive review of the airline's ownership structure. DOT Undersecretary for Policy Roy Kienitz responded, informing the congressman that the DOT is investigating transactions proposed earlier this year involving the U.S. shareholders of Virgin America. 

It's Time to Pass the FAA Reauthorization Bill

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By ALPA Staff

There is a good chance that Congress will pass a bill that will include a number of ALPA initiatives highlighting fatigue, foreign ownership, and modernizing U.S. airspace, among other things. It's almost as if ALPA helped craft the language in the bill.

ALPA has been in the thick of things, reaching out to decision-makers—educating, informing, and influencing those who have the ability to change the tide. And with the union's renowned expertise, ALPA's recommendations found their way into portions of the all-encompassing bill—H.R.915, the FAA reauthorization bill.

The effect of the bill on ALPA line pilots will be positive. It addresses many long-standing hot-button topics that have been unheard or ignored for nearly a decade and some relatively new issues that need to be dealt with now. A version of the bill has been stalled for nearly 2 years. However, on May 21, H.R.915 made it through the U.S. House of Representatives by a vote of 277-136. Now its fate is in the hands of the Senate. With a new administration and a significant change in Congress, ALPA is hopeful the bill will become law by the end of this summer. As it stands today, the bill would authorize \$70 billion for the FAA through September 2012. It would also require a study on pilot fatigue and a study on airline pilot training and certification.

ALPA continues to do its part to educate lawmakers on the critical opportunities to advance safety through this bill. During a U.S. Senate Aviation Operations, Safety, and Security Subcommittee public hearing on the FAA reauthorization bill, ALPA's president, Capt. John Prater, addressed a few of ALPA's top safety priorities that fall within the union's strategic plan,

including issues ranging from pilot fatigue to proactive aviation safety reporting programs.

Fatigue

The bill requires a detailed study of pilot fatigue by the National Academy of Sciences and a requirement to update regulations on flight time and rest requirements, as appropriate.

"Because of the airlines' difficult economic environment, airline pilots are now flying right up to the FAA regulatory limits for flight and duty time. The current FAA limits are outdated and may lead to unsafe conditions," Prater testified before the Subcommittee on

May 13. "ALPA advocates a complete overhaul of the regulations based on science. We support language in the reauthorization bill that directs the FAA to collect new data and use it to reconstruct flight and duty regulations that take into account current airline and aircraft operations."

Foreign control

H.R.915 also includes improved runway safety measures and a reiteration of U.S. airline citizenship requirements, as well as a labor provision within the Government Accountability Office study on the effect of antitrust laws and airline alliances.

During a U.S. Senate Aviation Operations, Safety, and Security Subcommittee public hearing on the FAA reauthorization bill, ALPA's president, Capt. John Prater, addresses a few of ALPA's top safety priorities.




CHRIS WENNER

“ALPA strongly calls for the inclusion of language affirming that U.S. citizens must control key operational aspects of U.S. airlines,” Prater stated. “ALPA supports clarifying that fleet composition, route selection, pricing, and labor relations are among the operational elements that the Department of Transportation must ensure that U.S. citizens control.”

Voluntary safety reporting programs

Prater stated ALPA’s adamant view that fostering a safe air transportation system requires a foundation of voluntary, nonpunitive safety reporting programs that are based on trust. Some programs

FACT During the past 2 years, Capt. Prater has testified six times before the U.S. House of Representatives on specific issues contained in H.R.915. Capt. Rory Kay (United), ALPA’s Executive Air Safety Chairman, and Capt. Mary Ann Schaffer (United), chairman of ALPA’s President’s Task Force on Aviation Sustainability and the Environment, have also testified as ALPA expert witnesses on modernizing the U.S. national airspace system and on aviation and its effect on the environment. Congress turns to ALPA for both official testimony and staff research regarding the issues that affect all airline pilots. 

have been suspended because of misused reports. ALPA is asking Congress to strengthen protections around voluntarily supplied safety information against misuse for discipline, FAA sanction, or litigation.

Airspace modernization

ALPA pilots have long advocated modernizing the nation’s airspace, which will help return U.S. airlines to profitability. The process must be done right the first time—it will be a complex, expensive, and long-term endeavor. ALPA believes that all users will benefit from a safe, modern system and that all should bear a fair share of the cost.

Other issues


Prater also identified several top ALPA issues that have yet to be addressed by Congress. “Many all-cargo aircraft currently operate without flightdeck doors, a critical layer of safety for pilots who, along with cargo, often fly animal handlers and couriers who are vetted using only limited ground security procedures,” he said. “Whether cargo or passenger, all airline operations must be afforded one standard of safety and security. We call on Congress to ensure that all-cargo aircraft are equipped with reinforced flightdeck doors or an equivalent level of protection.”

Fuel prices

Prater also addressed the industry’s financial health as spikes in the price of jet fuel and scarcity pose the greatest

threat to airline pilots and their livelihoods. ALPA urges Congress to swiftly adopt a national energy policy that will increase jet fuel supply, reduce rampant oil investor speculation, and hold the line on new fuel taxes, charges, and fees. U.S. senators listened attentively to

FATIGUE
“ALPA advocates a complete overhaul of the regulations based on science.”
—Capt. John Prater, ALPA President

Prater’s testimony, as transportation safety has become a top priority. Unfortunately, it sometimes takes a high-profile tragedy to get the deserved attention. The Colgan Air Flight 3407 accident certainly raised awareness of many long-standing ALPA priorities. During the May 13 hearing, Subcommittee Chairman Byron Dorgan (D-N.D.) was vocal in his concerns regarding safety in the regional airline industry. Dorgan said that the Subcommittee would hold a hearing on safety in June, and ALPA has been invited to testify. *Stay tuned.* 



Clear Air Turbulence

New EU "Open Skies" Efforts Could Spell Dramatic Change for Canada, U.S.

By John Perkinson, Staff Writer

Canada and the European Union negotiated terms for an air transportation agreement that—if fully implemented—could radically alter the complexion of the Canadian airline industry. Meanwhile, the EU is pressuring the United States to build on the momentum of their first "Open Skies" agreement and ease current foreign aircraft movement and airline ownership restrictions. Canada, the U.S., and the EU are looking for ways to stimulate airline industry investment and improve service for the consumer. However, the reality of these deals could have significant consequences for airline workers, making for one rough ride.

Oh, Canada

In late May, Canada and the EU reached a four-stage agreement, subject to finalized treaty language that will liberalize air travel between the two regions. The first phase permits unrestricted travel between Canada and the 27-country EU, with no limits on ticket fares or the number of flights flown. The agreement also allows cargo carriers to fly onward to third countries from both the EU and Canada.

Implementation of the second, third, and fourth stages of the Canada/EU agreement won't be as simple, because the terms of all three require government action to change current laws and regulations. Stage 2 would adjust permissible foreign ownership levels, bumping the allowable proportion of voting equity in a Canadian airline from 25 to 49 percent. This change can be made with relative ease by Cabinet Order and is expected to occur sometime later this year.

However, the third phase would authorize the right of establishment. Investors from one country (or region,

in the case of the EU) would be permitted to set up and control airlines in the other country. In addition, Canadian and EU carriers would be granted "fifth freedom" rights (as defined by the Chicago Convention of 1944), which allow an airline to travel to a second region, pick up passengers, and continue on to a third region where those passengers could deplane. The final stage of the agreement would sanction cabotage, permitting the carriage of air traffic that originates and terminates within the boundaries of a region by an airline from the other region.

"Although these latter two phases are contained in the agreement, the Canadian delegation stated that full ownership of Canada's air carriers by foreign nationals, cabotage, rights of establishment, and 'seventh freedom' rights (i.e., the authority of an airline to transport passengers or cargo between two foreign countries without continuing service to the airline's country of origin) are not within Canada's air transportation policy and would require changes to air policy, law, and regulation," says Al Ogilvie, ALPA's Legal and Government Affairs representative. "No such changes are contemplated."

Below the 49th parallel

The latest round of Open Skies talks between the U.S. and the EU began in May 2008, with the EU making little effort to conceal its objectives. EU Ambassador to the United States John Bruton, in a March 27, 2009, presentation at the German Marshall Fund, said, "We have entered the second-stage negotiations with a simple but clear mandate: complete the task of liberalization. Any remaining restrictions on routes and ownership of airlines (between the U.S. and EU) should be eliminated." The EU is also pressing for the right of its airlines to conduct cabotage operations in the United States and to wet-lease aircraft—

the ability of one airline to lease an aircraft and crew to another airline for an operational fee—to U.S. airlines on domestic U.S. segments.

The two parties reached a first-phase agreement on April 30, 2007, which became effective March 30, 2008. The deal allows any airline of the two regions to fly between any point in the European Union and any point in the United States.

The EU has characterized the Stage 1 agreement as favorable to the U.S. and has threatened to cancel it if the U.S. does not agree to more concessions on foreign operators of domestic routes and foreign ownership by 2010. However, the pact is already demonstrating its shortcomings and the possible motivation behind the push for further liberalization.

Not-so-silver lining

A prime example is the announcement by United Airlines and Aer Lingus of their plan to enter into a joint venture (see "United, Aer Lingus Plan Alter-Ego Airline," page 24). Using resources from both airlines and the Aer Lingus operating certificate, the two companies plan to offer service between Washington, D.C., and Madrid, Spain, starting in March 2010, using third-party pilots. Not surprisingly, United CEO Glenn Tilton has been a long-time proponent of Open Skies with the EU.

Members of U.S. ALPA and Irish ALPA are outraged by this blatant outsourcing maneuver and have signed a protocol agreement to combine resources to defend their labor interests.

The bottom line

Concerns about further transatlantic air transportation liberalization are numerous. The easing of foreign ownership rules would create new challenges for national defense. The U.S. military relies on domestic commercial

CABOTAGE? CRACKING THE CODE

While U.S. federal law prohibits foreign cabotage, ALPA and other industry stakeholders believe that a classic example has recently been allowed to operate in our “national” backyard. The U.S. Department of Transportation last year authorized a series of charter flights by Air Canada to provide transportation for the National Hockey League’s Boston Bruins during the 2008–2009 season. The charter included dozens of flights between U.S. cities from Nov. 1, 2008, to March 15, 2009.

“We are mystified by this decision,” wrote representatives from ALPA, the Air Transport Association, Ameristar Charters, and the National Air Carriers in a letter to DOT Assistant General Counsel for International Law Donald Horn. “Section 41703(c) [referencing Title 49 of the U.S. Code] states that foreign aircraft may not take on for compensation, at a place in the United States, passengers or cargo destined for another point in the United States unless it is permitted to do so under one of two exceptions not applicable to the proposed Air Canada flights.”

Congressman James Oberstar (D-Minn.), chairman of the House Committee on Transportation and Infrastructure, also wrote to then-Secretary of Transportation Mary Peters, urging the Department to revisit its decision on this matter.

U.S. law does permit foreign airlines to provide intra-U.S.

operations during instances of national emergency, provided that U.S. airlines cannot satisfy “lift requirements.” The DOT did not try to apply that exception here. Rather DOT’s justification noted that Air Canada would carry “no one on the flights that it has not carried, or will not carry, into or out of

the United States under contract.” However, ALPA and stakeholders, including the Association of Flight Attendants-CWA, argued in a March 16 letter that “Foreign air carriers are only permitted to hold permits authorizing them to engage in foreign air transportation.... Prior cases allowing foreign airlines to

fly *foreign* sports teams into the U.S. and then to a handful of stopover points on a journey into and out of the U.S. simply do not provide an adequate basis for permitting a months-long series of intra-U.S. flights for a U.S.-originating group.”

The letter went on to point out that several U.S. airlines had informed the group of concerned stakeholders that Air Canada is planning to bid on other U.S. sports charters this year. ALPA and the other letter cosigners stressed that “the United States has long reserved domestic air transport for U.S. air carriers and their employees, and it is essential that it continue to remain consistent on this important policy issue.”

ALPA and other stakeholders continue to pursue this matter with DOT and legislators.—*John Perkinson, Staff Writer*

CAB O TAGE

(kab-uh-tahzh) n.
The exclusive right of a country to operate the air traffic within its territory.

airlines for airlift during national emergencies. Harmonizing the framework of antitrust policy (e.g., to protect against predatory behavior) could also produce a host of new problems.

However, of primary concern for airline pilots and other airline labor groups are the labor loopholes offered to airline management and the new kind of pressure which with they could be used to drive down employee wages and working conditions.

“Whereas pilots in the United States are subject to the terms of the Railway Labor Act, pilots of the EU answer to 27 separate sets of labor laws—one for each EU member state,” says Russ Bailey, senior attorney in ALPA’s Legal Department and the ALPA and the AFL-CIO representative in the air service talks. “The consequences of this are well illustrated by the establishment by British Airways of an alter-ego subsidiary—the wittily named OpenSkies Airlines—to operate out of continental European cities such as Paris and Amsterdam. BA has employed pilots not on the BA seniority list to staff OpenSkies, and it

is not clear whether and how various labor laws will apply to those pilots.”

Other European airlines like Ryanair have used EU liberalization to shop for the most flexible labor policies, to minimize employee compensation, and to establish easily manipulated work rules. The whipsawing scenarios created by the EU umbrella are numerous.

To address these and other concerns, ALPA has been in continuous contact with the European Cockpit Association (ECA) to compare notes and discuss a collective strategy. The ECA, which represents more than 38,000 European pilots and flight engineers from the national flight crew associations of 36 European countries, is also the umbrella organization for the European region of the International Federation of Air Line Pilots’ Associations. ALPA and the ECA understand that challenges to the piloting profession are universal and that unity and solidarity will be required to prevail.

ALPA will participate in the second EU-U.S. Labor Forum, June 22–23, in Brussels, Belgium, to examine the social dimensions of Open Skies re-

forms on both sides of the Atlantic, and to work together with its European partners to consider solutions. In addition to labor groups, other U.S. participants scheduled to attend include representatives from the U.S. Departments of State and Transportation, the National Mediation Board, airlines, and airports. A previous EU-U.S. Labor Forum was held in Washington, D.C., in December 2008.

Like the U.S. Airline Deregulation Act of 1978, the U.S.-EU Open Skies agreement forecast transatlantic air service with more competition and greater service for the customer. However, the clouds along the horizon suggest that airline management and investors may have something more up their sleeves. At some point, lawmakers will have to decide if the airline industry is a vital component of interstate commerce, worth fostering and protecting, or just another business market, subject to fickle investor interest. ALPA will continue to fight to ensure that issues like labor, safety, and security remain at the forefront of the discussion. 🌐

United, Aer Lingus Plan Alter-Ego Airline

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By Capt. Steve Wallach, United Master Executive Council Chairman

Un January 22, United Airlines and Aer Lingus, an Irish airline, announced a preliminary agreement that would markedly expand their existing code-share arrangement between the United States and Ireland. The proposed arrangement was widely reported in the European press but received limited coverage in the United States. Aer Lingus was much more forthcoming than United, which tried to obscure the true nature of the deal—an outrageous attempt to circumvent the United and Aer Lingus pilots' contracts and outsource the flying to non-United seniority list and non-Aer Lingus seniority list pilots working at substandard wages and working conditions. Irish press speculation suggests that Aer Lingus made this

new agreement with United to fend off a hostile takeover bid by Ryanair.

Three-phase plan for joint operation

As reported, United and Aer Lingus have planned an evolving, three-phase arrangement. The first two phases would involve a type of business deal not yet seen in the U.S. airline industry.

Phase I contemplates Aer Lingus operating one A330 between Washington Dulles International Airport (IAD) and Madrid International Airport (MAD) in Spain with newly hired U.S.-based crews, working under what managements would characterize as "local terms and conditions" and we would call working under substandard wages and working conditions. United would provide the marketing and sales, and the two airlines would share the revenue generated on those flights. Both Aer Lingus and Unit-

ed would put their code on the flights. The two airlines began selling tickets on this route in May, with operations scheduled to begin in March 2010.

Phase II would add two more Aer Lingus A330s to the operation, plus new routes from U.S. gateway cities to secondary markets in Europe.

Phase III would involve a joint venture to create a new European-based airline in 2012, operating under its own certificate, in which Aer Lingus would own a 51 percent stake and United would own a 49 percent stake. This new airline would take over and, over time, expand these transoceanic operations. The parties expect that this new airline would join the Star Alliance.

U.S. ALPA perspective

Phases I and II would be neither code-sharing nor revenue-sharing arrangements as those terms have been com-



monly understood in the United States.

Code-sharing on international routes historically has meant arrangements in which participating airlines connect passengers to each other's flights but only derive revenue (beyond booking fees) from flights that they actually operate. In Phase I and II, under this revenue-sharing agreement, United would be entitled to 50 percent of the revenue derived from these flights, even if these were operated on Aer Lingus aircraft with non-Aer Lingus and non-United crews.

Phase III would be, plain and simple, outsourcing or subcontracting United pilot work, further exacerbated by the fact that the carrier would be a low-cost airline with its own certificate, owned in part by United, and its employees would work under below-industry-standard wages, benefits, and working conditions. This type of operation is often referred to as "double-breasting," and it certainly brings back memories of Frank Lorenzo and New York Air.

Pilots' response

The Aer Lingus and United pilots' leaders met shortly after their employers' joint announcement, and quickly reached the conclusion that this proposal ultimately is little more than outsourcing pilot jobs to a low-cost carrier owned by their employers. Accordingly, they have entered into a protocol in which they agree to cooperate to protect the interests of their members.

Under the United-ALPA agreement, there is a very substantial case to be made that the creation of the new airline is a violation of the pilots' collective bargaining agreement (CBA). It is also clear that the codesharing and revenue sharing in Phase I and II do not fall within the meaning of those terms under the CBA.

The United pilots began negotiating a new contract in April; the proposed United-Aer Lingus arrangement promises to be a major topic for discussion between the parties and must be resolved. The United pilots have already brought this to the attention of the United Board of Directors and will continue to focus on it there.

U.S. ALPA is also currently studying

BOD DELEGATE COMMITTEE 7

How legislation and regulations affect ALPA's members has never been so critical. This was demonstrated during ALPA's October 2008 Board of Directors meeting. Delegates of Committee 7 created a legislative and regulatory agenda to guide the presentation of ALPA's issues to the new administration, Congress, and Parliament, as well as government agencies such as the Federal Aviation Administration and Transport Canada and others that hold the power to regulate the U.S. and Canadian airline industries.

Delegates first agreed that the U.S. and Canada both need comprehensive energy and transportation policies, which should include steps to reduce fuel prices and volatility by

- increasing transparency in oil commodities trading to reduce the potential for rampant investor speculation,
- giving technology time to conquer our need to consume oil by developing alternative fuel sources,
- recognizing pilots' and the industry's contributions to the "Green" movement, and
- sheltering the airline industry from an increased tax burden.

Delegates also determined that ALPA must continue to oppose efforts to modify foreign ownership and/or control limitations that would not benefit its members. Committee 7 tasked the Executive Board with staying on top of any efforts to expand foreign ownership and control of U.S. and Canadian airlines—which you'll read more about throughout this issue of *Air Line Pilot*—and gave it the authority to direct ALPA's position on these matters.

Finally, the delegates encouraged all U.S. pilots to participate in the ALPA Political Action Committee (ALPA-PAC), which is the best means to influence policymakers on Capitol Hill. The 2008 elections illustrated just how PAC dollars work for ALPA pilots' interests. Of the 320 candidates ALPA supported, 294 won (275 House seats and 19 Senate seats, with one Senate seat still undecided)—91 percent of all federal candidates who received an ALPA-PAC contribution were elected to one of those influential positions on Election Day. Read more about how pilot contributions put pilot-friendly politicians in power by visiting Crewroom.alpa.org. In the left-hand menu, click on the Legislation and Politics icon and then ALPA-PAC. Under ALPA-PAC News, click on Role in the 2008 Elections. 🗳️

the issue, with the thought of seeking legislative relief. U.S. ALPA is determining whether this can also be taken up in the EU-U.S. negotiations on air service agreements.

The situation on the European side is somewhat different. As a legal matter, the carriers appear to be of the view that the new airline will stand on the same footing as British Airways' OpenSkies Airline. Aer Lingus has taken the position that Phases I and II of this proposed operation would be permitted under its "Global New Base Agreement" with Irish ALPA.

However, Irish ALPA and Aer Lingus

are in the midst of a dispute involving the airline's refusal to pay mandated pay raises and will likely find themselves negotiating over this issue as well.

The United MEC, as part of U.S. ALPA, is working closely with Irish ALPA, Spanish ALPA, the European Cockpit Association (ECA), and the International Federation of Air Line Pilots' Associations (IFALPA) to take whatever steps are required to oppose such arrangements. Together, we will work closely to prevent managements from considering such outrageous ways to outsource our jobs and undermine our profession. 🗳️

Global Alliances Grow, Change

.....
As global airline alliances continue to grow, their membership and structure continue to evolve as well—but what does this mean for ALPA members and other airline employees?

By Ana McAhron-Schulz
Director, ALPA's Economic and Financial Analysis Department, and IFALPA Industrial Advisor

A major development in the globalization of the airline industry has been the emergence of three main global airline alliances. Star Alliance was born in 1997, oneworld in 1998, and SkyTeam in 2000. These alliances now comprise more than half of global airline capacity, and nearly 60 percent of passengers travel on an alliance member airline.

The goal of alliances continues to be to offer the most comprehensive network to customers. For passengers, especially frequent fliers on international routes, airline alliances offer more destinations, better value, more rewards, smoother transfers, superior quality, greater support, and other customer services and benefits.

For the member airlines, the benefits are higher revenues, a certain level of cost savings, and the ability to attract passengers away from the other alliances. Sharing facilities (co-locating terminals and gates), developing common information technology systems, setting up joint ventures, leveraging combined purchasing power, and feeding passengers into the routes of each other have improved alliance members' revenue and profit-generating abilities significantly.

Today, these alliances continue efforts to recruit unaligned airlines in Latin America, Russia, Africa, and the Asia-Pacific region to provide better networks than their competition. Decisions to join alliances are based on contributions to the network, *not* airline size, and many emerging-market airlines must work to meet technology, safety, and infrastructure requirements before joining an alliance.

Looking at these intercontinental business arrangements and their consequences for ALPA members and other airline employees, we have seen two significant developments as the members of these alliances move toward greater cooperation. These are the developments of joint ventures

between airlines and granting antitrust immunity to cooperative arrangements, including joint ventures. Antitrust immunity allows airlines within the group to coordinate fares, schedules, marketing, and other operations. Joint ventures are even closer relationships whereby airlines within the joint venture agree to share revenue and/or profits on various routes regardless of which airline operates that route. We need to pay extra-close attention to these types of arrangements because without the necessary protections in our contracts, they could have a negative effect on flying opportunities for our members. (See "United, Aer Lingus Plan Alter-Ego Airline," page 24.)

The biggest news regarding shifting alliance memberships is that Continental Airlines plans to leave SkyTeam and join Star Alliance in October 2009.



WILLIAM A. FORD

White House to ALPA: We'll Look at Alliances' Effect on Workers

Through the three evolving global airline alliances, U.S. and foreign airlines are now coordinating pricing, sales, marketing, ground operations, customer service programs, and capacity and route determinations in their international services. Some of their joint venture agreements include profit- or revenue-sharing and are explicitly designed to achieve "metal neutrality"—i.e., an indifference on the part of the alliance partners as to which of them operates the airplanes that fly the alliance routes.

These airlines—which include such large U.S. airlines as American, Continental, Delta, and United—have sought grants of immunity from U.S. antitrust laws from the U.S. Department of Transportation to avoid being exposed to the risk of legal challenge to their joint activities by third parties. Some of these applications have been approved; others are pending. The airlines seeking antitrust immunity for their alliance activities have generally been U.S. and European airlines, but they have plans to include airlines from around the world.

The alliances affect not only the direct member airlines but their entire networks of express carriers as well. They also have the potential of extending to the world of air cargo.

Immunized alliances do have the potential to lower costs and provide

other benefits to airline travelers. They can also help the alliance members to compete and improve their profitability. However, while the DOT has examined the effects of these alliances on consumers and competition, the Department has not made any detailed assessment of the effect of these alliances on U.S. airline jobs.

The Association has been working with the Obama administration to have the Task Force on the Middle Class closely examine alliances between U.S. and foreign airlines. On May 28, ALPA's president, Capt. John Prater, sent a letter to President Obama asking him to assign the Task Force the job of considering the potential effect of these alliances on U.S. airline workers. Prater clearly stated ALPA's strongly held belief that the U.S. government must ensure that these alliances do not result in outsourcing North American pilot jobs overseas.

He urged that the requested examination of the effect of airline alliances on U.S. airline workers "be done in an expeditious manner as the alliances are rapidly deepening and evolving." The day after sending the letter, Prater received a call from the White House to discuss ALPA's concerns and requests in detail. ☛

Star Alliance picks up Continental

Star, the largest global alliance, continues to expand. Approximately 500 million passengers per year travel to 912 airports in 159 countries on Star Alliance carriers.

Turkish Airlines and EgyptAir joined the alliance in 2008. Star is expected to add Air India to its membership and also continues to seek new members to broaden its network in Africa.

Brussels Airlines will also join Star, as Lufthansa acquired a 45 percent stake in the airline. The Belgian airline will supply an alternative European gateway in Brussels and will focus on regional connections and onward service to Africa.

After losing its only Latin American airline, Mexicana, in 2007, Star could now overtake oneworld as the largest alliance in the region by adding TAM, TACA, and Copa, each of which is being considered for membership.

However, the biggest news regarding shifting alliance memberships is that Continental Airlines plans to leave

SkyTeam and join Star Alliance in October 2009. Antitrust immunity for Star's United, BMI, Air Canada, Austrian, Lufthansa, LOT, SAS, Swiss, and TAP went into effect March 30, 2008. Continental filed a request with the DOT to join Star and receive antitrust immunity with these nine Star members.

In addition, United and Continental will partner in a broad codesharing agreement and cooperate on frequent-flier programs, elite customer recognition, and lounges. United, Air Canada, Lufthansa, and Continental are also planning to take their relationship a step further and are pursuing establishing a joint venture known as Atlantic++, which would allow these carriers to share profits on defined routes regardless of which airline operates a particular route. The pilot groups of these airlines are working closely together on this proposed joint venture to ensure there will be no whipsawing of pilot groups within the joint venture.

With its move to Star, Continental brings to its new alliance a New York City area gateway (Newark), a U.S.-flag Atlantic operation, U.S.-flag Air Micronesia, and a U.S.-flag Central American operation. Copa, Continental's main partner in Latin America, plans to follow Continental to Star.

Continental's planned entrance into Star will make US Airways the "odd one out," as US Airways will be the only U.S. airline in Star not included in the antitrust immunity and the joint venture, raising speculation of whether another alliance shift will take place.

SkyTeam

Being the "odd one out" is the reason

Continental plans to leave SkyTeam, the second largest alliance, which carries 462 million passengers annually to 905 destinations in 169 countries.



Continental became the “odd one out” when SkyTeam carriers Air France, Alitalia, CSA Czech Airlines, Delta, KLM, and Northwest applied for and received DOT transatlantic antitrust immunity. In addition, last year SkyTeam carriers Delta and Air France formed a joint venture whereby they shared profits on certain routes regardless of which carrier operated that particular flight. Within the last month, that joint venture has been expanded to include KLM and the operations of Northwest as part of the merger between Delta and Northwest. SkyTeam is also pursuing expansion by courting Latin American, European, and Asia-Pacific airlines. Vietnam Airlines and Tarom are expected to join SkyTeam, which is also considering adding Kingfisher, Garuda Indonesia, Middle Eastern Airlines, and Air Tahiti Nui.

oneworld

Celebrating its 10th anniversary, oneworld transports approximately 330 million passengers annually to nearly 700 destinations in 150 countries. The



alliance is increasing market share in the “white spots” on its global route map—Latin America, Russia, India, and China. Mexicana and its subsidiary, Click Mexicana, will join oneworld in late 2009.

At the same time, however, oneworld's future is being challenged as the alliance awaits DOT approval of its application for antitrust immunity for American, British Airways, Finnair, Iberia, and Royal Jordanian, which oneworld hopes to obtain by September or October 2009. American, British Airways, and Iberia have also asked for approval of a joint venture agreement on transatlantic flights. If that request is granted, the joint venture claims it could achieve revenue and cost synergies of \$400–800 million

per year. Should DOT deny oneworld's application, however, oneworld would be the only global alliance without comprehensive antitrust immunity and, as a result, could lose current members to other alliances.

For example, if the proposed merger of British Airways and Iberia falls through, Lufthansa could be tempted to make a bid for Iberia to close the Latin American hole in its network, causing Iberia to move to Star. Also, British Airways and Iberia's deal to share Britain-Spain routes could be jeopardized, causing Iberia to join another alliance.

Arabesk: unofficial fourth alliance

Launched in 2006, Arabesk is a Middle Eastern network cooperating project under the umbrella of the Arab Air Carriers Organization; nine airlines—EgyptAir, Etihad Airways, Gulf Air, Middle East Airlines, Saudi Arabian Airlines, Syrian Arab Airlines, Royal Jordanian, Tunis Air, and Yemen Airways—are members. This unofficial alliance aims to strengthen market share and align schedules of member airlines. Members have already begun cooperative efforts, including codesharing.

Global alliance challenges

Several challenges confront global airline alliances. One of the biggest unknowns right now is how the U.S.-EU “Open Skies” accord will affect the airline industry—i.e., how alliances will change if the Stage 2 Open Skies agreement goes into effect or, on the other hand, if the U.S. and the European Union are unable to reach an agreement by the November 2010 deadline.

And concerns about international competition and pricing have surfaced on both sides of the Atlantic: Both the DOT and the European Commission want more information about oneworld's request for antitrust immunity. In the U.S. Congress, Rep. Jim Oberstar

(D-Minn.), chairman of the U.S. House of Representatives Transportation and Infrastructure Committee, has introduced legislation that would require the DOT to review alliance antitrust immunities every 3 years.

Additional issues to consider among alliances include continual shifts in alliance membership; the potential impact that consolidation among members of the same alliance may have on other partners; the potential impact of consolidation among members of different alliance groups; and the potential impact of increased cooperation among some members that may cause the “odd one out” to leave the alliance.

Another potential prospect is that of new low-cost carrier (LCC) link-ups, which could increase competition for alliances or lead to LCCs joining alliances. For example:

- The partnership of Aer Lingus and JetBlue led to a joint marketing campaign and an agreement to let passengers book connecting flights on each airline.
- Star has created confidentiality guidelines for United, Lufthansa, and Continental that address conflict-of-interest concerns about Lufthansa's investment in LCC JetBlue.
- Southwest has announced plans to codeshare with WestJet in Canada and with Volaris in Mexico.

Global pilot alliances

Paralleling the development of the big three global alliances are three global pilot alliances—the Associations of Star Alliance Pilots (ASAP), created in 1997; the oneworld Cockpit Crew Coalition (OCCC), which dates to 1998; and the SkyTeam Pilots Association (SPA), formed in 2000, with the three members of the Wings Pilot Coalition (KLM, Northwest, and Continental) joining SPA in 2004.

These pilot alliances have the same basic goals and objectives—to promote and maintain the highest levels of

SkyTeam Pilots Association Meets in Rome to Aid Italian Brethren

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By Capt. Rick Dominguez (Delta), Chairman, ALPA International Affairs Committee

On May 21, the SkyTeam Pilots Association (SPA) met in Rome in a special meeting at the request of ANPAC (Associazione Nazionale Piloti Aviazione Commerciale), the pilot union representing the majority of Alitalia pilots. The goal of the meeting was to help ANPAC fight management's efforts to circumvent its representational rights, impose contractual terms, and disregard their seniority rights. SPA represents more than 25,000 pilots at the nine member airlines of the SkyTeam Alliance.

As part of Alitalia's bankruptcy restructuring at the end of 2008, the airline was acquired by CAI, a consortium of Italian companies. After taking control, CAI began talks with the large Italian confederal unions, which represent the ground staff. CAI and the confederal unions agreed to exclude and negate ANPAC's representation of the pilots. CAI and the confederal unions agreed to one contract that covers ground staff, flight attendants, and pilots.

While this was going on, Alitalia was merged with Air One, a smaller airline flying solely A320s. As a result of this merger, contract terms were imposed on the pilots, and they lost all of their contractual protections. Most grievously, integrating the two pilot groups into the airline was accomplished

with absolutely no regard for seniority. Alitalia pilots were selected purely based on what aircraft they were flying and where they lived, while all Air One pilots retained their jobs. As a result, more than 800 Alitalia pilots—ranging from B-777 captains to MD-80 first officers—were laid off.

ANPAC refused to accept this outcome, and 6 months later is still fighting to regain pilot representation, to fix the abomination of the seniority list integration, and to negotiate a new contract. The pilots of SPA attended this meeting to put Alitalia management on notice that its relationship with the pilots must promote a strong, collaborative working partnership. Such a relationship will ensure the highest levels of aviation safety and security throughout the airline.

Today's professional pilots, unlike any other labor group, are uniquely situated to help airlines succeed and compete in this difficult landscape. Our view from the cockpit is not a narrow one. We interact with every facet of the airline operation. Whether it's on the ground, in the cabin, or while cruising in flight at 35,000 feet, we are continuously solving problems to ensure that we safely reach our destination and land our aircraft.

However, today at Alitalia, managers with no flight experience routinely question experienced pilots on their operational decisions. Several pilots have been unjustly disciplined and/or terminated. Experienced, professional pilots must be allowed to

make decisions based solely on the safety of the traveling public and the safety of their aircraft.

The most successful airlines in the world recognize that pilots must represent pilots. Members of professional unions represent all of the SkyTeam pilot unions. The companies in SkyTeam have long recognized the great value that this form of representation provides to the success of their companies and global alliances.

But it's not just the safe operation of the flight that today's pilots bring to the table. We must, and have, fashioned relationships with our managements that allow our airlines to successfully compete in the marketplace. Capt Mike Pinho (Delta), the current chairman of SPA, emphasized, "The new owners of Alitalia must realize that a productive, positive relationship with a professional pilots' union is the most effective way to success. Pilots representing pilots is the most effective way to success. You see it before you here today, from all corners of the globe. And ANPAC representing Alitalia's professional pilots is the only way to ensure the success of the new Alitalia."

We must continue to help our Alitalia brothers and sisters as they battle the shortsighted decisions of management. ANPAC's losing the right to represent its pilots must be corrected, and we will help our fellow Italian pilots achieve that goal. ✈

safety; to promote and protect their members' interests, including providing mutual assistance (see sidebar above); to work for a fair and equitable distribution of flying opportunities; and to share information. The three global pilot alliances have become more formalized, with signed protocols spelling out their purpose and how they work. They have officers, regular meetings, websites, and other means of communication.

These pilot alliances were formed as a result of airlines establishing these glob-

al alliances. However, two additional pilot alliances have been created. One is the TUI Pilots' Alliance, which represents a group of mostly non-scheduled airlines flying throughout Europe and the Middle East that are under common ownership. The other is the Global Pilots Cargo Alliance, which represents pilots within the DHL/Deutsche Post ownership group including the pilots who fly for ASTAR. The goals of these two pilot alliances are similar to those of others except that they are more exposed

to whipsawing, given their common ownership bonds.

F/O Ron Abel (United), vice-chairman of the ASAP Executive Board and a member of ALPA's International Affairs Committee, states, "In ASAP, we've taken a number of steps to refine our articles of association to become more efficient and to take advantage of having a very varied group of pilots. In some of their countries, industrial action is not legally possible, so we've made changes in the articles to adapt

U.S.-Japan Talks

In mid-May, the United States and Japan met in government-to-government session—i.e., no outside parties were allowed to participate—in their latest round of discussions on whether to amend the air services agreement between the two countries. The two governments decided to hold the next round of talks July 8–10 in Japan.

In previous rounds of talks, one of the most challenging issues has been how to handle the opening of a fourth runway at Tokyo's Haneda Airport (HND)—expected to open next year—and the concern on the part of U.S. airlines that Japan may try to use that opening to give its airlines a competitive advantage over U.S. airlines (see “Global View: U.S.-Japan Air Service Talks Raise Concerns,” October 2008).

In brief, Japan has proposed a daytime “perimeter rule” at HND, but *no* perimeter rule for scheduled passenger flights during the overnight hours (10 p.m.–7 a.m.). This

lopsided situation would clearly favor Japanese airlines with their extensive slot holdings, gates, cargo facilities, and traffic feed at HND. U.S. airlines cannot offer competitive departure times during the overnight period (the perfect window for HND departures to U.S. mainland and Pacific resort markets), because they have no airplanes in position and would have to either park airplanes at HND during the day or wait to depart during the uncompetitive early-morning hours.

Capt. Paul Rice, ALPA's first vice-president, explains, “ALPA continues to argue that if Haneda is opened to transpacific operations, it must be done in a manner that allows U.S. airlines to have a fair and equitable opportunity to compete with Japanese airlines.”

Currently, the Haneda conundrum is one of four major issues to be negotiated.

The U.S. State Department continues to try to negotiate an “Open Skies” agreement with Japan; the Japanese have said they're willing to talk about Open Skies, but only if the United

States recognizes what the Japanese feel are too many U.S. slots at Tokyo's other international airport, Narita (NRT), which the Japanese say give the United States “unfair competitive advantage.” And All Nippon Airways (ANA) wants anti-trust immunity with its Star Alliance partners, which include United.

On April 10, United CEO Glenn Tilton gave a speech at the American Chamber of Commerce in Japan, saying the time has come for Open Skies between the United States and Japan.

Perhaps such an arrangement would be good for United Airlines, the corporation; whether it would benefit the pilots and other employees of United—and those of other U.S. airlines—is a very different question. ALPA's Legal Department, which follows U.S. bilateral negotiations closely, will continue to keep the State Department informed of its concerns about these important issues.

—Jan W. Steenblik, Technical Editor

to that. This will sharpen our focus on the challenges we face.”

ASAP maintains a close working relationship with Star management. “Star CEO Jaan Albrecht recently announced that Star will grow to potentially 50 members,” Abel notes. “We've invited him to attend our next ASAP meeting in Switzerland in September.”

ALPA's International Affairs Committee (IAC), which consists of ALPA pilots from each of the three global pilot alliances, has been active in other arenas that can have implications for the global alliances and their pilots. The 2-day EU-U.S. Aviation Forum on Liberalization and Labor, held in Washington, D.C., last December featured

ALPA's president, Capt. John Prater, as the luncheon speaker; the next forum is scheduled to be held in Brussels in late June. Representatives from ALPA and the European Cockpit Association (ECA), an organization of 36 national flight crew associations, met in Amsterdam in November and again in May in Washington, D.C. Capt. Rick Dominguez (Delta), chairman of ALPA's IAC, says, “ECA and U.S. ALPA are pretty much on the same track on how to respond to our governments” regarding global airline alliances as well as several other developments related to the U.S.-EU negotiations.

“Despite the economic downturn,” the Association's first vice-president,

Capt. Paul Rice, says, “it's still true that capital is global, but labor law is local. That's a big problem.”

“Look at British Airways' OpenSkies, which flies four B-757s between Paris, Amsterdam, and New York. These aircraft are British Airways aircraft but are flown by non-BA pilots. The routes that OpenSkies flies are possible only because of the EU-U.S. Open Skies agreement, which permits any American or European airline to fly to and from any European or U.S. airport. OpenSkies may not be growing, but it's still operating, and that's proved the point—right now, they can get away with it, and labor can't stop it. We need to change that.”

Pilots Help Write Global Standards to Combat Fatigue

ALPA, through IFALPA, helps craft the framework for new ICAO standards regarding flight and duty time limits and rest requirements based on scientific principles and knowledge

By Jan W. Steenblik
Technical Editor

For the purpose of managing fatigue, the state [country] of the operator shall establish regulations specifying the limitations applicable to the flight time, flight duty periods, duty periods and rest periods for flightcrew members. These regulations shall be based upon *scientific principles and knowledge* [emphasis added], where available, with the aim of ensuring that flight crew members are performing at an adequate level of alertness.”

So says a critical paragraph in the latest update to Annex 6 (Operation of Aircraft), part of the international agreement of the 190 states (countries) that belong to the International Civil Aviation Organization (ICAO), the aviation arm of the United Nations. Signatories to the ICAO Convention agree to abide by the international standards and recommended practices (SARPs) set by the ICAO Council or file official “differences” noting their non-compliance with a particular section of an Annex.

The ICAO Council adopted the amendment in May. The deadline for states to comply with the new SARPs is Nov. 19, 2009.

Capt. Don Wykoff (Delta), ALPA’s Executive Administrator and chairman of the ALPA Flight Time/Duty Time

Committee, notes, “ALPA didn’t have a *direct* input to this process, because there are only two permanent observers to ICAO—the International Air Transport Association (IATA) and the International Federation of Air Line Pilots’ Associations (IFALPA)—so we provided our input through IFALPA.

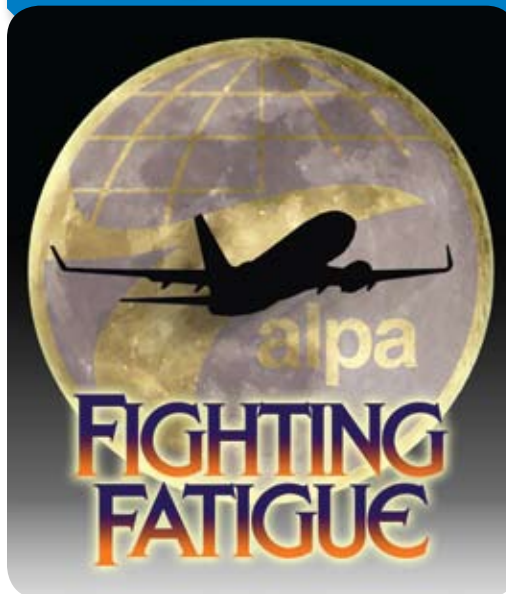
ence the ICAO process, we did so.

“At the end of the day, IFALPA had a pretty significant effect on the outcome of these ICAO standards. There’s a real reason why we do things through IFALPA, and this is a perfect example.”

Capt. Paul McCarthy (Delta, Ret.), the IFALPA rep to ICAO, adds, “This

“At the end of the day, IFALPA had a pretty significant effect on the outcome of these ICAO standards. There’s a real reason why we do things through IFALPA, and this is a perfect example.”

—Capt. Don Wykoff (Delta), ALPA’s Executive Administrator and chairman of the ALPA Flight Time/Duty Time Committee



“We wanted to synchronize overhaul of IFALPA policy on flight and duty time limits and rest requirements with overhaul of the ICAO standards,” Wykoff continues. “Capt. Rick Brennan (BALPA, Ret.), of the IFALPA staff, Capt. Greg Fallow (New Zealand ALPA), and I served on a work group to tackle this project. As we went along, whenever we saw an opportunity to try to influ-

amendment is the product of eight years of work in the [ICAO] Operations Panel, and IFALPA was a prime player. We [IFALPA] helped to write the framework. We put out a standard that we hope will get the job done. The central message is, you must base the prescriptive regulations on science.”

Wykoff notes, “Within ALPA, we’ve been very consistent in our message about pilot fatigue during the last few years—the three big items we need are an opportunity for eight hours of sleep, not eight hours away

from the aircraft; an appropriate-length duty day; and provisions for ultra-long-range and back-side-of-the-clock flying.

“I think it would be difficult for the FAA to have new flight and duty time regulations out by November 19, but we’re optimistic that, with a new FAA administrator and principles based in science, we can achieve real change in the near future.” ▶▶▶

ICAO GUIDANCE MATERIAL FOR DEVELOPING FATIGUE MANAGEMENT REGULATIONS

Amendment 33 to ICAO Annex 6 introduces new definitions of such important terms as “duty,” “duty period,” and “fatigue,” and updates definitions of “flight duty period” and “rest period.”

The new SARPs call on operators to establish flight time and duty period limitations and rest requirements “that enable it to manage the fatigue of all its flight and cabin crewmembers,” to be approved by the state, and included in the airline’s operations manual. The new standards also

of Prescriptive Fatigue Management Regulations,” to help the ICAO member states develop their own regulations.

Some highlights:

- Two types of fatigue must be taken into account—transient (“fatigue that is dispelled by a single sufficient period of rest or sleep”) and cumulative fatigue.
- “All time spent on duty can induce fatigue in flight and cabin crewmembers, and should therefore be taken into account when arranging rest

the flight duty period; the pattern of working and sleeping relative to the circadian rhythm, or 24-hour physiological cycle of the flight or cabin crew; the scheduling of days off; the sequence of early reporting times and late releases from duty; mixing early/late/night duties; and flight operation characteristics.

- “No numerical values are shown in this example because differences of culture between states can lead to different perceptions as to what is acceptable and what is not.
- “When deciding what numerical values should be inserted, states should take into account the results of relevant scientific principles and knowledge, past experience in administering such regulations, cultural issues, and the nature of operations intended to be undertaken.
- “Duty includes all tasks carried out at the behest of the operator. These include, but are not limited to, pre-flight preparation; conduct of the flight (whether or not this is commercial air transport); post-flight actions; training given or received (classroom, flight simulator or aeroplane); rostered office/management time; and positioning. Standby should be included to the extent that it is likely to induce fatigue.
- “Where airport standby is immediately followed by a flight duty period, the relationship between such airport standby and the assigned flight duty should be defined. In such a case, airport standby, if it is likely to induce fatigue, should be considered as part of a duty period and should be taken into account to calculate the minimum rest preceding a subsequent flight duty period.

The amended Annex 6 does *not* set specific numbers of hours for flight and duty time limits and rest requirements, leaving the individual nations to establish the actual numbers. The amendment includes an attachment, “Guidance Material for Development of Prescriptive Fatigue Management Regulations,” to help the ICAO member states develop their own regulations.

acknowledge that “regulations may not cover every eventuality encountered in a dynamic operational environment” and must “permit the operator a degree of flexibility... in making adjustments in its fatigue management scheme to account for changing circumstances.”

The amended Annex 6 does *not* set specific numbers of hours for flight and duty time limits and rest requirements, leaving the individual nations to establish the actual numbers. The amendment includes an attachment, “Guidance Material for Development

periods for recovery. Standby may be included as duty if it is likely to induce fatigue.

- “An important safeguard is for states and operators to recognize the responsibility of a crewmember to refuse further flight duty when suffering from fatigue of such a nature as to adversely affect the safety of flight.
- “States should consider all relevant factors, which include the number and direction of time zones crossed; the time at which a flight duty period is scheduled to begin; the number of planned and/or actual sectors within

CANADIAN PILOT FATIGUE IN TODAY'S WORKING ENVIRONMENT

The long-term solution to dealing with flight crew fatigue will require a combination of science-driven regulations on flight and duty time limitations and rest requirements, Fatigue Risk Management Systems, scheduling, and personal strategies.

That's the message a Canadian pilot safety leader delivered to a gathering of key Canadian aviation safety executives in Ottawa on May 7. Capt. Martin Gauthier (Air Transat), a member of the ALPA President's Blue Ribbon Panel on Fatigue during 2007–2009, gave the well-received presentation to the Canadian Aviation Executives' Safety Network (CAESN), an annual assembly for Canadian aviation leaders.

Transport Canada (TC) created the CAESN several years ago "to identify aviation safety challenges and mitigation strategies and provide a forum for dialogue regarding the viability and direction of the aviation industry in Canada." The first CAESN meeting took place in Montreal in April 2003. TC added that the 2009 CAESN meeting would be "particularly important since feedback obtained during the day will contribute to development of civil aviation's next strategic plan," including "the vision for our safety in 2015 and beyond."

The presentation certainly provided much food for thought on pilot fatigue and how to best handle it. In a nutshell, Gauthier said, the science of flight and duty limitations points to the maxim, "Work hardest when best able!"

But what does that translate to in the details of daily (and nightly) life?

Gauthier served up an excellent primer on what science has taught us about fatigue; the effects of flight operations, aircraft environmental factors, and circadian disruption on fatigue; and the effects of pilot fatigue on performance. He also discussed the benefits that both employees and management can obtain from a Fatigue Risk Management System, a scientifically based, data-driven process used to continuously monitor and manage fatigue risks.

Fatigue-related CARs shortcomings

Gauthier warned that, even though the Canadian aviation regulations (CARs) regarding flight and duty time limits were updated in 1996, several inadequacies in those CARs remain, because they

- are not based on science.
- have no provisions for variable maximum daily duty hours based on time of report or number of sectors to be flown.
- have no provisions for maximum

duty hours per consecutive days.

- have no provisions applicable to the relationship between time spent on reserve and assignment of duty time.
- include split duty rules that do not permit adequate rest.
- do not consider ultra-long-range flying.


Global review of flight and duty time limits and rest requirements is under way throughout the world airline community. Particularly noteworthy are the European Aviation Safety Agency (EASA) initiative to overhaul these regs, and the International Civil Aviation Organization (ICAO) recently adopted new international standards and recommended practices (SARPs; see page 31) that will go into effect November 19 in states (countries) that are signatories to ICAO Annex 6. As part of this global drive, and the ICAO November deadline for compliance, Transport Canada needs to update the flight-time/duty-time CARs based on scientific principles and knowledge.

To view the full presentation, visit the CAESN website at www.tc.gc.ca/CivilAviation/regserv/affairs/CAESN/menu.htm. Scroll down and click on Presentations.—*Jan W. Steenblik, Technical Editor*

- "All time spent positioning counts as duty, and positioning followed by operating without an intervening rest period also counts as flight duty.
- "The pilot in command, at his/her discretion in consideration of special circumstances that could lead to unforeseen levels of fatigue and after discussion with flight or cabin crew-

members affected, may reduce an actual flight duty period and/or increase a minimum rest period in order to remove any adverse effect on flight safety.

- "The operator should...keep records of occasions when a pilot in command has exercised his discretion.... If discretion has to be applied for similar reasons

on more than [a specified] percent of occasions when a particular route or route pattern is flown, it is likely that the intention of this guidance is not being met and undue fatigue may result. Arrangements should be made to change the schedule or the crewing arrangements so as to reduce the frequency at which such events occur." 

'THE ONLY CONSTANT IS CHANGE'

By Capt. Martin Chalk
President, European Cockpit Association

We must never believe the “fight” is won—not the fight to improve aviation safety, nor the fight to win fair terms and conditions for our employment. Our ability to engage in both areas is at risk after rounds of liberalisation in the United States, Canada, Europe, and across the North Atlantic; the basic services offered by professional pilot associations are being undermined as a direct result of the unbalanced rules being put into place to govern the way airlines are structured and operate.

We work in an industry used to rapid change and solving problems with innovation. We have taken highly complex equipment and human crew challenges and resolved them by developing safe and effective SOPs and CRM techniques.

This would not have happened as effectively without the expert work of the professional pilot associations of the world. ALPA has long been the largest affiliate to the International Federation of Airline Pilots' Associations (IFALPA). IFALPA and IATA are the only two permanent observers to the work of the International Civil Aviation Organization (ICAO), which brings together almost all the world's aviation safety authorities and leads in setting operating methods and standards to improve safety across the globe. IFALPA and IATA contribute much more than what the term “observer” implies.

To serve a domestic market, an airline must satisfy the domestic regulator that the airline operates safely. If the airline offers international services, the regulator and the airline must adhere to ICAO Standards and Recommended Practices (SARPs), too. In Europe, this has been complicated by the creation of the European Union (EU) and its success

in removing trade barriers and creating a truly open and single market across the whole continent. The national aviation authorities (NAAs) in the EU have already ceded responsibility for aircraft and part certification, and for operator and personnel licensing and operations regulations, to the European Aviation Safety Agency (EASA), Europe's equivalent to the FAA. As plans to add regulation of airports and air navigation service providers are completed, the European pilot associations/unions need



to complete the reorientation of their expert input to rulemaking.

The professional cockpit crew associations across Europe formed the European Cockpit Association (ECA) in 1991 to help coordinate input to the Joint Aviation Authorities (JAA), the spiritual forerunner of EASA. As the cooperative approach of the JAA (with sovereignty retained by the NAAs) has evolved into the binding legislative approach of EASA, ECA has updated its structures to deliver more effective input to all EU institutions. ECA technical committees are now the engine room of professional pilot support to European civil aviation rulemaking and legislation.

While technical functions have been moved to the European level, the ability to organise all the pilots of a European airline in one union group has been eroded. A number of factors contribute to this degradation of union rights:

- Completion of the internal aviation market in 1997, which meant any EU airline could operate across all EU states without restriction;
- Subsequent success in expanding

the internal market into a European Common Aviation Area;

- The (almost complete) efforts to negotiate European, rather than national, designation of airlines in all other air transport agreements; and
- Wide-ranging economic liberalisation of the transatlantic markets with EU-U.S. “Open Skies” Stage 1 and EU-Canada agreements.

All EU airlines can now operate from anywhere in the EU to virtually anywhere on Earth without restriction—yet as they expand via acquisition, merger, “alter-ego” airlines, and organic growth, the labour relations framework is rooted firmly in national law. This creates great challenges for us in representing pilots' interests. For example, when easyJet established bases in five EU countries (UK, France, Germany, Spain, and Italy), ECA was instrumental in seeking a cooperative arrangement among the ALPAs in each of these countries. After much hard work by the pilot representatives from easyJet and the national ALPAs, easyJet has been persuaded to recognise these arrangements. However, other airlines have not been so farsighted. Some years ago, British Airways (BA) chose Manchester as a base for a new transatlantic service, and the British Airways Company Council (MEC) negotiated appropriate arrangements for the pilots; however, inadequate EU legislation recently stopped the BACC from seeking to negotiate on behalf of those BA pilots operating new Paris- and Amsterdam-based transatlantic services!

ALPA's cooperation has supported IFALPA's Strategic Review Group and ECA in trying to redress this attack on workforce rights. If we fail, our ability to protect our safety record and our employment conditions will be threatened. ECA is committed to taking whatever actions are necessary to succeed—the fight is never won. 🌍